



City of Port Orchard Council Meeting Agenda
Tuesday, December 13, 2016
7:00 p.m.

Mayor:

Rob Putaansuu
Administrative Official

Councilmembers:

Bek Ashby
Chair: Economic Development/Tourism
Staff: Development Director
Finance Committee
KRCC/PSRC TransPol/PRTPO
KRCC TransPol

Shawn Cucciardi
Finance Committee
Land Use Committee

Fred Chang
Chair: Lodging Tax Advisory Committee
Staff: City Clerk
Utilities & Sewer Advisory (SAC) Committee
Economic Development/Tourism

Clancy Donlin
Economic Development/Tourism
Festival of Chimes and Lights
KRCC-alt/KRCC TransPol-alt

John Clauson(Mayor Pro-Tempore)
Chair: Finance Committee
Staff: City Treasurer
Land Use Committee
Kitsap Public Health District-alt

Cindy Lucarelli
Chair: Utilities Committee
Staff: Public Works Director
Chair: Chimes and Lights
Staff: City Clerk
Sewer Advisory (SAC) Committee
KEDA/KADA

Scott Diener
Chair: Land Use Committee
Staff: Development Director
Utilities & Sewer Advisory (SAC) Committee
KEDA/KADA-alt
PSRC Growth Management-alt

Department Directors:
Nicholas Bond, AICP
Development Director

Mark Dorsey, P.E.
Public Works Director
City Engineer

Debbie Hunt
Court Administrator

Allan Martin
City Treasurer

Geoffrey Marti
Police Chief

Brandy Rinearson, CMC
City Clerk

Contact us:

216 Prospect Street
Port Orchard, WA 98366
(360) 876-4407

1. CALL TO ORDER

A. Pledge of Allegiance

2. APPROVAL OF AGENDA

3. CITIZENS COMMENTS

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

4. CONSENT AGENDA

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

- A. Approval of Checks, Payroll, and Electronic Payments**
- B. Approval of Amendment No. 1 to Contract No. 055-16 with Seitel Systems, LLC for Network Design and IT Project Services (Martin)**
- C. Approval of Amendment No. 1 to Contract No. 074-14 with Paladin Data Systems for the SmartGOV Permitting Software (Bond)**
- D. Approval of Amendment 1 to Contract No. 090-15 with Transportation Solutions, Inc. for On-Call Consultant Services (Bond)**
- E. Approval of Amendment No. 2 to Contract No. 016-15 with Grette Associates, LLC for On-Call Environmental Consulting Services (Bond)**

5. PRESENTATION

6. PUBLIC HEARING

- A. Declaring Real Property Owned by the Utility Fund (Water/Sewer) Located on Bethel Avenue Parcel Nos. 4062-005-002-0004 and 4062-005-002-0103 Surplus to the Needs of the City and Authorizing Its Sale (Rinearson)**

7. BUSINESS ITEMS

- A. Adoption of a Resolution Declaring Real Property Owned by the Utility Fund (Water/Sewer) Located on Bethel Avenue Parcel Nos. 4062-005-002-0004 and 4062-005-002-0103 Surplus to the Needs of the City and Authorizing Its Sale (Rinearson)**
- B. Second Reading and Adoption of an Ordinance Amending the 2016 Budget (Martin)**
- C. Adoption of an Ordinance Adopting the 2017-2018 Biennial Budget (Martin)**
- D. Adoption of a Resolution Recognizing and Setting Forth Provisions for the 2017-2018 Biennial Budget as Contemplated in its Adoption (Martin)**

- E. Adoption of an Ordinance Amending POMC Chapter 12, Streets and Sidewalks, to Comply With the Requirements of the Western Washington Phase II Stormwater Permit (Bond)
- F. Adoption of an Ordinance Amending POMC Title 15, Buildings and Structures, to Comply With the Requirements of the Western Washington Phase II Stormwater Permit (Bond)
- G. Adoption of an Ordinance Amending POMC Title 16, Land Use Regulatory Code, to Comply With the Requirements of the Western Washington Phase II Stormwater Permit (Bond)
- H. Adoption of a Resolution Updating the City's Fee Resolution (Bond)
- I. Adoption of a Resolution Repealing Resolution No. 039-16 and Establishing Certain Employee Benefits for Non-Union Represented Employees Classified as FLSA Non Exempt (Howard)
- J. Adoption of a Resolution Repealing Resolution No. 040-16, and Establishing Certain Employee Benefits for Non-Union Represented Employees Classified as FLSA Executive Exempt (Howard)
- K. Adoption of a Resolution for Authorization to Legally Bind the City for Federal Grant Reimbursement Purposes (Martin)
- L. Approval of a Contract with the Transportation Improvement Board for the Fuel Tax Grant for the Tremont Street Widening Project Construction (Dorsey)
- M. Approval of a New Interlocal Agreement with Kitsap County Fire Protection District No. 7 for Fire Prevention Services (Mayor/Cates)
- N. Approval of the November 15, 2016, Council Work Study Session Minutes
- O. Approval of November 22, 2016, Council Meeting Minutes

8. REPORTS OF COUNCIL COMMITTEES

9. REPORT OF MAYOR

10. REPORT OF DEPARTMENT HEADS

11. 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)

12. 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.

13. ADJOURNMENT

COMMITTEE MEETINGS	Date & Time	Location
Finance	TBD; 7:30am	City Hall
Economic Development and Tourism	December 12, 2016; 9:00am	City Hall
Utilities	December 19, 2016; 9:30am	City Hall
Sewer Advisory	February 15, 2017; 6:30pm	City Hall
Land Use	December 21, 2016; 7:30am	City Hall
Lodging Tax Advisory	TBD	City Hall
Festival of Chimes & Lights	January 16, 2017; 3:30pm	City Hall
Work Study Session	January 17, 2017; 7:00pm	City Hall
Holiday Good Neighbor Tour	December 19, 2016; 6:00pm	Starts @ City Hall

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 4B</u>	Meeting Date:	<u>December 13, 2016</u>
Subject:	<u>Approval of Amendment No. 1 to</u>	Prepared by:	<u>Allan J. Martin</u>
	<u>Contract No. C055-16 with Seitel</u>		<u>City Treasurer</u>
	<u>Systems, LLC for Network Design and IT</u>	Atty Routing No:	<u>NA</u>
	<u>Project Services</u>	Atty Review Date:	<u>NA</u>

Summary: The City entered into an Agreement with Seitel Systems, LLC for network design and IT project services and over the summer and fall the City has been actively engaged with Seitel. The project is on time and under budget with the project completion date of December 31, 2016.

During the project it became apparent that work contemplated in later 2017 would be more properly completed concurrently with the IT project services provided by Seitel. The benefit to the City is lower cost, and is important technologically, completing all of the tasks seamlessly with the engineers currently on site and working on the project.

To that end, this Amendment allows the migration to Microsoft 365 as an extension of the original Agreement and extends the Agreement to allow this final phase. Contract No. C055-16 contemplated two (2) one-year extensions, and the 2017 – 2018 Budget contains funding to complete the project under the original project amount. The project will remain under budget even when allowing this extension. Staff will report to the Finance Committee on the completion of the project, most likely at its February meeting.

By all measure the project has been a success.

Recommendation: Staff recommends that Council authorize the Mayor to approve Amendment No. 1 to Contract No C055-16 with Seitel Systems, LLC.

Motion for Consideration: I move to approve Amendment No. 1 to Contract No C055-16 with Seitel Systems, LLC.

Fiscal Impact: \$25,000 is budgeted for project completion in the 2017 – 2018 Biennial Budget.

Alternatives: NA

Attachments: Amendment No. 1

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Amendment No. 1 to Contract No. C055-16
CITY OF PORT ORCHARD PERSONAL SERVICES
AGREEMENT WITH SEITEL SYSTEMS LLC

THIS AMENDMENT to Contract No. C055-16 (“Amendment”) is made effective as of the ____ day of December, 2016 by and between the City of Port Orchard, a municipal corporation, organized under the laws of the State of Washington, and Seitel Systems LLC, a corporation organized under the laws of the State of Washington, located and doing business at 1200 Western Avenue, Suite 100, Seattle, WA 98101.

WHEREAS, the City of Port Orchard, Washington (hereinafter the “City”), and Seitel Systems LLC (hereinafter the “Consultant”), entered into an underlying Personal Services Agreement, dated May 10, 2016, for consulting services related to the PAR – Post-Assessment Roadmap project (“Underlying Agreement”); and

WHEREAS, Section 3 of the Underlying Agreement provides that the Agreement will terminate on December 31, 2016 “unless extended...in writing as provided herein”; and

WHEREAS, the Consultant has agreed, as part of its consulting services, to assist the City with migration to Microsoft 365, and such migration will require additional time for consulting services past the December 31, 2016 termination date of the Underlying Agreement; and

WHEREAS, the Consultant and the City have conferred and agreed that an extension of one (1) year is appropriate to complete the additional consulting services needed, which will be accomplished within the original budget of 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 of May 10, 2016 between the parties, incorporated by this reference as fully as if herein set forth, is amended in, but only in, the following respect:

1.1 Section 3 of the Underlying Agreement shall be amended to read as follows:

3. **Terms.** This Agreement shall commence on May 10, 2016 (“Commencement Date”) and shall terminate on December 31, 2017 unless extended or terminated in writing as provided herein.

Additionally, the City reserves the right to offer two (2) one-year extensions prior to contract expiration to retain the selected company’s services.

2. 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

SEITEL SYSTEMS LLC

By: _____

Robert Putaansuu, Mayor

By: 

Name: William S. Holguin

Title: Finance / HR Manager

ATTEST/AUTHENTICATED:

By: _____

Brandy Rinearson, CMC, City Clerk

APPROVED AS TO FORM:

By: _____

Sharon Cates, City Attorney



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Agenda Staff Report

Agenda Item No.: Consent Agenda 4C
Subject: Approval of Amendment No. 1 to Contract
No. 074-14 with Paladin Data Systems for
the SmartGOV Permitting Software

Meeting Date: December 13, 2016
Prepared by: Nicholas Bond, AICP
Development Director
Atty Routing No: NA
Atty Review Date: NA

Summary: On August 27, 2014, the City entered into a contract with Paladin Data Systems for the SmartGOV permitting system. The system is now up and running and the City has realized that it no longer requires the same level of annual training as was envisioned when the system was launched. Contract Amendment #1 reduces the city’s annual cost for the SmartGov system by removing training from the City’s contract. If the city requires training in the future, it will be able to purchase this outside of the contract on an as needed basis. The annual cost to the city is dropping from \$20,505 to \$16,665.00 under contract Amendment No. 1.

Recommendation: Approve the contract amendment with Paladin Data Systems.

Motion for Consideration: I move to approve Amendment No. 1 with Paladin Data Systems for the SmartGOV permitting system.

Fiscal Impact: This action will save the city \$3,840 annually.

Alternatives: Do not approve the contract amendment.

Attachments: Contract Amendment and Contract

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12/07/2016

Sales Order: **1934**

City of Port Orchard
216 Prospect Street
Port Orchard, WA 98366-5326
360-874-5533

Dear Ellen,

Paladin Data Systems Corporation (Paladin) applauds your decision to invest in affordable innovation for your community. We'll be with you every step of the way to ensure a successful and smooth transition to the SMARTGOV suite.

Quantity	Units	Item	Term	Amount
1	Site	SG Annual Subscription includes: - 12 users - Public Portal with SaaS Transactions - SMARTConnect Financial - SMARTConnect Parcel	Subscription	\$16,665.00
	Hour	SG Onsite Training - locked in rate of \$150/hour	Professional Services	\$0.00

This agreement hereby amends the terms of the Port Orchard, WA Contract No. 074-14/Order 1059.

Total Investment = \$16,665.00

Total Annual Renewal: \$16,665.00

Terms of Service:

- Offered pricing on this Sales Order is valid if signed by 01/06/2017.
- This Sales Order is governed by the agreement found at existing terms and conditions already executed between Paladin and Port Orchard, City of, WA.

Thanks for your order and your trust in SMARTGOV to help you save money, increase efficiency, and raise customer service levels. We truly look forward to serving you and your community.

Sincerely,

Amber Hunt

Yes! I accept these terms; let's get started today!

Authorized Signature and Title at Port Orchard, City of, WA

Date



Sales Order

Paladin Data Systems Corporation
 19362 Powder Hill Place NE
 Poulsbo, WA 98370-8720
 Tel: 360-779-2400 1-800-532-8448
 Fax: 360-779-2600

Date: August 4, 2014
 Order: 1059
 Ordered by: Jon Byrd
 Required Date: August 26, 2014

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

Telephone: 360-874-5533
 Fax:
 Contact Person: Nick Bond
 Email: nbond@cityofportorchard.us

Purpose of this Sales Order:

City of Port Orchard, WA is purchasing a subscription for SMARTGov® Software as a Service (SaaS) which comprises the following core modules: permitting, planning, code enforcement, inspections, licensing, recurring inspections, cashiering, and GIS mapping. This includes the modification of the following five system reports/output documents to client's specifications: permit, receipt, certificate of occupancy, inspection results, and inspection hardcard. In addition, this purchase includes SMARTConnectors, professional services for data migration, configuration, training, and travel expenses as identified below. This SaaS Subscription includes five free "occasional named users" which individually average less than 30% usage during an 8 hour day.

Special Terms for City of Port Orchard: City of Port Orchard will sign this Sales Order no later than August 26, 2014. If signed no later than August 26, 2014, the start date for SMARTGov SaaS will be on or before Nov. 1, 2014.

First Term: (Nov. 1, 2014 – Dec. 31, 2015)

- The first term will be approximately 12-14 months (if start date is before Nov. 1, 2014).
- The first term does not include a Public Portal in the SaaS Subscription Fees
- Total subscription for first term: (12 mo. SMARTGov: \$12,900) + (2 mo. Prorated SMARTGov: \$969) = \$13,869

Second Term: (Jan. 1, 2016 – Dec. 31, 2016)

- The second term will be for the SaaS Subscription Term listed below: 12 months
- The second term, the Public Portal to be turned on and the Public Portal fee will be included in the SaaS Subscription Fees
- Total Subscription: (12 mo. SMARTGov: \$16,665)
- No prorated costs
- Annual Training (\$3840—3 eight hour days)
- Total SaaS Subscription and Annual Training for second term = \$20,505

Third Term and beyond: (Jan. 1st – Dec. 31st)

- The third term and beyond will continue with the 12 months SaaS Subscription Term
- The third term and beyond, the SaaS Subscription will be : SMARTGov: \$16,665 or the then current rate
- Annual Training (\$3840—3 eight hour days)
- Total SaaS Subscription and Annual Training for third term = \$20,505

Start date: On or Before Nov. 1, 2014
 start date

SaaS Subscription Term: 12 months from the SaaS Subscription



Sales Order

Sales tax not included. If tax exempt, please provide a copy of tax exempt certificate.

Qty	Unit of Issue	Description	Unit Cost	Extended Price
Fees for SMARTGov SaaS Subscription - First Term: Nov. 1, 2014 – Dec. 31, 2015				
12	Users ¹	SMARTGov [®] SaaS (1 st term without public portal)	\$1,046	\$12,550
1	Connectors	SMARTConnector SaaS Transaction	\$350	\$350
0	Users ¹	SMARTInspection Assistant	\$600	N/A
Subtotal for SMARTGov SaaS Subscription fees for first term				\$12,900
Subtotal for SMARTGov SaaS Subscription Prorated fees for first term				\$969
Fees for SMARTGov SaaS Subscription - Second Term: Jan. 1, 2016 – Dec. 31, 2016				
12	Users ¹	SMARTGov [®] SaaS (2 nd term and beyond with public portal)	\$1,360	\$16,315
1	Connectors	SMARTConnector SaaS Transaction	\$350	\$350
0	Users ¹	SMARTInspection Assistant	\$600	N/A
Subtotal for SMARTGov SaaS Subscription fees for second term				\$16,665
3	Days	Annual Training ⁴ (optional additional service to be added to the annual SaaS Subscription invoice, starting with second term)	\$1,280	\$3,840
Fees for SMARTConnectors-(Optional Additional Services)				
1	Site	Parcel Connector Create procedure to import parcel data from master parcel source	\$3,500	\$3,500
1	Site	Financial Connector Create procedure to export financial transaction data into one delimited text file	\$3,500	Free
Subtotal for SMARTConnectors				\$3,500
Fees for Professional Services and Expenses (Optional Additional Services)				
60	Per Hour	Data Migration ² InterLocking data migration only	\$160	Free
20	Per Hour	Report Configuration ²	\$160	\$3,200
0	Per Hour	Fee Configuration ²	\$160	N/A
40	Per Hour	General Configuration ² Assist with basic configuration of permit types, fees, and inspections	\$160	\$6,400



Sales Order

40	Per Hour	Training ² Webinar style training or on site	\$160	\$6,400
1	Week	Travel expenses ³ (estimate)	\$850	\$850
Subtotal for Professional Services and expenses				\$16,850
Total for first term: SMARTGov SaaS Subscription fees, Prorated fees, SMARTConnectors, and Professional Services and expenses (without sales tax)				\$34,219
SMARTGov SaaS Subscription second term				\$16,665
SMARTGov SaaS Subscription third term and beyond (or the then current fees)				\$16,665

¹7 User Subscriptions will be set up in the system and will be subject to monitoring and amendment of the number of User Subscriptions and fees under Section 5.1(a) of the Master SaaS and Professional Services Agreement.

²Estimate only. While We make this estimate in good faith, We will not exceed without written confirmation from You and will notify You as soon as We know that the required work will exceed the original estimate.

³Travel expenses:

Airfare will be billed according to actual rates; however, We will purchase coach class tickets.

Lodging will be billed according to the actual rates; however, We agree to book government rate lodging if available.

Car rental will be billed according to actual rates; however, We agree to rent economy car if available.

Meals and incidental expenses will be billed according to per diem rates as contained in the published GSA per diem rates.

⁴ Annual Training is an optional additional service City of Port Orchard has requested to be added to the annual SaaS Subscription invoice, starting with second term. Training will take place at Paladin Data Systems Corporation. If training at City of Port Orchard, actual travel expense will be charged as a separate invoice after training.

Schedule of Payments	
50% of SMARTGov[®] total SaaS Subscription fees for year 1 without Public Portal, and with SMARTConnectors. Invoiced upon contract signing. (\$12,900 + \$3,500)	\$8,200
50% of SMARTGov[®] total SaaS Subscription fees for year 1 without Public Portal, and with SMARTConnectors. Invoiced at start date. (\$12,900 + \$3,500)	\$8,200
2 mo. Prorated SMARTGov to be invoiced at start date.	\$969
Professional Services and travel expenses to be invoiced monthly as they occur (\$16,850)	Monthly
100% of SMARTGov [®] SaaS total with Public Portal for terms 2, 3 and beyond due at start date anniversary for renewals.	\$16,665
100% of Annual Training (3 eight hour days) Portal for terms 2, 3 and beyond due at start date anniversary for renewals.	\$3,840



Sales Order

This Paladin Data Systems Corporation Sales Order ("Sales Order") is entered into by City of Port Orchard, WA ("You or Your") and Paladin Data Systems Corporation ("We, Us or Our" and, together with You, the "Parties" and each a "Party") as of the Sales Order Effective Date. By signing this Sales Order, You agree to the terms and conditions contained in this Sales Order and the Master Saas and Professional Services Agreement, which is incorporated herein by this reference. This Sales Order is effective as of the last date set forth below (the "Sales Order Effective Date").

City of Port Orchard, WA

Paladin Data Systems Corporation

Tim Mattes
Signature

[Signature]
Signature

Tim Mattes
Print Name

Robert Johnston
Print Name

Mayor
Print Title

Exec Vice President
Print Title

8-27-2014
Date

8/27/2014
Date

ATTEST
[Signature]
Brandy Rinearson, CMC, City Clerk



**Paladin Data Systems Corporation
Master SaaS Subscription and Professional Services Agreement**

THIS MASTER SOFTWARE AS A SERVICE (SaaS) SUBSCRIPTION AND PROFESSIONAL SERVICES AGREEMENT ("AGREEMENT") GOVERNS YOUR ACQUISITION AND USE OF OUR SaaS SUBSCRIPTION AND PROFESSIONAL SERVICES. BY EXECUTING A SALES ORDER THAT REFERENCES THIS AGREEMENT, YOU AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" WILL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SaaS SUBSCRIPTION OR THE PROFESSIONAL SERVICES.

You may not access the SaaS Subscription if You are Our direct competitor, except with Our prior written consent. In addition, You may not access the SaaS Subscription for purposes of monitoring availability, performance or functionality, or for any other benchmarking or competitive purposes.

This Agreement was last updated on August 28, 2013. It is effective between You and Us as of the date of Your acceptance of this Agreement and the Sales Order ("**Effective Date**").

1. **DEFINITIONS** IN addition to the terms defined elsewhere in this Agreement, the following terms have the following meanings:

1.1. "**Affiliate**" means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

1.2. "**Malicious Code**" means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs.

1.3. "**Non-SMARTGov Applications**" means online applications and offline software products that are provided by entities or individuals other than Us and are clearly identified as such, and that interoperate with the SaaS Subscription.

1.4. "**Party or Parties**" means either We, Us, or Our, as well as You or Your individually or collectively.

1.5. "**Professional Services**" means the labor or time and materials work that You or Your Affiliates purchase under a Sales Order.

1.6. "**SaaS Subscription**" means the software as a service ("**SaaS**") products ordered by You on a Sales Order and made available by Us online via the customer login link and/or other web pages designated by Us, including associated offline components, as described in the User Guide. SaaS Subscription excludes Non-SMARTGov Applications.

1.7. "**Sales Order**" means the documents for placing orders, including addenda thereto, that are entered into between You and Us or any of Our Affiliates from time to time, including addenda and supplements. By entering into a Sales Order, an Affiliate agrees to be bound by the terms of this Agreement as if it were an original party. Sales Orders will be deemed incorporated herein by reference.

1.8. "**Third Party**" means any entity or individual other than We, Us, or Our, as well as You or Your.

1.9. "**User Guide**" means the online user guide for the SaaS Subscription, accessible via login, as updated from time to time.

1.10. "**Users**" means individuals who are authorized by You to use the SaaS Subscription, for whom subscriptions have been ordered, and who have been supplied user identifications and passwords by You (or by Us at Your request). Users may include, but are not limited to Your employees, consultants, contractors and agents, and any Third Party with which You transact business.

1.11. "**We,**" "**Us**" or "**Our**" means Paladin Data Systems Corporation described in Section 14.1 (Contracting Seller, Notices, Governing Law and Jurisdiction).

1.12. "**You**" or "**Your**" means the company or other legal entity for which you are accepting this Agreement and Affiliates of that company or entity.

1.13. "**Your Data**" means all electronic data or information owned by Your company or other legal entity and submitted by You to the SaaS Subscription.

**Paladin Data Systems Corporation
Master SaaS Subscription and Professional Services Agreement**

2. SaaS SUBSCRIPTION AND PROFESSIONAL SERVICES

2.1. **Provision of SaaS Subscription.** We will make the SaaS Subscription available to You pursuant to this Agreement and the relevant Sales Order during a subscription term. You agree that Your purchases are not contingent on the delivery of any future functionality or features, and not dependent on any oral or written public comments made by Us regarding future functionality or features.

2.2. **User Subscriptions.** Unless otherwise specified in the Sales Order, (i) SaaS Subscription are purchased as User subscriptions and may be accessed by no more than the specified number of Users, (ii) additional User subscriptions may be added during the subscription term at the same pricing as the pre-existing subscriptions, prorated for the remainder of the subscription term in effect at the time the additional User subscriptions are added, and (iii) the added User subscriptions will terminate on the same date as the pre-existing subscriptions. User subscriptions are for designated Users only and cannot be shared or used by more than one User but may be reassigned to new Users replacing former Users who no longer require ongoing use of the SaaS Subscription.

2.3. **Provision of Professional Services.** We will provide to You the Professional Services specified on the Sales Order. The Professional Services are cost estimates based on time and materials work for Your budgeting and Our resource scheduling purposes. If the estimate is exceeded, We will continue to provide the Professional Services on a time and materials basis if a statement of work or purchase order for continuation of the Professional Services is signed by the Parties.

3. USE OF THE SaaS SUBSCRIPTION

3.1. **Our Responsibilities.** We will: (i) provide Our basic support for the SaaS Subscription to You at no additional charge (ii) use commercially reasonable efforts to make the SaaS Subscription available and (iii) We will provide You access to Your Data via a database extract process that enables You to execute and download a current copy of Your Data on demand.

3.2. **Your Responsibilities.** You will (i) be responsible for Users' compliance with this Agreement, (ii) be responsible for the accuracy, quality and legality of Your Data and the means by which You acquired Your Data, (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the SaaS Subscription, and notify Us promptly of any such unauthorized access or use, and (iv) use the SaaS Subscription only in accordance with the User Guide and applicable laws and government regulations, (v) validate for correctness all output and reports and (vi) have sole responsibility for downloading and storing back-up files, (vii) You will NOT (a) make the SaaS Subscription available to anyone other than Users, (b) sell, resell, rent or lease the SaaS Subscription to any Third Party, (c) use the SaaS Subscription to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of Third Party privacy rights, (d) use the SaaS Subscription to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of the SaaS Subscription or Third Party data contained therein, or (f) attempt to gain unauthorized access to the SaaS Subscription or their related systems or networks.

4. NON-SMARTGov PROVIDERS

4.1. **Acquisition of SMARTGov Products.** We or a Third Party may from time to time make available to You, Third Party products or services, including but not limited to Non-SMARTGov Applications and implementation, customization and other consulting services. Any acquisition by You of Non-SMARTGov products or services, and any exchange of data between You and any Non-SMARTGov provider, is solely between You and the applicable Non-SMARTGov provider. We do not warrant or support Non-SMARTGov products or services, except as specified in a Sales Order. Subject to Section 4.3 (Integration with Non-SMARTGov Applications), purchase of Non-SMARTGov products is not required to use the SaaS Subscription except for a supported computing device, operating system, web browser and Internet connection.

4.2. **Non-SMARTGov Applications and Your Data.** If You install or enable Non-SMARTGov Applications for use with SaaS Subscription, You acknowledge that We may allow providers of those Non-SMARTGov Applications to access Your Data as required for the interoperation of such Non-SMARTGov Applications with the SaaS Subscription. We will not be responsible for any disclosure, modification or deletion of Your Data resulting from any such access by Non-SMARTGov Application providers. The SaaS Subscription will allow You to restrict such access by restricting Users from installing or enabling such Non-SMARTGov Applications for use with the SaaS Subscription.

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4.3. **Integration with Non-SMARTGov Applications.** The SaaS Subscription may contain features designed to operate with Non-SMARTGov Applications. To use such features, You may be required to obtain access to such Non-SMARTGov Applications from their providers. If the provider of any Non-SMARTGov Application ceases to make the Non-SMARTGov Application available for operation with the corresponding SaaS Subscription features on reasonable terms, We may cease providing such SaaS Subscription features without entitling You to any refund, credit, or other compensation.

5. FEES AND PAYMENT

5.1. **Fees.** You will pay all fees specified in all Sales Orders. Except as otherwise specified herein or in a Sales Order, (i) fees are based on SaaS Subscription and/or Professional Services purchased and not actual usage, (ii) payment obligations are non-cancelable and fees paid are non-refundable, and (iii) the number of User subscriptions purchased cannot be decreased during the subscription term stated on the Sales Order. User subscription fees are based on annual periods that begin on the subscription start date and each annual anniversary; therefore, fees for User subscriptions added in the middle of an annual period will be charged a prorated amount for the remaining subscription term.

(a) If We determine, based on electronic monitoring of Your User subscriptions, the actual number of User subscriptions exceeds the number licensed on a Sales Order, We reserve the right to amend the Sales Order for successive Renewal Terms to increase the number of User subscriptions and the fees.

(b) Professional Service fees do not include travel, lodging or other expenses incurred by Us unless specified on the Sales Order. You will reimburse Us for all travel, lodging, communications, incidentals and other out-of-pocket expenses as they relate to the services rendered by Us to You.

5.2. **Invoicing and Payment.** We will invoice You in advance for SaaS Subscription in accordance with the relevant Sales Order. We will invoice You monthly for Professional Services in accordance with the relevant Sales Order. Unless otherwise stated in the Sales Order, invoiced charges are due net 30 days from the invoice date.

5.3. **Overdue Payments.** If any payments are not received by the due date, then at Our discretion, (a) such overdue payments may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid, and/or (b) We may condition future subscription renewals and Sales Orders on payment terms shorter than those specified in Section 5.2 (Invoicing and Payment).

5.4. **Suspension of SaaS Subscription or Professional Services.** If any amount owing by You under any agreement is 30 days' overdue, We may, without limiting Our other rights and remedies, accelerate Your unpaid fee obligations so that all such obligations become immediately due and payable, and suspend Our SaaS Subscription or Professional Services to You until such amounts are paid in full.

5.5. **Payment Disputes.** We will not exercise Our rights under Section 5.3 (Overdue Payments) or 5.4 (Suspension of SaaS Subscription or Professional Services) if You are disputing the applicable charges reasonably and in good faith and are cooperating diligently to resolve the dispute.

5.6. **Taxes.** Unless otherwise stated, Our fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, "Taxes"). You are responsible for paying all Taxes associated with Your purchases hereunder. If We have the legal obligation to pay or collect Taxes for which You are responsible, the appropriate amount will be invoiced to and paid by You, unless You provide Us with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, We are solely responsible for taxes assessable based on Our income, property and employees.

6. PROPRIETARY RIGHTS

6.1. **Reservation of Rights in SaaS Subscription.** Subject to the limited rights expressly granted hereunder, We reserve all rights, title and interest in and to the SaaS Subscription, including all related intellectual property and trademark rights. No rights are granted to You other than as expressly set forth herein.

6.2. **Restrictions.** You will not (i) permit any Third Party to access the SaaS Subscription except as permitted herein or in a Sales Order, (ii) create derivate works based on the SaaS Subscription, (iii) copy, frame or mirror any part or content of the SaaS Subscription, other than copying or framing on Your own intranets or otherwise for Your own internal business purposes, (iv) reverse engineer, decompile or

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otherwise attempt to derive source code, or (v) access the SaaS Subscription in order to (a) build a competitive product or service, or (b) copy any features, functions or graphics of the SaaS Subscription.

6.3. **Ownership.** We retain sole and exclusive ownership of, and all right, title and interest in and to the SaaS Subscription, the documentation User Guide, any modifications and all suggestions, ideas, improvements, feedback, evaluation materials, presentations, designs, technology, inventions, know-how, works of authorship, software, specifications, and other materials, information and any other intellectual property made, developed, conceived or reduced to practice by Us (whether alone, or jointly with You) in the performance of this Agreement.

6.4. **Your Applications and Code.** If You, a Third Party acting on Your behalf, or a User creates applications or program code using the SaaS Subscription, You authorize Us to host, copy, transmit, display and adapt such applications and program code, solely as necessary for Us to provide the SaaS Subscription in accordance with this Agreement. Subject to the above, We acquire no right, title or interest from You or Your licensors under this Agreement in or to such applications or program code, including any intellectual property rights therein.

6.5. **Your Data.** Subject to the limited rights granted by You hereunder, We acquire no right, title or interest from You or Your licensors under this Agreement in or to Your Data, including any intellectual property rights therein. You grant to Us a non-exclusive license to use Your Data for the purposes of performing Our obligations under this Agreement.

6.6. **Our Protection of Your Data.** We receive no ownership rights in Your Data. We will maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Your Data. We will not (a) modify Your Data, (b) disclose Your Data except as compelled by law in accordance with Section 7.3 (Compelled Disclosure) or as expressly permitted in writing by You, or (c) access Your Data except to provide the SaaS Subscription or Professional Services and prevent or address service or technical problems, (d) or at Your request in connection with customer support matters.

6.7. **Report Writer Software.** You acknowledge the SaaS Subscription Service utilizes ad hoc report writer software ("Ad Hoc") under a license granted to Us by a Third Party, which licenses Us the right to sublicense the use of the Ad Hoc as part of the Service to You. Such sublicense is nonexclusive and solely for Your internal use and You may not further resell, re-license, or grant any other rights to use such sublicense to any Third Party. You further acknowledge the Ad Hoc licensing Third Party retains all right, title, and interest to the Ad Hoc and all documentation related to the Ad Hoc. All confidential or proprietary information of Ad Hoc licensing Third Party is Confidential Information under the terms of this Agreement.

7. CONFIDENTIALITY

7.1. **Definition of Confidential Information.** "Confidential Information" means all confidential information disclosed by a Party ("Disclosing Party") to the other Party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information will include, but not be limited to Your Data; Our Confidential Information will include, but not be limited to the SaaS Subscription; and Confidential Information of each Party will include the terms and conditions of this Agreement and all Sales Orders, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such Party. However, Confidential Information will not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a Third Party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

7.2. **Protection of Confidential Information.** The Receiving Party (i) will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) (ii) will not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (iii) except as otherwise authorized by the Disclosing Party in writing, will limit access to Confidential Information of the Disclosing Party to its Affiliates' employees, contractors and agents who need such access for purposes consistent with this Agreement. Neither party will disclose the terms of this Agreement or any Sales Order to any Third Party other than its Affiliates and their legal counsel and accountants without the other Party's prior written consent.

7.3. **Compelled Disclosure.** If the Receiving Party is required to disclose any Confidential Information of the other by law, regulation or governmental authority, the Receiving Party will provide reasonable notice

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to Disclosing Party of such required disclosure and reasonably cooperate with the Disclosing Party in preventing or limiting such disclosure, or obtaining an appropriate protective order or other remedy. If a protective order or other remedy is not obtained, then the Receiving Party may disclose such Confidential Information as necessary for compliance with the applicable law, regulation or governmental authority. Notwithstanding such disclosure, such information will remain Confidential Information and subject to the requirements of this Section.

8. WARRANTIES AND DISCLAIMERS FOR SaaS SUBSCRIPTION AND PROFESSIONAL SERVICES

8.1. **Our Warranties for SaaS Subscription.** We warrant that (i) We have the legal power to enter into this Agreement, (ii) the SaaS Subscription will perform materially in accordance with the User Guide, (iii) subject to Section 4.3 (Integration with Non-SMARTGov Applications), the functionality of the SaaS Subscription will not be materially decreased during a subscription term, and (iv) We will not transmit Malicious Code to You, provided it is not a breach of this subpart (iv) if You or a User uploads a file containing Malicious Code into the SaaS Subscription and later downloads that file containing Malicious Code. For any breach of a warranty above, Your exclusive remedy will be as provided in Section 13.4 (Termination for Cause) and Section 13.6 (Refund or Payment upon Termination) below.

8.2. **Our Warranties for Professional Services.** We warrant the Professional Services will be performed consistent with generally accepted industry standards.

8.3. **Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

9. LIMITATION ON WARRANTIES FOR PROFESSIONAL SERVICES

YOU MUST REPORT ANY DEFICIENCIES IN THE PROFESSIONAL SERVICES TO US IN WRITING WITHIN THIRTY (30) DAYS OF COMPLETION OF THE PROFESSIONAL SERVICES IN ORDER TO RECEIVE WARRANTY REMEDIES. THE WARRANTY HEREIN IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

10. EXCLUSIVE REMEDY FOR PROFESSIONAL SERVICES

For any breach of the above warranty, Your exclusive remedy, and Our entire liability, will be the re-performance of the Professional Services. If We are unable to re-perform the Professional Services as warranted, You will be entitled to recover the fees paid to Us for the deficient services. IN NO EVENT WILL WE BE LIABLE FOR ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES ARISING FROM ANY PROFESSIONAL SERVICES PROVIDED HEREUNDER, INCLUDING BUT NOT LIMITED TO CLAIMS FOR LOST PROFITS OR OTHER ECONOMIC DAMAGES.

11. LIMITATION OF LIABILITY

11.1. **Limitation of Liability.** NEITHER PARTY'S LIABILITY WITH RESPECT TO ANY SINGLE INCIDENT ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT OR TORT OR UNDER ANY OTHER THEORY OF LIABILITY) WILL EXCEED THE AMOUNT PAID BY YOU IN THE 12 MONTHS PRECEDING THE INCIDENT, PROVIDED THAT IN NO EVENT WILL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT OR TORT OR UNDER ANY OTHER THEORY OF LIABILITY) EXCEED THE TOTAL AMOUNT PAID BY YOU. THE FOREGOING WILL NOT LIMIT YOUR PAYMENT OBLIGATIONS UNDER SECTION 5 (FEES AND PAYMENT FOR SaaS SUBSCRIPTION).

11.2. **Exclusion of Consequential and Related Damages.** IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR REVENUES OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

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12. TERM AND TERMINATION FOR PROFESSIONAL SERVICES

Professional Services will commence on the date specified on the Sales Order. Either Party may terminate Professional Services any time by providing the other Party with at least 14 days written notice. Any Professional Services outstanding at the time of termination will continue to be covered by this Agreement as if it had not been terminated.

13. TERM AND TERMINATION FOR SaaS SUBSCRIPTION

13.1. Term of Agreement. This Agreement commences on the date You accept it and continues until all User subscriptions have expired or been terminated.

13.2. Term of Purchased User Subscriptions. User subscriptions purchased by You commence on the start date specified in the applicable Sales Order and continue for the subscription term specified. Except as otherwise specified in the applicable Sales Order, all User subscriptions will automatically renew for additional periods equal to the expiring one year subscription term, unless either Party gives the other notice of non-renewal at least 30 days before the end of the relevant subscription term. The pricing during any such renewal term will be the same as the prior term unless We have given You written notice of a pricing increase at least 180 days before the end of such prior term, in which case the pricing increase will be effective upon renewal and thereafter.

13.3. Stop in SaaS Subscription. Upon 180 days' prior written notice, We may terminate provision of the SaaS Subscription as a hosted offering. We will export and return Your Data to You via digital media at Our expense. We will refund You any prepaid fees covering the remainder of the term of all subscriptions after the effective date of stop in SaaS Subscription.

13.4. Termination for Cause. A Party may terminate this Agreement for cause: (i) upon 30 days written notice to the other Party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other Party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. In addition, We may terminate this Agreement if You fail to make any payment due hereunder within 30 days after receiving written notice from Us that such payment is delinquent.

13.5. Effect of Termination. Upon termination for any reason, (a) all licenses granted will automatically and immediately terminate, and We may immediately disable and discontinue Your access to and use of the SaaS Subscription without further notice to You, (b) You will promptly return to Us all Documentation and all information and materials that You have acquired pertaining to the SaaS Subscription and any other Confidential Information of Ours and (c) within 30 days of the effective date of such termination, We will export all Your Data then-stored in the Service and ship the information to You in a digital format.

13.6. Refund or Payment upon Termination. Upon any termination by You for cause, We will refund You any prepaid fees covering the remainder of the term of all subscriptions after the effective date of termination. Upon any termination by Us for cause, You will pay any unpaid fees covering the remainder of the term of all Sales Orders after the effective date of termination. In no event will any termination relieve You of the obligation to pay any fees payable to Us for the period prior to the effective date of termination.

13.7. Return of Your Data. Within 30 days after the effective date of termination of SaaS Subscription and upon request by You, We will make available to You for download a file of Your Data. After such 30-day period, We will have no obligation to maintain or provide any of Your Data and will thereafter, unless legally prohibited, delete all of Your Data in Our systems or otherwise in Our possession or under Our control.

13.8. Surviving Provisions. Section 5 (Fees and Payment), 6 (Proprietary Rights), 7 (Confidentiality), 8.3 (Disclaimer), 11 (Limitation of Liability), 13.6 (Refund or Payment upon Termination), 13.7 (Return of Your Data), 14 (Contracting Seller, Notices, Governing Law and Jurisdiction) and 15 (General Provisions) will survive any termination or expiration of this Agreement.

14. CONTRACTINGSELLER, NOTICES, GOVERNING LAW AND JURISDICTION

14.1. Seller: Paladin Data Systems Corporation, a Washington corporation.

14.2. Address notices to: 19362 Powder Hill Pl. NW, Poulsbo, WA 98370, Attn: Contracts

14.3. Governing law: Washington and controlling United States federal law

14.4. Exclusive court jurisdiction: Kitsap County, Washington

14.5. Manner of Giving Notice. Except as otherwise specified in this Agreement, all notices, permissions and approvals will be in writing and will be deemed to have been given upon: (i) personal

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delivery, (ii) the second business day after mailing, (iii) the second business day after sending by confirmed facsimile, or (iv) the first business day after sending by email (provided email will not be sufficient for notices of termination or an indemnifiable claim). Billing-related notices to You will be addressed to the relevant billing contact designated by You. All other notices to You will be addressed to the relevant SaaS Subscription system administrator designated by You.

14.6. Agreement to Governing Law and Jurisdiction. Each Party agrees to the applicable governing law above without regard to choice or conflicts of law rules, and to the exclusive jurisdiction of the applicable courts above.

14.7. Waiver of Jury Trial. Each Party hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement.

15. GENERAL PROVISIONS

15.1. Amendment; No Waiver. Except as otherwise expressly provided herein, this Agreement may not be amended or modified and the observance of any provision of this Agreement may not be waived except with the written consent of the Parties. No failure by either Party to enforce any rights hereunder will constitute a waiver of such right then or in the future or any other right or remedy hereunder. To the extent the terms and conditions of any Exhibit, attachment, purchase order, invoice, proposal or response to request for proposal, conflict with or are inconsistent with this Agreement, the terms and conditions of this Agreement will control and no such conflicting terms will be deemed as a waiver or amendment of this Agreement.

15.2. Anti-Corruption. You have not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Our employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If You learn of any violation of the above restriction, You will use reasonable efforts to promptly notify Us.

15.3. Assignment; Binding Effect. This Agreement may not be transferred or assigned by either Party without the express written consent of the other, which will not be unreasonably withheld or delayed, except that either Party may, without the consent of the other Party, assign this Agreement in its entirety to a parent, subsidiary or affiliate of such Party or an acquirer of more than 50% of the assigning Party's outstanding voting capital stock or to a purchaser of all or substantially all of the assigning Party's assets. Notwithstanding the foregoing or any other provision of this Agreement, You may not assign, sublicense, delegate or transfer this Agreement or any of its rights or obligations under this Agreement to any competitor of Ours. Any purported transfer or assignment in contravention of this Section will be null and void. This Agreement will inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

15.4. Basis of Bargain. The Parties acknowledge that they have entered into this Agreement in reliance upon the disclaimers of warranties and limitations of liability and damages as set forth in this Agreement, and that such provisions form an essential basis of the bargain between the Parties and do not cause this Agreement, or the remedies available hereunder, to fail of its or their essential purpose.

15.5. Counterparts. This Agreement may be executed in any number of English language counterparts or duplicate originals, and each such counterpart or duplicate original will constitute an original instrument, but all such separate counterparts or duplicate originals will constitute one and the same instrument.

15.6. Entire Agreement. This Agreement, including the Exhibits attached, constitutes the entire Agreement of the Parties concerning its subject matter and supersedes any and all prior or contemporaneous, written or oral negotiations, correspondence, understandings and agreements between the Parties respecting the subject matter of this Agreement.

15.7. Export Compliance. The SaaS Subscription, other technology We make available, and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Each Party represents that it is not named on any U.S. government denied-party list. You will not permit Users to access or use SaaS Subscription in a U.S.-embargoed country or in violation of any U.S. export law or regulation.

15.8. Force Majeure. Except with respect to payment obligations, neither Party will be liable for any failure of performance or equipment due to causes beyond such Party's reasonable control, including but not limited to: acts of God, fire, flood or other catastrophes; any law, order, regulation, direction, action, or request of any governmental entity or agency, or any civil or military authority; national emergencies,

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insurrections, riots, wars; unavailability of rights-of-way or materials; or strikes, lock-outs, work stoppages, or other labor difficulties.

15.9. **Headings and Interpretation.** Headings and captions are for convenience only and are not to be used in the interpretation of this Agreement. The words "include," "includes," and "including" when used in this Agreement will be treated in each case as followed by the words "without limitation."

15.10. **Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

15.11. **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement will remain in effect.

15.12. **Insurance and Risk of Loss.** You bear all responsibility for damages to Your equipment and facilities.





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 4D
Subject: Approval of Amendment No. 1 to Contract
No. 090-15 with Transportation Solutions,
Inc. for On-Call Consultant Services

Meeting Date: December 13, 2016
Prepared by: Nicholas Bond, AICP
Development Director
Atty Routing No.: NA
Atty Review Date: NA

Summary: The City has an existing on-call contract for transportation engineering with TSI, inc. This contract is utilized for concurrency review, Traffic Study development review and development, and to maintain the City’s transportation model. The contract costs are funded as pass through costs to the developer on an as needed basis. City staff wishes to continue this arrangement through the biennial budget 2017-18 period.

Recommendation: Staff Recommends approval of the proposed Amendment No. 1 with TSI, Inc.

Motion for Consideration: I move to approve Amendment No. 1 to Contract No. 090-15 with Transportation Solutions, Inc. for On-Call Consultant Services.

Fiscal Impact: The contract amount is not to exceed \$40,000 annually. The costs of services provided under the proposed contract are to be passed through to applicants for development.

Alternatives: Consider hiring a transportation engineer as an employee of the city to perform the tasks described in the City’s concurrency and impact fee ordinances. Select a different consultant to perform these services.

Attachments: Amendment No. 1 and Resolution No. 024-15

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Amendment No. 1 to Contract No. C090-15
ON-CALL CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF PORT ORCHARD AND
TRANSPORTATION SOLUTIONS, INC.

THIS AMENDMENT to Contract No. C090-15 (“Amendment”) is made effective as of the 20th day of December, 2016 by and between the City of Port Orchard, a municipal corporation, organized under the laws of the State of Washington, and Transportation Solutions, Inc., a corporation organized under the laws of the State of Washington, located and doing business at 8250 165th Avenue NE, Redmond, WA 98052.

WHEREAS, the City of Port Orchard, Washington (hereinafter the “City”), and Transportation Solutions, Inc. (hereinafter the “Consultant”), entered into an underlying On-Call Consultant Services Contract, dated December 9, 2015, for consulting services related to the City’s transportation and planning services needs (“Underlying Agreement”); and

WHEREAS, Section IV (“Duration of Work”) of the Underlying Agreement provides that the Agreement will terminate on December 31, 2016 “unless extended by an amendment executed by the duly authorized representatives of the parties”; and

WHEREAS, the Consultant and the City have conferred and agreed that an extension of the Underlying Agreement through December 31, 2018; and

WHEREAS, the Consultant and the City have agreed to separate “not to exceed” amounts for each additional year of the contract; NOW, THEREFORE,

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

1. The Underlying Agreement of December 9, 2015 between the parties, incorporated by this reference as fully as if herein set forth, is amended in, but only in, the following respects:

1.1 Section II (“Payment”), subsection A, shall be amended to read as follows:

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 Thousand Dollars (\$40,000) for Task Orders authorized by the City during the 2017 calendar year and not to exceed Forty Thousand Dollars (\$40,000) for Task Orders authorized by the City during the 2018 calendar year, including all taxes and fees for the services described in Section I herein. These are the maximum annual amounts 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 IV herein before reaching the maximum amount each year.

1.2 Section IV ("Duration of Work") shall be amended to read as follows:

The Consultant shall not begin any work under this Agreement until an authorized Task Order has been agreed upon by the parties, and the City has issued a Notice to Proceed. This Agreement shall expire on December 31, 2018, unless extended by an amendment executed by the duly authorized representatives of the parties.

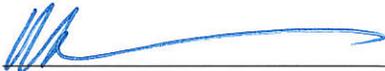
2. In all other respects, the Underlying Agreement between the parties shall remain in full force and effect, amended as set forth herein, but only as set forth herein.

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

CITY OF PORT ORCHARD,
WASHINGTON

By: _____
Robert Putaansuu, Mayor

TRANSPORTATION SOLUTIONS, INC.

By:  _____
Name: Victor Salemsann
Title: Principal

ATTEST/AUTHENTICATED:

By: _____
Brandy Rinearson, CMC, City Clerk

APPROVED AS TO FORM:

By: _____
Sharon Cates, City Attorney

Introduced by: Development Director
Requested by: Development Director
Drafted by: Development Director
Introduced: December 8, 2015
Adopted: December 8, 2015

RESOLUTION NO. 024-15

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, APPROVING AN ON-CALL ARCHITECTURAL & ENGINEERING SERVICES CONTRACT WITH TRANSPORTATION SOLUTIONS, INC.

WHEREAS, pursuant to chapter 39.80 RCW, the City of Port Orchard's Public Works Department annually publishes the general Request for Qualifications (RFQ) for professional engineering, surveying, architecture, structural design and related services for the Professional Services Roster; and

WHEREAS, the city recently adopted traffic impact fees and a concurrency ordinance; and

WHEREAS, implementing the traffic impact fee and concurrency ordinance requires transportation engineering expertise beyond that which is possessed by city staff; and

WHEREAS, prior to selecting a consultant to perform on-call architectural and engineering services related transportation impact fee and concurrency review, pursuant to chapter 39.80 RCW, the city reviewed its consultant roster for firms under the main categories of "Engineering Services" and "Design and Planning" and under the sub categories of "Traffic Counts/Data Collection," "Traffic Operations Simulation Modeling," "Transportation/Traffic," and "Travel Demand Modeling," and found 15 firms (as shown on the list attached hereto as Exhibit D) stating that they were qualified to perform services in these categories; and

WHEREAS, upon review and evaluation of the SOQ provided, Port Orchard's DCD and Public Works Department determined that of the 15 firms listed on the City's roster, Transportation Solutions Inc. was most qualified firm due to their exclusive experience in the development of the city's transportation model, transportation plan, and the development of the city's traffic impact fee calculation; Now, Therefore,

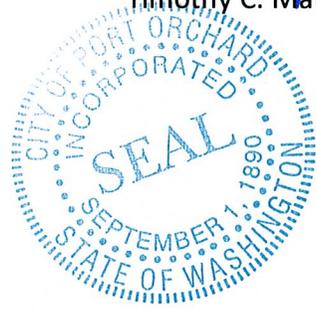
THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

THAT: The mayor is authorized to execute the on-call services contract (attached hereto as Exhibit A, B, and C) between the City and Transportation Services Inc., attached hereto, with the not to exceed amount of \$60,000.

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 8th day of December 2015.



Timothy C. Matthes, Mayor



ATTEST:



Brandy Rinearson, CMC, City Clerk

**ON-CALL CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF PORT ORCHARD AND
TRANSPORTATION SOLUTIONS, INC**

THIS AGREEMENT is made by and between the City of Port Orchard, a Washington municipal corporation (hereinafter the "City"), and Transportation Solutions, Inc, (hereinafter the "Consultant,") a Corporation organized under the laws of the State of Washington on located and doing business at 8250 165th Ave NE, Redmond, WA 98052.

RECITALS

WHEREAS, the City, as part of reviewing development applications, transportation concurrency applications, and in the calculation of traffic impact fees to be imposed for a particular project application, is periodically required to conduct a variety of transportation engineering and planning services, as described on the attached scope of work (Exhibit A);

WHEREAS, these transportation engineering and planning serviced require expertise beyond that which is possessed by city staff; and

WHEREAS, the Consultant has agreed to provide such on call transportation engineering and planning services related to the review of applications for development as described herein;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

A. The Consultant shall perform transportation engineering and planning services related to applications for development or land use approvals as described on Exhibit A, attached hereto and incorporated herein by this reference.

B. The City shall issue a written Task Order for each project assigned to the Consultant. The written Task Order shall include the following information, which may be furnished in consultation with the Consultant: (1) Task Order Title (project name); (2) technical approach to the task (if necessary); (3) specific deliverables; (4) schedule with milestones and deliverables; (5) cost/hour estimate; (6) due date of work. All of these items may be brief, but will be sufficiently detailed for the Consultant to understand the work being authorized and the amount it will cost. Written Task Orders and Notices to Proceed may be issued as e-mail documents.

C. The City does not permit subconsultants for those items of work necessary for the completion of any Task Order on any project. The Consultant shall not subcontract with subconsultants for the performance of any work under this Agreement without prior written permission of the City.

II. 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 Sixty Thousand Dollars (\$60,000.00), including all taxes and fees for the services described in Section I 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 IV herein before reaching the maximum amount.

B. The Consultant shall be paid by the City for completed services rendered under each approved individual Task Order. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies equipment and incidentals necessary to complete the work. The Consultant shall submit an itemized invoice to the City for each separate Task Order after the services have been performed. (NICK: do you want to describe what the invoice should look like, given that the City will be asking that the applicant reimburse the City for the work? It could save some disputes later.)

C. The amount paid by the City for each invoice shall not exceed the amount in Section II(A) above, which shall be billed at the hourly rates set forth in Exhibit C, which is attached hereto and incorporated herein by this reference, except that concurrency testing fees shall be billed according to the formula in Exhibit B (attached hereto and incorporated herein by this reference). The City shall pay the full amount of an invoice within sixty (60) days of receipt. 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.

D. The Consultant will not undertake any work or otherwise financially obligate the City in excess of said not-to-exceed amount in Section II (A) without a duly authorized amendment to this Agreement. In the event services are required beyond those specified in the Scope of Work and not included in the compensation listed in this Agreement, a written contract amendment shall be negotiated and approved by the City before any effort is expended on such services.

III. 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.

IV. Duration of Work

The Consultant shall not begin any work under this Agreement until an authorized Task Order has been agreed upon by the parties, and the City has issued a Notice to Proceed. This Agreement shall expire on December 31, 2016, unless extended by an amendment executed by the duly authorized representatives of the parties.

V. Termination

A. Termination of Agreement without cause. The City may terminate this Agreement, without cause, for public convenience, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in Exhibit A.

B. Termination of Agreement with cause. This Agreement may be terminated upon the default of the Consultant.

C. Rights Upon Termination.

1. *With or Without Cause.* In the event of termination for any reason, all finished or unfinished documents, reports, or other material or work of Consultant pursuant to this Agreement shall be submitted to the City, and 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 in Section II(A) herein. Consultant shall not be entitled to any reallocation of cost, profit or overhead. Consultant shall not in any event be entitled to anticipated profit on work not performed because of such termination. Consultant shall use its best efforts to minimize the compensation payable under this Agreement in the event of 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 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 for reason of such default.

D. *Notice of Termination.* 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 may also be delivered to the Consultant at the address set forth in Section XVI herein.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

Consultant shall defend, indemnify and hold the City, its officers, officials, employees, and agents harmless from any and all claims, injuries, damages, losses, or suits, including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. 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, and agents, the Consultant's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence.

It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. THIS WAIVER HAS BEEN MUTUALLY NEGOTIATED BY THE PARTIES. This indemnification provision shall survive the expiration or termination of this Agreement.

VIII. Insurance

The Consultant shall procure and maintain for the duration of the 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. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.
4. 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.

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's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.
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 provide 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. 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.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. 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 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.

XI. City's Right of Inspection

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 terms 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.

XII. Consultant to Maintain Records to Support Independent Contractor Status

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 the Revised Code of Washington (RCW) Section 51.08.195, as required 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 RCW Title 51, Industrial Insurance.

XIII. 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.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred 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 and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

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 City of Port Orchard Mayor shall determine the term or provision's true intent or meaning. The City of Port Orchard 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.

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 City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Kitsap County Superior Court, Kitsap County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The substantially prevailing party in any action brought to enforce this Agreement shall be reimbursed for its reasonable attorneys' fees and costs by the other party.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Transportation Solutions, Inc.
8250 165th Ave NE
Redmond, WA 98052
425-883-4134

CITY:

Attn: _____
City of Port Orchard
216 Prospect Street
Port Orchard, WA 98366

With a copy to the "City Clerk" at the same address.

XVII. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

XVIII. Modification and Severability

No waiver, alteration, or 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.

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

The written provisions and terms 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, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed 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.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 9th
day of December, 2015.

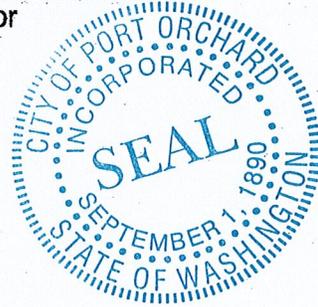
CONSULTANT

By: *David D. Markley*
Its President

Consultant: ISI
David D. Markley

CITY OF PORT ORCHARD

By: *Tim Matthes*
Tim Matthes, Mayor



APPROVED AS TO FORM:

[Signature]
City Attorney's Office

ATTEST:

[Signature]
City Clerk



Exhibit A
City of Port Orchard
Scope of Work
On-call Transportation Engineering Services
and
Transportation Concurrency Testing

The scope of services for this Task Order based on the attached on-call contract is anticipated to include various transportation engineering related services to assist the City in the review of site development and subdivision projects.

On-call Transportation Engineering Services may include:

Transportation Impact Analysis (TIA) Scoping
Transportation Impact Analysis (TIA) Review,
Impact Fee Adjustment Request Review
Roadway Plan Review – Traffic Elements
 Horizontal and Vertical Geometry
 Signing
 Pavement Markings
 Signals
 Roundabouts
 Illumination
 ADA Curb Ramp/Sidewalk Compliance
Attendance at Hearings and Meetings
Other Transportation of Traffic Related Services as Requested

Payment for On-call Transportation Engineering Services

All on-call Transportation Engineering Services will be performed on a Task Order basis. Each Task Order will include a written scope of work, a cost estimate based upon current hourly rates with a not-to-exceed maximum, and a time of completion for the individual Task Order. See Section I of the attached on-call contract.

Transportation Concurrency Testing and Report Preparation

Transportation concurrency testing will include updating the City's travel forecasting model with the PM peak hour trips generated by a proposed development and evaluating the level of service for arterial intersections subject to concurrency. The concurrency test shall include a report showing the trip generation and trip assignment of the development related trips and documenting any failed intersections and providing potential improvements necessary to improve LOS to City standards. The trip distribution and assignment shall be used by the developer in the preparation of the TIA for the project.



Payment for Transportation Concurrency Testing

Payment will be based upon the size of the proposed development and the attached fee schedule

Schedule for Performance

The schedule will vary by Task Order as described in Section I of the attached on-call contract.

Assumptions:

The city will provide original electronic source files for all documents.

TSI will provide a written scope of work, cost estimate, and completion date within 3 days of receipt of a Task Order from the City. Concurrency tests will be completed within 10 days of receipt of the concurrency application.

**Exhibit B
Concurrency Testing Fees**

\$250 base fee plus \$5.00 times the estimated Net New Trips of the development based upon the tables below

**Trip Generation
Residential Uses**

and Use Group	ITE Code ¹	ITE Land Use Category ¹	ITE Trip Rate ²	% Pass By Trips ³	Net New Trips per Development Unit
Dwelling	210	Single-Family Detached Housing	1.00	0%	1.000
Dwelling	220	Apartment	0.62	0%	0.620
Dwelling	231	Low-Rise Condo / Townhouse	0.78	0%	0.780
Dwelling	240	Mobile Home Park	0.59	0%	0.590
Dwelling - Group	251	Sr. Housing Detached	0.27	0%	0.270
Dwelling - Group	252	Sr. Housing Attached	0.25	0%	0.250
Dwelling - Group	253	Congregate Care Facility	0.17	0%	0.170
Dwelling - Group	254 ⁵	Assisted Living	0.22	0%	0.220
Dwelling - Group	620 ⁵	Nursing Home	0.22	0%	0.220

1. Institute of Transportation Engineers, Trip Generation Manual (9th Edition)
2. Trip generation rate per development unit, for PM Peak Hour of the adjacent street traffic (4-6 pm). Note: Sq. Ft. rate expressed per 1000 SF (KSF).
3. Average Pass-by Rates, per Trip Generation Manual (9th edition) User's Guide and Handbook: an ITE Recommended Practice, 2012. Additional pass-by rate adjusted based on local conditions and engineering judgment.

**Trip Generation
Non-Residential Uses**

Land Use Group	ITE Code ¹	ITE Land Use Category ¹	ITE Trip Rate ²	% Pass By Trips ³	Net New Trips per Development Unit
Education	520	Public Elementary School	1.21	0%	1.210
Education	522	Public Middle/Junior High School	1.19	0%	1.190
Education	530	Public High School	0.97	0%	0.970
Education	534	Private School K-8 (limited data)	3.27	0%	3.270
Education	536	Private School K-12 (limited data)	2.75	0%	2.750
Industrial	110	General Light Industrial	0.97	0%	0.970
Industrial	130	Industrial Park	0.85	0%	0.850
Industrial	140	Manufacturing	0.73	0%	0.730
Institutional	566	Cemetery	0.84	0%	0.840
Medical	610	Hospital	0.93	0%	0.930
Medical	630	Clinic (limited data)	5.18	0%	5.180
Medical	720	Medical/Dental Office	3.57	0%	3.570
Office	710	General Office	1.49	0%	1.490
Office	715	Single Tenant Office	1.74	0%	1.740
Park and Ride	090	Park and Ride with Bus Service	0.62	0%	0.620
Port and Terminal	030	Intermodal Truck Terminal	0.83	0%	0.830
Recreation	411	City Park	3.50	25%	2.625
Recreation	420	Marina (limited data)	0.19	25%	0.143
Recreation	430	Golf Course	0.30	25%	0.225
Recreation	437	Bowling Alley	1.51	25%	1.133
Recreation	441	Live Theater (limited data)	0.02	25%	0.015
Recreation	444	Movie Theater	3.80	25%	2.850
Recreation	491	Racquet/Tennis Club	0.84	25%	0.630
Recreation	492	Health Fitness Club	3.53	25%	2.648
Recreation	493	Athletic Club	5.96	25%	4.470
Recreation	495	Recreational Community Center	2.74	25%	2.055
Retail – Automotive	853	Convenience Market w/Gas Pumps	19.07	66%	6.484
Retail – Automotive	941	Quick Lubrication Vehicle Stop	5.19	42%	3.010
Retail – Automotive	944	Gasoline/Service Station	13.87	42%	8.045
Retail – Automotive	945	Gas Station w/Convenience Market	13.51	56%	5.944
Retail – Automotive	946	Gas Station w/Convenience Market and Car Wash	13.86	56%	6.098
Retail – Automotive	947	Self-Serve Car Wash	5.54	42%	3.213
Retail - Large	814	Variety Store	6.82	34%	4.501
Retail - Large	815	Free Standing Discount Store	4.98	17%	4.133
Retail - Large	850	Supermarket	9.48	36%	6.067
Retail - Large	854	Discount Supermarket	8.34	23%	6.422
Retail - Small	590	Library	7.30	0%	7.300
Retail - Small	816	Hardware/Paint Store	4.84	26%	3.582
Retail - Small	826	Specialty Retail Center	2.71	34%	1.789
Retail - Small	841	Automobile Sales	2.62	0%	2.620
Retail - Small	843	Automobile Parts Sales	5.98	43%	3.409
Retail - Small	848	Tire Store	4.15	28%	2.988
Retail - Small	851	Convenience Market	52.41	61%	20.440
Retail - Small	876	Apparel Store	3.83	34%	2.528
Retail - Small	879	Arts and Crafts Store	6.21	34%	4.099
Retail - Small	880	Pharmacy/Drug Store w/o Drive-Thru	8.40	53%	3.948
Retail - Small	881	Pharmacy/Drug Store w/Drive-Thru	9.91	49%	5.054
Retail - Small	890	Furniture Store	0.45	53%	0.212
Retail - Small	896	DVD/Video Rental Store	13.60	49%	6.936
Retail - Small	911	Walk-in Bank (limited data)	12.13	47%	6.429
Retail - Small	912	Drive-in Bank	24.30	47%	12.879
Retail - Small	925	Drinking Place	11.34	0%	11.340
Retail - Small	931	Quality Restaurant	7.49	44%	4.194
Retail - Small	932	High Turnover Restaurant	9.85	43%	5.615
Retail - Small	933	Fast Food w/o Drive-Thru	26.15	49%	13.337
Retail - Small	934	Fast Food w/Drive-Thru	32.65	50%	16.325

Retail - Small	936	Coffee/Donut Shop w/o Drive-Thru	40.75	49%	20.783
Retail - Small	942	Automobile Care Center	3.11	28%	2.239
Services	151	Mini Warehouse	0.26	0%	0.260
Services	310	Hotel	0.60	0%	0.600
Services	320	Motel	0.47	0%	0.470
Services	560	Church	0.55	0%	0.550
Services	565	Day Care Center	12.34	75%	3.085
Services	732	US Post Office	11.22	47%	5.947

1. Institute of Transportation Engineers, Trip Generation Manual (9th Edition)
2. Trip generation rate per development unit, for PM Peak Hour of the adjacent street traffic (4-6 pm). Note: Sq. Ft. rate expressed per 1000 SF.
3. Average Pass-by Rates, per Trip Generation Manual (9th edition) User's Guide and Handbook: an ITE Recommended Practice, 2012. Additional pass-by rate adjusted based on local conditions and engineering judgment.



Transportation Solutions, Inc.

8250 - 165th Avenue NE
Suite 100
Redmond, WA 98052-6628
T 425-883-4134
F 425-867-0898
www.tsinw.com

Exhibit C
2015-2016
HOURLY BILLING RATES

Transportation Solutions, Inc.

Classification	Hourly Labor Billing Rate
Principal	\$225 to \$250
Project Manager	\$180 to \$210
Project Engineer/Sr. Engineer	\$130 to \$180
Engineering Intern	\$60 to \$120
Project & Financial Administrators	\$95 to \$110

EXPENSES

Reimbursable Expenses	Cost +10% Markup
Sub-consultant invoices	Invoice + 10% Markup

Note: 10% markup is to cover revenue/excise tax levied by State of Washington and other city jurisdictions and to cover the administrative cost.

Billing rates are subject to change each January and during the year to reflect staff changes.



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 4E
Subject: Approval of Amendment No. 2 to Contract
No. 016-15 with Grette Associates, LLC for
On-Call Environmental Consulting Services

Meeting Date: December 13, 2016
Prepared by: Nicholas Bond, AICP
Development Director
Atty Routing No.: NA
Atty Review Date: NA

Summary: On January 14, 2015, (and subsequently extended by Amendment #1 in December 2015) the City entered into a one year contract with Grette Associates LLC for professional services to review environmental reports which are received as part of application submittals for development. Staff is not adequately qualified to review these documents in conjunction with public and agency comments received to ensure that the city complies with its own requirements and state law. It was necessary to enter into a contract with a professional environmental services firm so that these reports can be reviewed for accuracy and to ensure that project impacts are accurately represented and if necessary, mitigated. The attached contract amendment #2 would extend the current contract through 2018, allowing the Community Development Director to send Environmental Reports to Grette Associates LLC for review to aid the city its review of applications for development. All costs associated with this contract would be pass-through costs per Resolution, 025-15. The director would be able to have reports reviewed on a task order basis which would not require additional Council approval. Grette Associates was previously selected from the City’s professional services roster as the most qualified firm to do the work due to its knowledge of the environmental systems in this area and its familiarity with the city’s environmental regulations.

Recommendation: Approve the contract extension with Grette Associates LLC not to exceed \$20,000 annually.

Motion for consideration: I move to approval Amendment No. 2 with Grette Associates LLC for on call environmental consulting services.

Fiscal Impact: The contract is not to exceed \$20,000 annually and all costs associated with review would be pass-through costs paid by the applicant.

Alternatives: Do not approve the contract.

Attachments: Amendment No. 2

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Amendment No. 2 to Contract No. C016-15
ON-CALL CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF PORT ORCHARD AND
GRETTE ASSOCIATES, LLC

THIS AMENDMENT No. 2 to Contract No. C016-15 (“Amendment”) is made effective as of the 20th day of December, 2016 by and between the City of Port Orchard, a municipal corporation, organized under the laws of the State of Washington, and Grette Associates, LLC, a Limited Liability Company organized under the laws of the State of Washington, located and doing business at 2102 North 30th, Suite A, Tacoma, WA 98403.

WHEREAS, the City of Port Orchard, Washington (hereinafter the “City”), and Grette Associates, LLC (hereinafter the “Consultant”), entered into an underlying On-Call Consultant Services Contract, dated January 14, 2015, for consulting services related to the City’s environmental sciences services needs (“Underlying Agreement”), as amended by Amendment No. 1 to the Underlying Agreement, dated December 22, 2015 (“Amendment No. 1”); and

WHEREAS, Section IV (“Duration of Work”) of the Underlying Agreement, as amended by Amendment No. 1, provides that the Agreement will terminate on December 31, 2016 “unless extended by an amendment executed by the duly authorized representatives of the parties”; and

WHEREAS, the Consultant and the City have conferred and agreed to a second extension of the Underlying Agreement through December 31, 2018; and

WHEREAS, the Consultant and the City have agreed to separate “not to exceed” amounts for each additional year of the contract; NOW, THEREFORE,

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

1. The Underlying Agreement of January 14, 2015 between the parties, as Amended by Amendment No. 1 of December 22, 2015, both of which are incorporated by this reference as fully as if herein set forth, is further amended in, but only in, the following respects:

1.1 Section II (“Payment”), subsection A, shall be amended to read as follows:

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 Twenty Thousand Dollars (\$20,000.00) for Task Orders authorized by the City during the 2017 calendar year and not to exceed Twenty Thousand Dollars (\$20,000.00) for Task Orders authorized by the City during the 2018 calendar year, including all taxes and fees for the services described in Section I herein. These are the maximum annual amounts 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 IV herein before reaching the maximum amount each year.

1.2 Section IV ("Duration of Work") shall be amended to read as follows:

The Consultant shall not begin any work under this Agreement until an authorized Task Order has been agreed upon by the parties, and the City has issued a Notice to Proceed. This Agreement shall be effective beginning January 1, 2017 and shall expire on December 31, 2018, unless extended by an amendment executed by the duly authorized representatives of the parties.

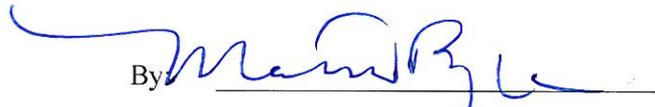
2. In all other respects, the Underlying Agreement between the parties shall remain in full force and effect, amended as set forth in Amendment No. 1 and herein, but only as set forth in Amendment No. 1 and herein.

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

CITY OF PORT ORCHARD,
WASHINGTON

GRETTE ASSOCIATES, INC.

By: _____
Robert Putaansuu, Mayor

By: 
Name: MATTHEW BOYLE
Title: PRINCIPAL

ATTEST/AUTHENTICATED:

By: _____
Brandy Rinearson, CMC, City Clerk

APPROVED AS TO FORM:

By: _____
Sharon Cates, City Attorney



City of Port Orchard

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

Agenda Staff Report

Agenda Item No.: Public Hearing 6A
Subject: Public Hearing Declaring Real Property
Owned by the Utility Fund (Water/Sewer)
Located on Bethel Avenue Parcel Nos.
4062-005-002-0004 and 4062-005-002-
0103 Surplus to the Needs of the City and
Authorizing Its Sale

Meeting Date: December 13, 2016
Prepared by: Brandy Rinearson, CMC
City Clerk
Atty Routing No.: 043-16
Atty Review Date: December 9, 2016

Summary: The City received a proposal from Mr. Michael Broz stating his interest in purchasing two land parcels owned by the City for \$4,100 based on an appraisal obtained by Mr. Broz. Both of these parcels are undeveloped land owned by the City’s Utility Fund and located on Bethel Avenue adjacent to the 76 Gas Station.

Parcel No. 4062-005-002-0004 was acquired in lieu of foreclosure for assessment associated with LID #60 for the amount of \$185.52 and Quit Claim Deed to the City on March 11, 1966.

Parcel No. 4062-005-002-0103 was foreclosed and acquired by the City by an Assessment Deed associated with the 1984 Water Sewer Revenue Bond Fund on May 27, 1993, for the amount of \$687.69.

Upon reviewing the appraisal provided, the City determined it was best to seek an independent review to determine the actual fair market value of both parcels. The report indicated the value of both parcels to be \$10,000.

Assets of the City that are no longer useable, are no longer of value to the City, or are surplus to City needs may be removed from City ownership, sold, or disposed of in any other way following a declaration of surplus by the City Council. RCW 35.94.040 requires a public hearing prior to selling real property owned by a Utility.

Recommendation: Open the Public Hearing to take public testimony on the determination of whether the two parcels constitute surplus of real property.

Fiscal Impact: Review appraisal cost \$2,000; anticipated Revenue of \$10,000.

Alternatives: Do not hold the public hearing and provide direction to staff.

Attachments: Resolution and Map

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RESOLUTION NO. ____

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON DECLARING REAL PROPERTY OWNED BY THE UTILITY FUND PARCEL (NOS. 4062-005-002-0004 AND 4062-005-002-0103) SURPLUS TO THE NEEDS OF THE CITY AND AUTHORIZING ITS SALE

WHEREAS, the City of Port Orchard owns real property identified as Parcel Nos. 4062-005-002-0004 and 4062-005-002-0103; and

WHEREAS, the City acquired Parcel No. 4062-005-002-0004 in lieu of foreclosure for assessment associated with LID #60 for the amount of \$185.52 and Quit Claim Deed to the City on March 11, 1966; and

WHEREAS, the City acquired Parcel No. 4062-005-002-0103 was foreclosed and acquired by the City by an Assessment Deed associated with the 1984 Water Sewer Revenue Bond Fund on May 27, 1993, for the amount of \$687.69; and

WHEREAS, the properties serve no public use to the City; and

WHEREAS, the City has received a proposal to purchase the real properties, now, therefore

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

THAT: The above referenced parcels are declared surplus to the needs of the City; and

The parcels shall be appraised by a qualified appraiser to determine their fair market value; and

The parcels shall be sold for a price not to be less than the appraised value of the parcels upon terms and conditions acceptable to the City.

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 13th day of December 2016.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, City Clerk



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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 7A
Subject: Adoption of a Resolution Declaring Real
Property Owned by the Utility Fund
(Water/Sewer) Located on Bethel Avenue
Parcel Nos. 4062-005-002-0004 and 4062-
005-002-0103 Surplus to the Needs of the
City and Authorizing Its Sale

Meeting Date: December 13, 2016
Prepared by: Brandy Rinearson, CMC
City Clerk
Atty Routing No.: 043-16
Atty Review Date: December 9, 2016

Summary: Earlier this evening a public hearing was held to determine whether certain real property owned by the City Parcel Nos. 4062-005-002-0004 and 4062-005-002-0103 is surplus to the City’s needs.

The City received a proposal stating interest in purchasing two land parcels for \$4,100. These parcels are owned by the City’s Utility Fund. Both parcels are located on Bethel Avenue adjacent to the 76 Gas Station and are undeveloped land.

Parcel No. 4062-005-002-0004 was acquired in lieu of foreclosure for assessment associated with LID #60 for the amount of \$185.52 and Quit Claim Deed to the City on March 11, 1966.

Parcel No. 4062-005-002-0103 was foreclosed and acquired by the City by an Assessment Deed associated with the 1984 Water Sewer Revenue Bond Fund on May 27, 1993, for the amount of \$687.69.

Upon reviewing the appraisal provided, the City determined it was best to seek an independent review to determine the actual fair market value of both parcels. The report indicated the value of both parcels to be \$10,000. Should the Council determine these parcels of real property to be surplus to the needs of the City, staff will bring forward a purchase and sale agreement for consideration.

Recommendation: Determine the above referenced parcels of real property to be surplus to the needs of the City and adopt the Resolution finding the same as presented.

Motion for Consideration: I move to adopt a Resolution declaring Parcel Nos. 4062-005-002-0004 and 4062-005-002-0103 as surplus to the needs of the City and authorizing staff to proceed with the sale of the parcels.

Fiscal Impact: Review appraisal cost \$2,000; anticipated Revenue of \$10,000.

Alternatives: Do not declare property to be surplus to the needs of the City.

Attachment: Resolution

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RESOLUTION NO. ____

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON DECLARING REAL PROPERTY OWNED BY THE UTILITY FUND PARCEL (NOS. 4062-005-002-0004 AND 4062-005-002-0103) SURPLUS TO THE NEEDS OF THE CITY AND AUTHORIZING ITS SALE

WHEREAS, the City of Port Orchard owns real property identified as Parcel Nos. 4062-005-002-0004 and 4062-005-002-0103; and

WHEREAS, the City acquired Parcel No. 4062-005-002-0004 in lieu of foreclosure for assessment associated with LID #60 for the amount of \$185.52 and Quit Claim Deed to the City on March 11, 1966; and

WHEREAS, the City acquired Parcel No. 4062-005-002-0103 was foreclosed and acquired by the City by an Assessment Deed associated with the 1984 Water Sewer Revenue Bond Fund on May 27, 1993, for the amount of \$687.69; and

WHEREAS, the properties serve no public use to the City; and

WHEREAS, the City has received a proposal to purchase the real properties, now, therefore

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

THAT: The above referenced parcels are declared surplus to the needs of the City; and

The parcels shall be appraised by a qualified appraiser to determine their fair market value; and

The parcels shall be sold for a price not to be less than the appraised value of the parcels upon terms and conditions acceptable to the City.

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 13th day of December 2016.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, City Clerk

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Alternatives: This Ordinance recognizes changes to the Budget not anticipated at the time of adoption of the 2016 Budget. Failure to formalize these changes by Ordinance results in a budget not reflective of authorized revenue and expense. The City would be out of compliance with accepted budgeting procedures and subject to an audit finding.

Attachments: Ordinance

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON,
AMENDING THE BUDGET FOR THE YEAR 2016 AS ADOPTED BY
ORDINANCE NO. 031-15 TO RECOGNIZE EXPENDITURES AND REVENUES
NOT ANTICIPATED AT THE TIME OF THE ADOPTION OF THE 2016
BUDGET**

WHEREAS, the City of Port Orchard adopted its 2016 Budget in Ordinance No. 031-15; and which was subsequently amended by Ordinances No. 016-16 and No. 029-16; and

WHEREAS, the City desires to keep current on budget amendments; and

WHEREAS, it is necessary to make adjustments to accounts and/or funds by means of appropriation adjustments that could not have been anticipated at the time of passage of the 2016 Budget, as provided in RCW 35.33.091 and RCW 35.33.121; and

WHEREAS, the City received state grant funding to complete phase 2 of the DeKalb Pier Project, along with a funding portion from Real Estate Excise Fund No. 109, that relied on an engineer's estimate of \$740,000, and the public works department sought bids that resulted in a qualified bid of \$788,993.52 from Neptune Marine, LLC that exceeded budget by nearly \$40,000, an additional \$40,000 was provided from Real Estate Excise Tax Fund No. 109 for Phase 2 DeKalb Pier Project by budget amendment No. 016-16; and there is now a need for an additional \$13,500 from Real Estate Excise Tax Fund No. 109 for PND and miscellaneous expenses to close out the construction contract with Neptune Marine, LLC, an additional \$13,500 is provided from Real Estate Excise Tax No. 109; and

WHEREAS, the City entered into a grant funding agreement with the Washington State Recreation and Conservation Office (RCO) for the design and construction of McCormick Woods Village Park phase 2 requiring a 50% City match budgeted from Impact Fee Fund No. 111, and the design, permitting, and preparation of construction documents for the project exceeded the amount budgeted, an additional \$58,000 was provided by budget amendment Ordinance No. 016-16, and there is now a need for an additional \$17,000, an additional \$17,000 is provided from Impact Fee Fund No. 111; and

WHEREAS, increased prisoner boarding resulted in an unanticipated \$184,000 in incarceration expenses; now, therefore,

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

SECTION 1. The 2016 Budget is amended to reflect the following:

(1) Estimated Appropriations:

- a) \$13,500 from Real Estate Excise Tax Fund No. 109 to Capital Construction Fund No. 302 for PND and miscellaneous to close out the construction contract with Neptune Marine, LLC .
- b) \$17,000 from Impact Fee Fund No. 111 to Capital Construction Fund No. 302 for the design and construction of McCormick Woods Village Park phase 2.
- c) \$184,000 from Current Expense Fund No. 001 for incarceration expenses.

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 13th day of December 2016.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, CMC, City Clerk

APPROVED AS TO FORM:

Sponsored by:

Sharon Cates, City Attorney

John Clauson, Councilmember

PUBLISHED:

EFFECTIVE DATE:

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ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON ADOPTING THE
2017-2018 BIENNIAL BUDGET**

WHEREAS, the preliminary budget for the 2017-2018 biennium, available October 3, 2016, was submitted to the City Council; and

WHEREAS, the City Council held a public hearing on revenue sources on October 11, 2016; and

WHEREAS, the Council Finance Committee met on October 31, 2016 and conducted department interviews and discussed the preliminary budget to make final recommendations to the Council which included the participation of the four additional council members; and

WHEREAS, the City Council held a comprehensive work study session on the 2016 preliminary budget on November 15, 2016 and considered the Council Finance Committee's recommendations; and

WHEREAS, A Notice of Hearing was published on November 18, 2016, and November 25, 2016, in the Port Orchard Independent newspaper stating the 2017-2018 preliminary budget was on file with the City Clerk and copies could be obtained at the office of the City Treasurer, and inviting the public to attend and/or submit written comments at the public hearing held December 5, 2016; and

WHEREAS, the City Council held a public hearing on December 5, 2016 regarding the preliminary budget for the 2017-2018 biennium seeking public input on city priorities, public safety enhancements, cultural and recreational opportunities, and other public services; and

WHEREAS, a copy of the 2017-2018 preliminary budget has been on file with the City Clerk and copies available from the City Treasurer for examination by the public during the time it was considered by the City Council; now, therefore,

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

SECTION 1. the Budget of the City of Port Orchard for the 2017-2018 biennium is hereby adopted in its entirety as the biennial budget of the City of Port Orchard for 2017-2018 biennium as set forth below:

(1)	Estimated Revenue From All Sources:	\$75,869,894
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(2) Estimated Appropriations:

Current Expense Fund	21,198,624
Street Fund	3,900,635
Criminal Justice Fund	1,055,400
Special Investigative Unit Fund	68,500
Water-Sewer Utilities Fund	25,373,700
Storm Drainage Utility Fund	3,926,000
Total Operating Funds	55,522,859
Other Non-Operating Funds	20,347,035
Total Funds	75,869,894

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 City Clerk in authentication of such passage this 13th day of December 2016.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, CMC, City Clerk

APPROVED AS TO FORM:

Sponsored by:

Sharon Cates, City Attorney

John Clauson, Councilmember

PUBLISHED:

EFFECTIVE 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.: Business Item 7D
Subject: Adoption of a Resolution Recognizing
and Setting Forth Provisions for the
2017-2018 Biennial Budget as
Contemplated in its Adoption

Meeting Date: December 13, 2016
Prepared by: Allan J. Martin
City Treasurer
Atty Routing No.: NA
Atty Review Date: NA

Summary: The City Council approved the 2017 – 2018 Biennial Budget to include changes to certain salaries, organizational structure, full time equivalency, and other items that the Council directed to be to recognized and acknowledged. This resolution officially records four (4) individual provisions of the 2017 – 2018 Biennial Budget.

- 1) A temporary Law Enforcement Full Time Equivalency
- 2) Public Works Department Organizational Structure
- 3) A full time Non-Exempt position in the Public Works Department
- 4) Implementation of salary levels and ranges for non-union represented Non-Exempt and non-union represented Executive Exempt employees

The City Council maintains strong budget oversight. This Resolution delineates certain provisions of the 2017 – 2018 Biennial Budget to preserve Council budgetary control. The Resolution acknowledges budget provisions as approved by City Council action in its adoption of the 2017 – 2018 Biennial Budget.

Recommendation: The Council Finance Committee recommends approval of the Resolution recognizing and acknowledging provisions approved in the 2017 – 2018 Biennial Budget.

Motion for Consideration: I move to adopt a Resolution Recognizing and Setting Forth provisions for the 2017 – 2018 Biennial Budget as Contemplated with its Adoption.

Fiscal Impact: Recognizes expenditure provisions for the fiscal year 2017 - 2018.

Alternatives: NA

Attachments: Resolution, Public Works Organization Chart

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RESOLUTION NO. ____

**A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON,
RECOGNIZING AND SETTING FORTH PROVISIONS FOR THE 2017 – 2018
BIENNIAL BUDGET AS CONTEMPLATED IN ITS ADOPTION**

WHEREAS, the City Council approved the 2017 – 2018 Biennial Budget to include changes to certain salaries, organizational structure, Full Time Equivalency, and other items that the City Council desires to recognize and acknowledge; and

WHEREAS, the City desires to maintain a level of law enforcement coverage to meet the needs of the citizens of Port Orchard, there is approved a temporary Law Enforcement Full Time Equivalency for maintaining sufficient staffing. The purpose for this one-time status is for new hire police recruits to attend and complete training through the Police Academy, and in house field training before assignment to a solo police officer position. To meet this need the City recognizes a temporary Law Enforcement Equivalency in the 2017 – 2018 Budget, and

WHEREAS, the Public Works Department strives to keep abreast of growing demands for service and infrastructure improvements, including Water / Sewer Utility, Storm Drainage Utility, and Street, and the Department proposed organizational changes to meet these demands, there is a desire to acknowledge the organizational re-structure that enhances the efficient use of staff and management, the City recognizes the Public Works Departments Organizational Structure as proposed for the 2017 – 2018 Budget, and

WHEREAS, the Public Works Department requested, and the City included, a new full time Non-Exempt position in the Public Works Department, whose major function and purpose will be to: oversee general Public Works Shop activities through the supervisor of the Public Works foreman, manage the general administration, daily operations and maintenance oversight of the water system plan, assist the Public Works Director/City Engineer, and help to educate, support and mentor all Public Works Employees, among other general functions as described in the position job description, and

WHEREAS, following completion of negotiations with represented employees, including Police and Public Works, the City engaged NW Management Consulting to determine salary levels and ranges for non-union represented Non-Exempt and non-union represented Executive Exempt, and establish competitive salaries with local competitors for like skills, education and experience, and the adoption of the 2017 – 2018 Budget includes job steps and ranges as described in the NW Consulting Port Orchard 2016 Salary Study, and the City was financial constrained to fully implement salary adjustments that resulted in applying available resources in a manner that brings all salary ranges and steps into alignment over the period 2017 – 2018 and 2019 – 2020, now, therefore

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

THAT Resolution No. -16 recognizing and setting forth provisions for the 2017 – 2018 Biennial Budget of the City of Port Orchard is hereby approved.

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 13th day of December 2016.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, CMC, City Clerk

Organization Chart Template

About this template

This template contains three organization charts, one on each of the following pages. The charts were created using different methods.

- The chart on page 2 was created in Microsoft Office PowerPoint 2003 and pasted into Microsoft Office Publisher 2003 as a picture. Use this chart if you do not have PowerPoint or Word installed. You can make changes to this chart directly in Publisher 2002 or 2003.
- The chart on page 3 was created in PowerPoint, and then pasted into Publisher as an embedded object. Use this chart if you have PowerPoint 2002 or 2003 installed.
- The chart on page 4 was created in Microsoft Office Word 2003, and then pasted into Publisher as an embedded object. Use this chart if you have Word 2002 or 2003 installed.

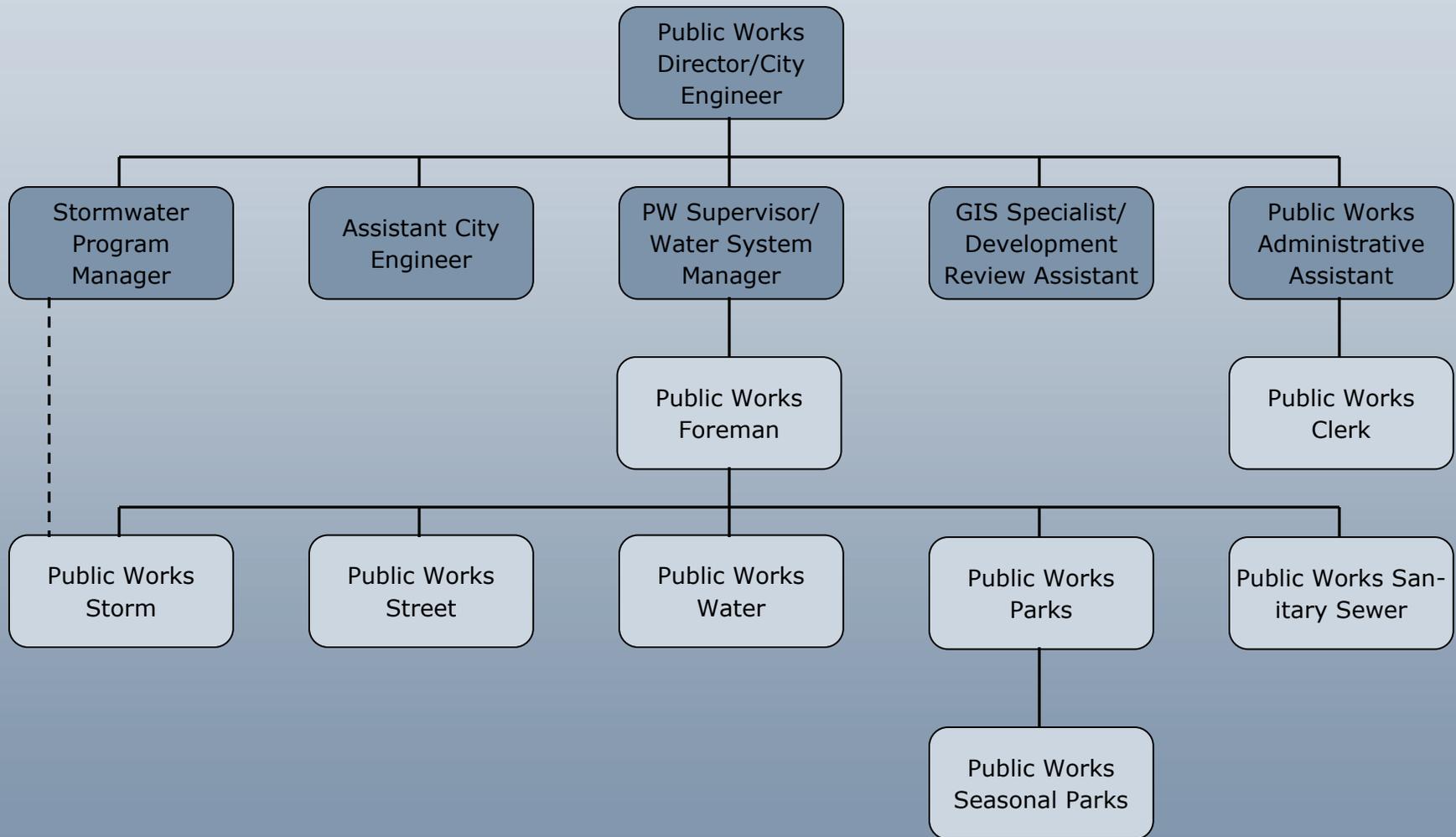
Using this template

To use this template, click the page on the page sorter that contains the chart you want to use. (The page sorter is located on the left side of the Publisher status bar.) Modify the organization chart and delete the charts you don't want. You can also move the page you want into another publication, and then modify it.

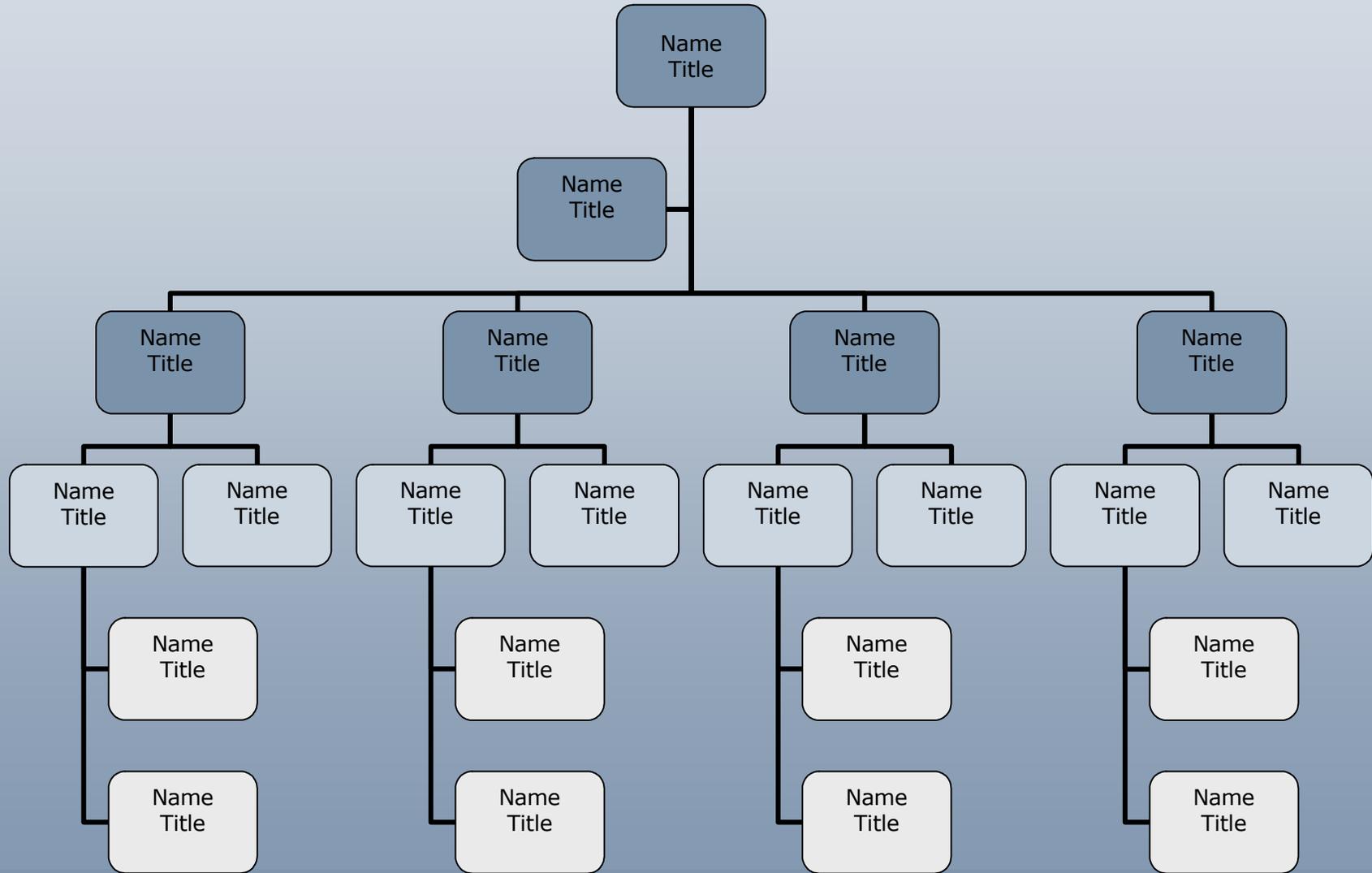
Editing the charts in this template

- **Page 2: Publisher Organization Chart**
To edit the organization chart on this page, use Publisher's AutoShape drawing tools to create new boxes and lines. To add a new connector, on the **Objects** toolbar, click **AutoShapes**, point to **Connectors**, and then click the connector you want. To add a new shape, on the **Objects** toolbar, click **AutoShapes**, point to **Basic Shapes**, and then click the shape you want. You can also use the color schemes and font schemes to customize the way this chart looks.
- **Page 3: Embedded PowerPoint Organization Chart**
Double-click anywhere on the chart to edit it as an embedded PowerPoint object. Click on the chart to display the Organization Chart toolbar. Use the Organization Chart toolbar to make the changes you want, and then click outside of the chart to close it.
- **Page 4: Embedded Word Organization Chart**
Double-click anywhere on the chart to edit it as an embedded Word object. Click on the chart to display the Organization Chart toolbar. Use the Organization Chart toolbar to make the changes you want, and then click outside the chart to close it.

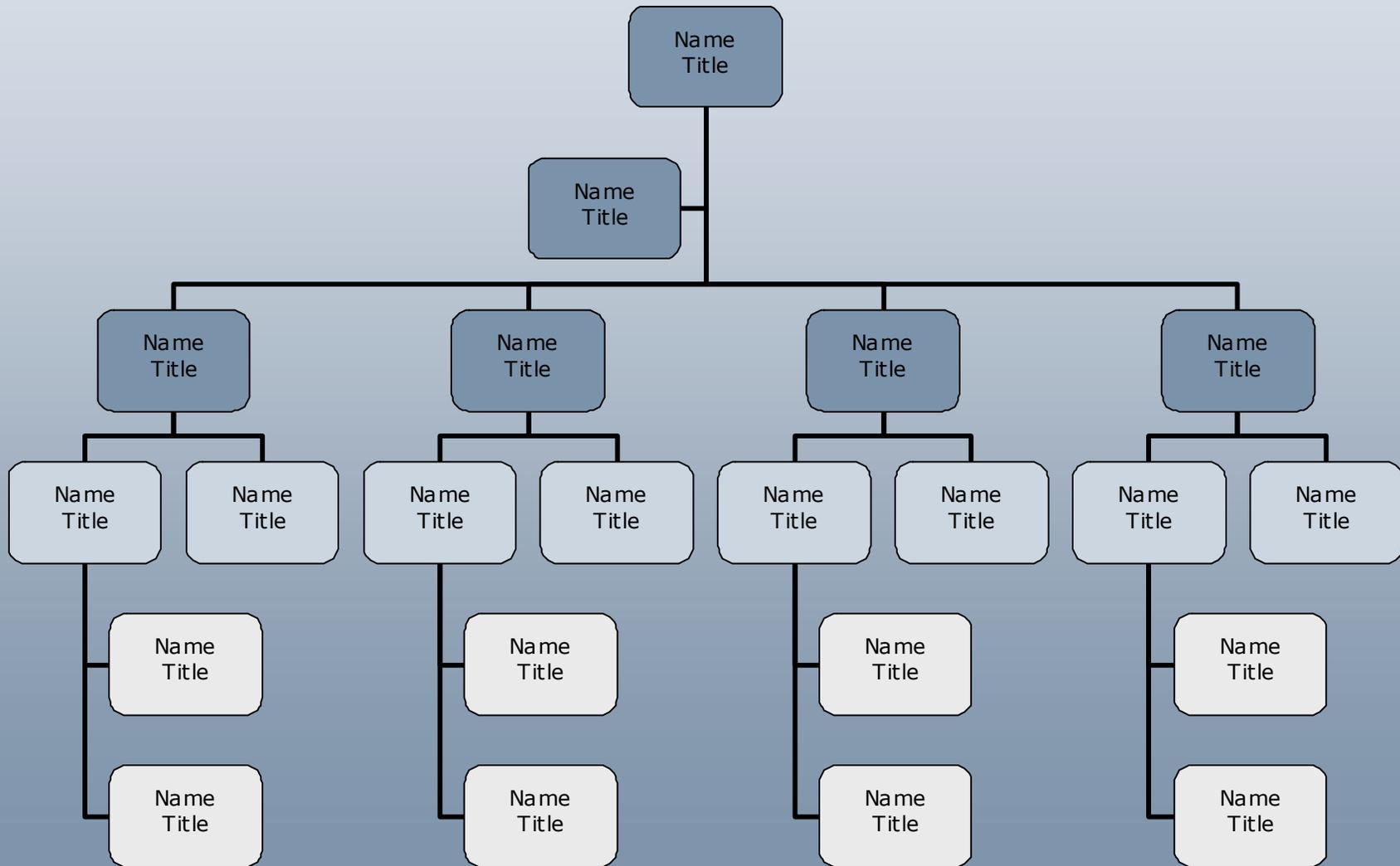
City of Port Orchard Public Works Department 2017/2018 Organization Chart Title



Organization Chart Title



Organization Chart Title





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 7E
Subject: Adoption of an Ordinance Amending
POMC Chapter 12, Streets and Sidewalks,
to Comply With the Requirements of the
Western Washington Phase II Stormwater
Permit

Meeting Date: December 13, 2016
Prepared by: Nicholas Bond, AICP
Atty Routing No: 090-16
Atty Review Date: 12/7/2016

Summary: The Washington State Department of Ecology (Ecology) administers federal Municipal National Pollutant Discharge Elimination System (NPDES) permit requirements through its Western Washington Phase II Permit (Permit). In 2012, Ecology issued a directive that all municipalities operating under this Permit, including the City of Port Orchard, must update their local development regulations to eliminate barriers to low impact development (LID) techniques for stormwater management, no later than December 31, 2016.

The City Attorney has prepared amendments to Chapters 12.16 (Undergrounding of Utilities) and 12.24 (Street Use Permits), and has created a new Chapter 12.02 (General Provisions), in POMC Title 12, Street and Sidewalks, to comply with Ecology’s directive. The new language and amendments establish the City’s authority and duties, prohibit regulatory barriers to LID construction under this Title, and establish LID construction standards for underground utilities. The Planning Commission held a public hearing on the proposed amendments on December 6, 2016, and recommended approval of the amendments.

Recommendation: Staff recommends approval of Ordinance 043-16, amending POMC Title 12, Streets and Sidewalks.

Fiscal Impact: N/A

Alternatives: Direct staff to revise the proposed amendments to POMC Title 12.

Attachments: Ordinance, Strikeout/underline of Chapters 12.16 and 12.24

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ORDINANCE NO. 043-16

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, AMENDING PORT ORCHARD MUNICIPAL CODE TITLE 12 (STREETS AND SIDEWALKS) TO COMPLY WITH THE REQUIREMENTS OF THE WESTERN WASHINGTON PHASE II STORMWATER PERMIT AND PROMOTE USE OF LOW IMPACT DEVELOPMENT TECHNIQUES; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Washington State Department of Ecology (“Ecology”) administers federal Municipal National Pollutant Discharge Elimination System (“NPDES”) permit requirements in western Washington through its adopted Western Washington Phase II Permit (“Permit”); and

WHEREAS, in 2012, Ecology issued an updated Permit to be effective from August 1, 2013, through July 31, 2018. The updated Permit has built upon the requirements and programs developed under the original Permit and requires jurisdictions, including the City of Port Orchard (“City”), to revise their local development codes, rules, and standards to incorporate and require Low Impact Development (LID) principles and LID Best Management Practices (BMPs) (“LID Updates”), no later than December 31, 2016; and

WHEREAS, the City has prepared amendments to Port Orchard Municipal Code (“POMC”) Title 12, Streets and Sidewalks, to comply with Ecology’s directive; and

WHEREAS, on November 7, 2016, the City provided required 14-day expedited notice of its intent to amend its development regulations to the Department of Commerce; and

WHEREAS, on November 11, 2016, the City’s SEPA official issued a determination of non-significance for the proposed amendments and there have been no appeals; and

WHEREAS, on December 6, 2016, the Port Orchard Planning Commission held a duly-noticed public hearing on the proposed amendments wherein public testimony was received, the Planning Commission reviewed the proposed amendments to the POMC, and forwarded a recommendation to the city council to approve the proposed amendments as proposed; and

WHEREAS, the proposed amendments to Chapters 12.02, 12.24, 15.32, 16.01, 16.08, 16.20, 16.45, 16.50, and 16.80 of the POMC are consistent with the goals, objectives, and policies of the City’s comprehensive plan; and

WHEREAS, the City Council of the City of Port Orchard, upon review of the facts, findings, and recommendations of the Port Orchard Planning Commission, and after reviewing

information provided by City staff, find that all applicable and substantive requirements of the law have been met, that the adoption of this ordinance promotes the public health, safety, and general welfare of the community, and that the adoption of this ordinance serves the public interest.

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. A new chapter is hereby added to POMC Title 12 as follows:

CHAPTER 12.02 GENERAL PROVISIONS

12.02.010 Purpose.

It is the purpose of this Title 12 POMC to provide for the orderly use of public rights-of-way by establishing clear guidelines, standards, and timeframes for use of the public rights-of-way.

12.02.020 Authority

This Title 12 POMC is intended to provide the city with the broadest power permitted by constitutional and statutory authority to preserve the public peace, health, safety, and welfare.

12.02.030 Interpretation; low impact development.

No requirement of this title shall be interpreted or applied in such a way as to impose a barrier to low impact development. All requirements of this Title that have an effect on use of Low Impact Development may be met using functionally equivalent Low Impact Development practices as specified in the Stormwater Permit, the Stormwater Manual, or any Low Impact Development general specifications adopted by the City.

12.02.040 General duty.

Nothing in this Title 12 POMC is intended to create a cause of action or claim against the City of Port Orchard or its officials, employees, or agents running to specific individuals. Any duty created by the ordinances codified in this Title is a general duty running in favor of the public.

SECTION 3. POMC Chapter 12.16, Undergrounding of Utilities, is hereby amended to read as follows:

12.16.110 Design standards.

(1) All conductors, switches, transformers, regulating devices, poles, brackets, and vaults shall be installed in accordance with applicable national, state and local safety standards. All other structural devices shall be designed in accordance with the provisions of the International Building Code adopted by the city, and all other applicable ordinances and regulations of the city as its building code.

(2) Installation.

(a) All underground facilities provided for herein shall be installed in such manner as to be coordinated with underground water, sewer, and gas pipelines, and with traffic control and other signal systems. Whenever such coordination requires installation practices more restrictive or demanding than the minimum standards required by applicable national, state and local codes and safety standards, the requirements of such coordination shall govern and be controlling.

(b) For streets and sidewalks constructed with permeable materials, utilities shall maintain a minimum of one (1) foot separation from the bottom of the permeable storage section. The Director may require additional separation if warranted.

(3) Subject to any applicable rates and tariffs, all vaults, manholes, ventilation gratings, and access covers and conduits in public rights-of-way shall be strong enough to withstand 10,000 pounds wheel load. The utility may, at its option, elect not to comply with the said wheel load requirement as to such facilities not on the traveled portion of the street; providing, however, that the utility shall be responsible for upgrading of the said facilities in the event of widening of the traveled portion of the street.

(4) Any equipment and facilities excepted from underground requirements or otherwise permitted to be installed aboveground except for poles, pole-mounted equipment, and aerial lines shall be:

(a) Placed within an enclosure or within the building or structure being served, or be suitably screened in accordance with the landscape requirements of the city code.

(b) The utility shall be responsible for the installation, maintenance, repair, and replacement of the sight screening materials and barrier when the real property on which the aboveground facility is located is owned by the utility.

(c) When the aboveground facility is located on real property not owned by the utility, the owner of such real property shall be responsible for the installation, maintenance, repair, and replacement of the aforementioned screening materials and sight barrier.

(5) Space frames and structural arrangements for holding equipment or facilities shall be designed to have an uncluttered and neat appearance.

(6) Streets shall be excavated to subgrade prior to the installation of underground facilities as determined by the city's public works department.

SECTION 4. POMC Chapter 12.24, Street Use Permits, is hereby amended to read as follows:

12.24.070 Criteria for approval.

Factors for the director's consideration in evaluating an application for a permit include, but are not limited to:

(1) The applicant's constitutional rights;

(2) The impact of the proposed use on the following:

(a) The paramount purpose of streets for travel and transportation;

(b) Utilities; authorized secondary street uses; and any use being made by the public of the site;

(c) Fire access and public safety;

(d) Uses under permit; street trees; and other proposed or past uses of the site;

(e) Rights of light, air, and access and lateral support of abutting properties and on access or easements of properties dependent upon the public place for access;

- (f) The environment, including but not limited to efforts to minimize impervious surface, loss of native vegetation, and stormwater runoff;
 - (g) Drainage, surface and underground; springs and watercourses; and the stability of soils; and
 - (h) Where applicable, city land use, transportation, open space, shoreline, and beautification policies and approved neighborhood land use plans;
- (3) The abutter's property rights;
- (4) The public and private benefits of the proposed use;
- (5) The site and its terrain;
- (6) In addition to the considerations listed above, where the following situations occur, factors for consideration include:
- (a) For public places used as parks or open space, the impact of the proposed use on their character as a park drive or boulevard, or as open space;
 - (b) For shoreline street ends, their purpose to provide the public with visual or physical access to the water and the shoreline;
 - (c) For environmentally critical areas, the requirements of POMC Title 18.

12.24.080 Approval of street use permit.

- (1) If the application conforms to the requirements of this chapter, all other applicable codes and the proposed use is consistent with the rights of the public, the director may approve the application; fix the duration and the terms or conditions of the permit; and when required, upon the applicant's furnishing of a deposit or surety bond, insurance, covenant, and indemnification (as required by POMC 12.24.090 through 12.24.140), and payment of all required fees, issue the permit. The original permit shall remain in the custody of the city, and a copy shall be given to the permittee and shall be posted or available at the site.
- (2) The permit shall specify the portion of the public place that may be occupied, the dates or days and hours of use, and the allowed use. The permit shall only be valid for the portion of the public place, the dates or days and hours of use, and the use as identified on the permit. Every permit shall include the language in POMC 12.24.150(1) on the face of the permit.
- (3) Every permit shall be conditioned to state that all activities in the public place shall implement stormwater best management practices (BMPs) in accordance

with the city's current Stormwater Manual. Failure to implement stormwater BMPs shall be a violation of this Title and subject to enforcement.

SECTION 5. Savings. The enactment of this ordinance shall not affect any application, case, proceeding, appeal, or other matter currently pending administratively or judicially in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this ordinance.

SECTION 6. 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 7. 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 8. 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 13th of December 2016.

Robert Putansuu, Mayor

ATTEST:

Brandy Rinearson, CMC, City Clerk

APPROVED AS TO FORM:

Sponsored by:

Sharon Cates, City Attorney

Bek Ashby, Councilmember

PUBLISHED:

EFFECTIVE DATE:

CHAPTER 12.16 Undergrounding of Utilities

12.16.110 Design standards

(1) All conductors, switches, transformers, regulating devices, poles, brackets, and vaults shall be installed in accordance with applicable national, state and local safety standards. All other structural devices shall be designed in accordance with the provisions of the International Building Code adopted by the city, and all other applicable ordinances and regulations of the city as its building code.

(2) Installation.

(a) All underground facilities provided for herein shall be installed in such manner as to be coordinated with underground water, sewer, and gas pipelines, and with traffic control and other signal systems. Whenever such coordination requires installation practices more restrictive or demanding than the minimum standards required by applicable national, state and local codes and safety standards, the requirements of such coordination shall govern and be controlling.

(b) For streets and sidewalks constructed with permeable materials, utilities shall maintain a minimum of one (1) foot separation from the bottom of the permeable storage section.

(3) Subject to any applicable rates and tariffs, all vaults, manholes, ventilation gratings, and access covers and conduits in public rights-of-way shall be strong enough to withstand 10,000 pounds wheel load. The utility may, at its option, elect not to comply with the said wheel load requirement as to such facilities not on the traveled portion of the street; providing, however, that the utility shall be responsible for upgrading of the said facilities in the event of widening of the traveled portion of the street.

(4) Any equipment and facilities excepted from underground requirements or otherwise permitted to be installed aboveground except for poles, pole-mounted equipment, and aerial lines shall be:

(a) Placed within an enclosure or within the building or structure being served, or be suitably screened in accordance with the landscape requirements of the city code.

(b) The utility shall be responsible for the installation, maintenance, repair, and replacement of the sight screening materials and barrier when the real property on which the aboveground facility is located is owned by the utility.

(c) When the aboveground facility is located on real property not owned by the utility, the owner of such real property shall be responsible for the installation, maintenance, repair, and replacement of the aforementioned screening materials and sight barrier.

(5) Space frames and structural arrangements for holding equipment or facilities shall be designed to have an uncluttered and neat appearance.

(6) Streets shall be excavated to subgrade prior to the installation of underground facilities as determined by the city's public works department.

DRAFT

CH. 12.24 STREET USE PERMITS

12.24.070 Criteria for approval.

Factors for the director's consideration in evaluating an application for a permit include, but are not limited to:

- (1) The applicant's constitutional rights;
- (2) The impact of the proposed use on the following:
 - (a) The paramount purpose of streets for travel and transportation;
 - (b) Utilities; authorized secondary street uses; and any use being made by the public of the site;
 - (c) Fire access and public safety;
 - (d) Uses under permit; street trees; and other proposed or past uses of the site;
 - (e) Rights of light, air, and access and lateral support of abutting properties and on access or easements of properties dependent upon the public place for access;
 - (f) The environment, including but not limited to efforts to minimize impervious surface, loss of native vegetation, and stormwater runoff;
 - (g) Drainage, surface and underground; springs and watercourses; and the stability of soils; and
 - (h) Where applicable, city land use, transportation, open space, shoreline, and beautification policies and approved neighborhood land use plans;
- (3) The abutter's property rights;
- (4) The public and private benefits of the proposed use;
- (5) The site and its terrain;
- (6) In addition to the considerations listed above, where the following situations occur, factors for consideration include:
 - (a) For public places used as parks or open space, the impact of the proposed use on their character as a park drive or boulevard, or as open space;
 - (b) For shoreline street ends, their purpose to provide the public with visual or physical access to the water and the shoreline;

(c) For environmentally critical areas, the requirements of POMC Title 18. (Ord. 022-16 § 2).

12.24.080 Approval of street use permit.

(1) If the application conforms to the requirements of this chapter, all other applicable codes and the proposed use is consistent with the rights of the public, the director may approve the application; fix the duration and the terms or conditions of the permit; and when required, upon the applicant's furnishing of a deposit or surety bond, insurance, covenant, and indemnification (as required by POMC 12.24.090 through 12.24.140), and payment of all required fees, issue the permit. The original permit shall remain in the custody of the city, and a copy shall be given to the permittee and shall be posted or available at the site.

(2) The permit shall specify the portion of the public place that may be occupied, the dates or days and hours of use, and the allowed use. The permit shall only be valid for the portion of the public place, the dates or days and hours of use, and the use as identified on the permit. Every permit shall include the language in POMC 12.24.150(1) on the face of the permit.

(3) Every permit shall be conditioned to state that all activities in the public place shall implement stormwater best management practices (BMPs) in accordance with the city's current Stormwater Manual, as amended. Failure to implement stormwater BMPs shall be a violation of this ~~Title~~chapter and subject to enforcement.



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 7F
Subject: Adoption of an Ordinance Amending POMC
Title 15, Buildings and Structures, to
Comply With the Requirements of the
Western Washington Phase II Stormwater
Permit

Meeting Date: December 13, 2016
Prepared by: Nicholas Bond, AICP
Atty Routing No.: 090-16
Atty Review Date: 12/7/2016

Summary: The Washington State Department of Ecology (Ecology) administers federal Municipal National Pollutant Discharge Elimination System (NPDES) permit requirements through its Western Washington Phase II Permit (Permit). In 2012, Ecology issued a directive that all municipalities operating under this Permit, including the City of Port Orchard, must update their local development regulations to eliminate barriers to low impact development (LID) techniques for stormwater management, no later than December 31, 2016.

The City Attorney has prepared amendments to Title 15 to comply with Ecology’s directive. Changes to Chapter 15.32 include: updated definitions; requirements for compliance with the City’s stormwater regulations; requirements for a stormwater drainage permit application; engineering and drainage plan specifications and review criteria; deviation and variance standards; and enforcement regulations. A new chapter of the Port Orchard Municipal Code (POMC), Chapter 15.34, Land Disturbing Activity, has also been prepared. Chapter 15.34 includes regulations for clearing, grading and earthwork construction, to minimize adverse stormwater impacts, protect water quality, minimize grading and retaining wall construction, establish a permit process for land disturbing activities, and enforce permit and construction requirements. Previously, the city’s clearing and grading activities were regulated under POMC 15.32. Stormwater requirement and clearing and grading activity requirements are now split into two chapters for clarity.

The Planning Commission held a public hearing on the proposed amendments on December 6, 2016, and recommended approval of the amendments.

Recommendation: Staff recommends approval of an Ordinance amending POMC Title 15.

Fiscal Impact: N/A

Alternatives: Direct staff to revise the proposed amendments to POMC Title 15.

Attachments: Ordinance; Strikeout/underline of POMC Chapter 15.32.

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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, AMENDING PORT ORCHARD MUNICIPAL CODE CHAPTER 15.32 (STORMWATER DRAINAGE) TO COMPLY WITH THE REQUIREMENTS OF THE WESTERN WASHINGTON PHASE II STORMWATER PERMIT AND PROMOTE USE OF LOW IMPACT DEVELOPMENT TECHNIQUES; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the Washington State Department of Ecology (“Ecology”) administers federal Municipal National Pollutant Discharge Elimination System (“NPDES”) permit requirements in western Washington through its adopted Western Washington Phase II Permit (“Permit”); and

WHEREAS, in 2012, Ecology issued an updated Permit to be effective from August 1, 2013, through July 31, 2018. The updated Permit has built upon the requirements and programs developed under the original Permit and requires jurisdictions, including the City of Port Orchard (“City”), to revise their local development codes, rules, and standards to incorporate and require Low Impact Development (LID) principles and LID Best Management Practices (BMPs) (“LID Updates”), no later than December 31, 2016; and

WHEREAS, the City has prepared amendments to Title 15 of the Port Orchard Municipal Code (“POMC”) to comply with Ecology’s directive; and

WHEREAS, on November 7, 2016, the City provided required 14-day expedited notice of its intent to amend its development regulations to the Department of Commerce; and

WHEREAS, on November 11, 2016, the City’s SEPA official issued a determination of non-significance for the proposed amendments and there have been no appeals; and

WHEREAS, on December 6, 2016, the Port Orchard Planning Commission held a duly-noticed public hearing on the proposed amendments wherein public testimony was received, the Planning Commission reviewed the proposed amendments to the POMC, and forwarded a recommendation to the city council to approve the proposed amendments as proposed; and

WHEREAS, the proposed amendments to Title 15 of the POMC are consistent with the goals, objectives, and policies of the City’s comprehensive plan; and

WHEREAS, the City Council of the City of Port Orchard, upon review of the facts, findings, and recommendations of the Port Orchard Planning Commission, and after reviewing

information provided by City staff, find that all applicable and substantive requirements of the law have been met, that the adoption of this ordinance promotes the public health, safety, and general welfare of the community, and that the adoption of this ordinance serves the public interest.

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. POMC Chapter 15.32 is hereby repealed and replaced in its entirety to read as follows:

Chapter 15.32 STORMWATER DRAINAGE

- 15.32.010 Stormwater drainage—Purpose and objectives—Liability.**
- 15.32.020 Stormwater drainage—Definitions.**
- 15.32.030 Stormwater drainage—Administration.**
- 15.32.040 Stormwater drainage—Applicability.**
- 15.32.050 Stormwater drainage—Exemptions.**
- 15.32.060 Stormwater drainage—Regulations and guidelines—Adopted manuals.**
- 15.32.070 Stormwater drainage—Special stormwater drainage improvements.**
- 15.32.080 Stormwater drainage—Permit—Form.**
- 15.32.090 Stormwater drainage—Permit—Submittal requirements.**
- 15.32.100 Stormwater drainage—Permit—Decision type.**
- 15.32.110 Stormwater drainage—Permit—Review criteria.**
- 15.32.120 Stormwater drainage—Permit—Technical deviations.**
- 15.32.130 Stormwater drainage—Permit—Variances.**
- 15.32.140 Stormwater drainage—Permit—Construction timing and final approval.**
- 15.32.150 Stormwater drainage—Permit—Expiration; extension.**
- 15.32.160 Stormwater drainage—Standards—Minimum site development requirements.**
- 15.32.170 Stormwater drainage—Standards—Redevelopment activities.**
- 15.32.180 Stormwater drainage—Standards—Stormwater quality control.**
- 15.32.190 Stormwater drainage—Standards—Water quality BMPs.**
- 15.32.200 Stormwater drainage—Standards—Stormwater conveyance**

facilities.

15.32.210 Stormwater drainage—Standards—Wetlands.

15.32.220 Stormwater drainage—Standards—Regional facilities.

15.32.230 Stormwater drainage—Standards—Basin planning.

15.32.240 Stormwater drainage—Standards—Exemptions.

15.32.250 Stormwater drainage—Facilities—Covenants, sureties, and liability insurance.

15.32.260 Stormwater drainage—Facilities—Operation and maintenance.

15.32.270 Stormwater drainage—Enforcement.

15.32.010 Stormwater drainage—Purpose and objectives—Liability.

(1) Purpose. The purpose of this chapter is to regulate storm and surface water discharges from all new development and redevelopment to prevent and control adverse impacts of drainage and storm and surface water on the public health, safety, and general welfare, consistent with the provisions of the Federal Clean Water Act (33 U.S.C. § 1251 et seq.) as administered by the Washington State Department of Ecology through issuance of the National Pollutant Discharge Elimination System (NPDES) Phase II Municipal Stormwater Permit (Permit), in accordance with chapter 90.48 RCW. The provisions of this subtitle shall be liberally construed to accomplish the purposes of the chapters herein and the protection and preservation of the public health, safety, and general welfare.

(2) Objectives. The objectives of this subtitle are to:

(a) Establish a water quality restoration and storm and surface water management program for the City of Port Orchard to be administered by the City of Port Orchard's department of public works;

(b) Promote sound, practical, and economical development practices and construction procedures that prevent or minimize impacts to the City's waters;

(c) Prevent or minimize degradation of water quality and to control the sedimentation of streams, rivers, lakes, wetlands, marine waters, and other waters to the maximum extent practicable by all known and reasonable methods of prevention, control, and treatment;

(d) Control stormwater runoff originating from new development or redevelopment;

- (e) Preserve the quality of water for recreation and fish and wildlife habitat;
 - (f) Maintain aquatic habitat;
 - (g) Maintain the quality of the City's water resources;
 - (h) Prevent or minimize adverse effects caused by degradation of surface water quality flow patterns or quantities, locations, and changes to hydrologic flow patterns;
 - (i) Prevent groundwater degradation from surface water flows;
 - (j) Preserve and protect the city's wetlands by maintaining hydrologic continuity with other aquatic resources;
 - (k) Maintain the safety of city roads and rights-of-way;
 - (l) Protect public safety by reducing soil erosion, slope instability, and landslides;
 - (m) Promote non-structural preventative and source control activities and actions; and
 - (n) Require the use of low impact development (LID) best management practices (BMPs) where feasible, as defined in the City's Stormwater Manual.
- (3) Liability. Administration of this chapter shall not be construed to create the basis for any liability on the part of the City, its appointed and elected officials, and/or employees while working within the scope of their duties for any action or inaction thereof authorized or done in connection with the implementation of this chapter.

15.32.020 Stormwater drainage—Definitions.

Definitions provided below apply only to this chapter, unless otherwise indicated. In the application of this chapter, where a definition in this chapter conflicts with a definition in the Stormwater Manuals, as adopted herein, the most restrictive definition shall control. Where a term used in the Stormwater

Manuals is not defined in this chapter, the definition in the Stormwater Manuals shall control.

(1) "A"

"Accepted performance of construction" shall mean the written acknowledgment from the director of the satisfactory completion of all work accepted by the city, including all work shown on the accepted plans, accepted revisions to the plans, and accepted field changes.

"Applicant" shall mean the person, party, firm, corporation, or other legal entity that proposes to engage in site development activities in incorporated Port Orchard by submitting an application for any of the activities covered by this chapter on a form furnished by the city and paying the required application fees.

"Arterial" shall mean a road or street primarily for through traffic. A major arterial connects an interstate highway to cities and counties. A minor arterial connects major arterials to collectors. A collector connects an arterial to a neighborhood. A collector is not an arterial. A local access road connects individual homes to a collector.

(2) "B"

"Basin plan" shall mean a plan and all implementing regulations and procedures including, but not limited to, land use management adopted by ordinance for managing stormwater quality and quantity management facilities and drainage features within individual sub-basins.

"Best management practices (BMPs)" shall mean the schedule of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices that, when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington and have been approved by the city as accepted BMPs.

"Biofiltration/biofilter facilities" shall mean vegetative BMPs that treat stormwater by filtration through vegetation. Biofiltration facilities include, but are not limited to, grassed or vegetated swales and filter strips.

“Bioretention” shall mean an engineered facility that treats stormwater by passing it through a specific soil profile and either retain or detain the treated stormwater for flow attenuation. Refer to the Stormwater Management Manual for Western Washington, Chapter 7 of Volume V for Bioretention BMP types and design specifications.

“Bond” shall mean a financial guarantee, in the form of a surety bond, assignment of funds, or irrevocable bank letter of credit, that shall guarantee compliance with applicable provisions of this chapter.

(3) “C”

“Certified erosion and sediment control lead (CESCL)” shall mean an individual who has current certification through an approved erosion and sediment control training program that meets the minimum training standards established by the Department of Ecology (see BMP C160 in the currently adopted Stormwater Management Manual for Western Washington). A CESCL is knowledgeable in the principles and practices of erosion and sediment control. The CESCL must have the skills to assess site conditions and construction activities that could impact the quality of stormwater and the effectiveness of erosion and sediment control measures used to control the quality of stormwater discharges. Certification is obtained through an Ecology-approved erosion and sediment control course. Course listings are provided online at Ecology’s web site.

“City” shall mean the City of Port Orchard, Washington, or as indicated by the context, the public works director, or other authorized representative of the governmental authority of the City of Port Orchard.

“Civil engineer” shall mean a professional engineer currently registered in the state of Washington to practice in the field of civil engineering.

“Clearing” or “land clearing” shall mean the surface removal of vegetation.

“Closed depressions” shall mean low-lying areas that have no surface outlet, or such a limited surface outlet that in most storm events the area acts as a retention basin, holding water for infiltration, evaporation, or transpiration.

“Commercial Agriculture” shall mean those activities conducted on lands defined under RCW 84.34.020(2) and activities involved in the production of crops or

livestock for commercial trade. An activity ceases to be considered commercial agriculture when the area on which it is conducted is proposed for conversion to a nonagricultural use or has lain idle for more than five years, unless the idle land is registered in a federal or state soils conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals, or drainage ditches related to an existing and ongoing agricultural activity.

“Comprehensive drainage plan” shall mean a detailed analysis, adopted by the city, for a drainage basin which assesses the capabilities and needs for runoff accommodation due to various combinations of development, land use, structural and nonstructural management alternatives. The plan recommends the form, location and extent of stormwater quantity and quality control measures that would satisfy legal constraints, water quality standards, and community standards, and identifies the institutional and funding requirements for plan implementation.

“Contiguous land” shall mean land adjoining and touching other land regardless of whether or not portions of the parcels have separate assessor’s tax numbers or were purchased at different times, lie in different sections, are in different government lots, or are separated from each other by private road or private rights-of-way.

“Converted vegetation (areas)” shall mean surfaces on a project site where native vegetation, pasture, scrub/shrub, or unmaintained non-native vegetation (e.g. Himalayan blackberry, scotch broom) are converted to lawn or landscaped areas, or where native vegetation is converted to pasture.

“Critical drainage area” shall refer to those areas designated in POMC 15.32.070, Critical drainage areas, which have a high potential for stormwater quantity or quality problems.

(4) “D”

“Design storm event” shall mean a theoretical storm event, of a given frequency, interval, and duration, used in the analysis and design of a stormwater facility.

“Detention facilities” shall mean stormwater facilities designed to store runoff while gradually releasing it at a predetermined controlled rate. “Detention facilities” shall include all appurtenances associated with their designed function,

maintenance, and security.

“Development proposal” shall mean any activity requiring a permit or other approval from the City of Port Orchard relative to the use or development of land.

“Developed site” shall mean the condition of the development site following completion of construction of the development including all approved phases of construction.

“Director” shall mean the public works director or designee(s).

“Discharge point” shall mean the location where a discharge leaves the City’s (Permittee’s) Municipal Separate Storm Sewer System (MS4) through the Permittee’s MS4 facilities/BMPs designed to infiltrate.

“Diversion” shall mean the routing of stormwater to other than its natural discharge location.

“Drainage feature” shall mean any natural or manmade structure, facility, conveyance, or topographic feature which has the potential to concentrate, convey, detain, retain, infiltrate, or affect the flow rate of stormwater runoff.

“Drainage plan” shall mean a plan for the collection, transport, treatment, and discharge of runoff, and may include both the plan and profile views of the site as well as construction details and notes.

(5) “E”

“Easement” shall mean an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality, or other legal entity has in the land of another.

“Effective impervious surface” shall mean impervious surfaces that are connected via sheet flow or discrete conveyance to a drainage system. Impervious surfaces on residential development sites are considered ineffective if the runoff is dispersed through at least 100 feet of native vegetation in accordance with BMP T5.30 – “Full Dispersion,” as described in Chapter 5 of Volume V of the Stormwater Management Manual for Western Washington

(SWMMWW), is residential roof runoff infiltrated in accordance with Downspout Full Infiltration Systems in BMP T5.10A in Volume III of the SWMMWW, or approved continuous runoff modeling methods indicate that the entire runoff file is infiltrated.

“Erodible or leachable materials” shall mean wastes, chemicals, or other substances that measurably alter the physical or chemical characteristics of runoff when exposed to rainfall. Examples include erodible soils that are stockpiled, uncovered process wastes, manure, fertilizers, oily substances, ashes, kiln dust, and garbage dumpster leakage.

“Erosion control design storm” shall mean the six-month frequency, 24-hour duration storm event used for analysis and design of sedimentation and erosion control facilities.

“Existing stormwater facilities” shall mean those facilities constructed or under permitted construction prior to the effective date of the ordinance codified in this chapter.

(6) “F”

“Forested land” shall mean as defined in RCW 76.09.020, and shall include all land which is capable of supporting a merchantable stand of timber and is not being actively used in a manner incompatible with timber growing.

(7) “G”

“Geotechnical engineer” shall mean a practicing professional engineer licensed as a professional civil engineer by the state of Washington who has at least four years of professional employment as a geotechnical engineer.

“Geotechnical report” shall mean a study of the effects of drainage and drainage facilities on soil characteristics, geology and ground water. The geotechnical analysis shall be prepared by a geotechnical engineer.

“Grading” shall mean any excavating, filling, or embanking of earth materials.

“Grubbing” shall mean the removal of vegetative matter from underground, such as sod, stumps, roots, buried logs, or other debris, and shall include the

incidental removal of topsoil to a depth not exceeding 12 inches.

(8) "H"

"Hard surface" shall mean an impervious surface, a permeable pavement, or a vegetated roof.

"Highway" shall mean a public road connecting towns and cities.

"Hydrograph" shall mean a graph of runoff rate, inflow rate, or discharge rate, past a specific point over time.

"Hydrograph method" shall mean a method of estimating a hydrograph using a mathematical simulation. Commonly accepted hydrograph methods include the Soil Conservation Service TR-55 Method and the Santa Barbara Urban Hydrograph Method.

(9) "I"

"Illicit connection" means (a) any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including, but not limited to, any conveyances which allow any nonstormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the city; or (b) any drain or conveyance connected from a residential, commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the city.

"Illicit discharge" shall mean any discharge to a municipal separate storm sewer or to surface or ground water that is not composed entirely of stormwater, except discharges pursuant to an NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer), discharges resulting from fire fighting activities, and those discharges expressly allowed conditionally by Chapter 15.30 POMC, Illicit Discharge Detection and Elimination.

"Impervious surface" shall mean a non-vegetated surface area that either (a) prevents or retards the entry of water into the soil mantle as under natural

conditions prior to development, or (b) causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots, or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for the purposes of determining whether the thresholds for application of minimum requirements are exceeded. Open, uncovered retention/detention facilities shall be considered impervious surfaces for purposes of runoff modeling.

(10) "L"

"Land disturbing activity" shall mean any activity that results in movement of earth, or a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography, including the creation and/or replacement of impervious surfaces. Land disturbing activities include, but are not limited to, demolition, construction, paving, clearing, grading, filling, excavation, and grubbing. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices, including landscape maintenance and gardening, are not considered land-disturbing activity. Stormwater facility maintenance is not considered land disturbing activity if conducted according to established standards and procedures.

"Land use permits and approvals" shall mean any use or development of land that requires city action in legislation, administration, or approval.

"Low Impact Development (LID)" shall mean a stormwater and land use strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

"LID Best Management Practices (BMPs)" shall mean distributed stormwater management practices, integrated into a project design, that emphasize pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration. LID BMPs include, but are not limited to, bioretention, rain

gardens, permeable pavements, roof downspout controls, dispersion, soil quality and depth, minimal excavation foundations, vegetated roofs, and water re-use.

“LID principles” shall mean land use management strategies that emphasize conservation, use of on-site natural features, and site planning to minimize impervious surfaces, native vegetation loss, and stormwater runoff.

(11) “M”

“Maintenance” shall mean any activity that is conducted on currently serviceable stormwater structures, facilities, and equipment in good working order so as to function as designed without expansion or use beyond that previously existing and results in no significant adverse hydrologic impact. Maintenance shall include activities taken to prevent decline, lapse or cessation in use of the systems or structures, including complete reconstruction of a dysfunctional stormwater facility, including cases where environmental permits require replacing an existing structure with a different type structure, as long as the functioning characteristics of the original structure are not changed. Maintenance of stormwater facilities shall include assessment to ensure ongoing proper operation, removal of built up pollutants (i.e. sediments), replacement of failed or failing treatment media, and the correction of any problem on the site property that may directly impair the functions of the stormwater facilities as identified in the maintenance standards of Chapter 4, Volume V of the Stormwater Management Manual for Western Washington.

“Maintenance covenant” shall mean a binding agreement between the city of Port Orchard and the person or persons holding title to a property served by a stormwater facility whereby the property owner promises to maintain certain stormwater facilities, grants the city the right to enter the subject property to inspect and to make certain repairs or perform certain maintenance procedures on the stormwater control facilities when such repairs or maintenance have not been performed by the property owner, and promises to reimburse the city for the cost should the city perform such repairs or maintenance.

“Maintenance schedule” shall mean a document detailing required stormwater facility maintenance activities to be performed at specified intervals.

“Major development” shall mean any new development or any redevelopment activity that (a) includes the creation or cumulative addition of 5,000 square feet or greater of impervious surface area from the predevelopment conditions, or (b) includes land disturbing activity of one acre or greater, or (c) includes grading involving the movement of 5,000 cubic yards or more of material.

“Minor development” shall mean any new development or redevelopment activity that (a) includes the creation or addition of less than 5,000 square feet of new impervious surface area, and (b) includes land disturbing activity of less than one acre, and (c) includes grading involving the movement of less than 5,000 cubic yards of material.

“Municipal separate storm sewer system (MS4)” means a conveyance or system of conveyances which is intended to convey only stormwater (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) and which are: (a) owned or operated by the city of Port Orchard; (b) designed or used for collecting or conveying stormwater; (c) are not part of a publicly owned treatment works (any device or system used in treatment of municipal sewage or industrial wastes of a liquid nature which is publicly owned); and (d) are not a combined sewer (a system that collects sanitary sewage and stormwater in a single sewer system).

(12) “N”

“Native vegetation” shall mean vegetation comprised of plant species, other than noxious weeds, that are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been expected to naturally occur on the site. Examples include trees such as Douglas Fir, western hemlock, western red cedar, alder, big-leaf maple, and vine maple; shrubs such as willow, elderberry, salmonberry, and salal; and herbaceous plants such as sword fern, foam flower, and fireweed.

“National Pollutant Discharge Elimination System (NPDES) permit” shall mean a permit issued by the Environmental Protection Agency (EPA) or by the Washington State Department of Ecology that authorizes the discharge of pollutants to waters of the United States from point sources, whether the permit is applicable to an individual, group, or general area-wide basis.

“New development” shall mean land disturbing activities, including Class IV – general forest practices that are conversions from timber land to other uses; structural development, including construction or installation of a building or other structure; creation of impervious surfaces; and subdivision, short subdivision and binding site plans, as defined and applied in Chapter 58.17 RCW. Projects meeting the definition of redevelopment shall not be considered new development.

“Nonforestry use” shall mean an active use of land that is incompatible with timber growing.

(13) “O”

“Off-site drainage analysis” shall mean a study of those land areas contributing surface runoff to a development site as well as a study of the existing and predicted impacts of surface runoff from the development site on properties and drainage features that have the potential to receive stormwater from the development site.

“Oil/water separator” shall mean a structure or device used to remove suspended oil and greasy solids from water.

“On-site stormwater BMPs” shall mean a synonym for Low Impact Development BMPs.

“Outfall” shall mean a point source as defined by 40 CFR 122.2 at the point where a discharge leaves the permittee’s MS4 and enters a surface receiving waterbody or surface receiving waters. Outfall does not include pipes, tunnels, or other conveyances which connect segments of the same stream or other surface waters and are used to convey primarily surface waters (i.e., culverts).

“Operation and maintenance manual” shall mean a written manual, prepared by a qualified civil engineer, which provides a description of operation and maintenance procedures for specific stormwater control facilities, for use by operation and maintenance personnel.

“Operator” shall mean any party associated with a construction project that meets either of the following two criteria:

- (a) The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
- (b) The party has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a SWPPP for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWPPP or comply with other permit conditions).

“Owner” shall mean any person or persons having a legal or equitable property right or interest, whether or not said right is legal or equitable in character, including a fee owner, contract purchaser or seller, mortgagor or mortgagee, optionor or optionee, and beneficiary or grantor of a trust or deed of trust.

(14) “P”

“Permeable pavement” shall mean pervious concrete, porous asphalt, permeable pavers or other forms of pervious or porous paving material intended to allow passage of water through the pavement section. It often includes an aggregate base that provides structural support and acts as a stormwater reservoir.

“Pervious surface” shall mean any surface material that allows stormwater to infiltrate into the ground. Examples include lawn, landscape, pasture, native vegetation areas, and permeable pavements.

“Pollution” shall mean contamination or other alteration of the physical, chemical, or biological properties of any waters of the city, state, or United States, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters as will or is likely to create a nuisance or render such waters harmful, or is otherwise detrimental or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.

“Pollution-generating hard surface (PGHS)” shall mean those hard surfaces considered to be a significant source of pollutants in stormwater runoff. See listing of surfaces under pollution-generating impervious surface.

“Pollution-generating impervious surface (PGIS)” shall mean those impervious surfaces considered to be a significant source of pollutants in stormwater runoff. Such surfaces include those which are subject to: vehicular use; industrial activities (as further defined in the glossary of the Stormwater Management Manual for Western Washington); storage of erodible or leachable materials, wastes, or chemicals, and which receive direct rainfall or the run-on or blow-in of rainfall; metal roofs unless they are coated with an inert, non-leachable material (i.e., baked-on enamel coating); or roofs that are subject to venting significant amounts of dust, mists, or fumes from manufacturing, commercial, or other indoor activities.

“Pollution-generating pervious surface (PGPS)” shall mean any non-impervious surface subject to vehicular use, industrial activities (as further defined in the glossary of the Stormwater Management Manual for Western Washington); or storage of erodible or leachable materials, wastes, or chemicals, and which receive direct rainfall or the run-on or blow-in of rainfall, use of pesticides and fertilizers, or loss of soil. Typical PGPS include permeable pavement subject to vehicular use, lawns, landscaped areas including: golf courses, parks, cemeteries, and sports fields (natural and artificial turf).

“Predevelopment condition” shall mean native vegetation and soils that existed prior to the influence of Euro-American settlement. Predeveloped condition shall be assumed to be forested land cover unless reasonable, historic information is provided that indicates the site was prairie prior to settlement.

“Professional engineer” shall mean a person who, by reason of his or her special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering as attested by his or her legal registration as a professional engineer in the state of Washington.

“Project engineer” shall mean the professional engineer responsible for the design of the project, who will affix his/her seal on the project drainage plans and drainage analysis. The project engineer shall be licensed in the state of

Washington and qualified by experience or examination.

“Project site” shall mean that portion of a property, properties, or right of way subject to land disturbing activities, new hard surfaces, or replaced hard surfaces.

(15) “R”

“Rain garden” shall mean a non-engineered shallow landscaped depression, with compost-amended native soils and adapted plants. The depression is designed to pond and temporarily store stormwater runoff from adjacent areas, and allow stormwater to pass through the amended soil profile.

“Receiving waters” shall mean naturally and/or reconstructed naturally occurring surface water bodies, such as creeks, streams, rivers, lakes, wetlands, estuaries, and marine waters, or ground water, to which a MS4 discharges.

“Redevelopment” shall mean any land disturbing activity occurring on existing substantially developed property (i.e., has 35 percent or more of existing hard surface coverage), the creation or addition of hard surfaces; the expansion of a building footprint or addition or replacement of a structure; structural development including construction, installation or expansion of a building or other structure; replacement of hard surface that is not part of a routine maintenance activity; and land disturbing activities.

“Replaced hard surface” shall mean for structures, the removal and replacement of hard surfaces down to the foundation. For other hard surfaces, the removal down to bare soil or base course and replacement.

“Replaced impervious surface” shall mean for structures, the removal and replacement of hard surfaces down to the foundation. For other hard surfaces, the removal down to bare soil or base course and replacement.

“Retention facilities” shall mean drainage facilities designed to store runoff for gradual release by evaporation, plant transpiration, or infiltration into the soil. Retention facilities shall include all such drainage facilities designed so that none of the runoff entering the facility will be discharged as surface water. Retention facilities shall include all appurtenances associated with their designed function, maintenance, and security.

(16) "S"

"SEPA" shall mean the Washington State Environmental Policy Act.

"Shorelines of the state" shall mean the total of all "shorelines" and "shorelines of state-wide significance" within the state, as defined in RCW 90.58.030, also known as the Shoreline Management Act.

"Site" shall mean the area defined by the legal boundaries of a parcel or parcels of land that is (are) subject to new development or redevelopment. For road projects, the length of the project site and the right-of-way boundaries define the site.

"Site development activity" shall mean the alteration of topography, clearing, paving, grading, construction, alteration of stormwater systems, site preparation, or other activity commonly associated with site development.

"Soils investigation report" shall mean a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils investigation report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.

"Soils engineer" shall mean a practicing civil engineer licensed as a professional civil engineer in the state of Washington who has at least four years of professional employment as a civil engineer dealing with soil descriptions and characterizations.

"Source control BMP" shall mean a best management practice (BMP), either a structure or operation that is intended to prevent pollutants from coming into contact with stormwater through physical separation of areas or careful management of activities that are sources of pollutants. The Stormwater Management Manual for Western Washington (SWMMWW) separates source control BMPs into two types. Structural source control BMPs are physical, structural, or mechanical devices, or facilities that are intended to prevent pollutants from entering stormwater. Operational BMPs are nonstructural practices that prevent or reduce pollutants from entering stormwater. See Volume IV of the SWMMWW for details.

“Stormwater” shall mean the surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, including snowmelt, during and following precipitation, and resulting from such precipitation that meets the nonpollutant requirements.

“Stormwater facility” shall mean a component of a manmade drainage feature, or features, designed or constructed to perform a particular function or multiple functions, including, but not limited to, pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, wetponds, constructed wetlands, infiltration devices, catch basins, oil/water separators, and sediment basins. Stormwater facilities shall not include building gutters, downspouts, and drains serving one single-family residence.

“Stormwater pollution prevention plan (SWPPP)” shall mean a documented plan to implement measures to identify, prevent, and control the contamination of point source discharges of stormwater.

“Stormwater quality control” shall mean the control of the introduction of pollutants into stormwater and the process of separating pollutants from stormwater. Stormwater quality control facilities include, but are not limited to, source controls, biofiltration/biofilter facilities, wet ponds, wetland forebays, oil/water separators, constructed wetlands and erosion and sedimentation control facilities.

“Stormwater quantity control” shall mean the control of the rate and/or volume of stormwater released from a development site. Stormwater quantity control facilities include, but are not limited to, detention and retention facilities.

(17) “T”

“Technical deviation” shall mean permission granted by the director to deviate from the provisions of this chapter.

“Threshold discharge area” shall mean an on-site area draining to a single natural discharge location or multiple natural discharge locations that combine within one-quarter mile downstream (as determined by the shortest flowpath).

(18) “V”

“Variance” shall mean permission granted by the city council to deviate from the provisions of this chapter.

“Vehicular Use” shall mean regular use of an impervious or pervious surface by motor vehicles. The following are subject to regular vehicular use: roads, un-vegetated road shoulders, bike lanes within the traveled lane of a roadway, driveways, parking lots, unrestricted access fire lanes, vehicular equipment storage yards, and airport runways. The following are not considered subject to regular vehicular use: paved bicycle pathways separated from and not subject to drainage from roads for motor vehicles, restricted access fire lanes, and infrequently used maintenance access roads.

(19) “W”

“Waters of the state” shall include those waters as defined as “waters of the United States” in 40 CFR Subpart 122.2 within the geographic boundaries of Washington State and “waters of the state” as defined in Chapter 90.48 RCW which include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface waters and watercourses within the jurisdiction of the state of Washington.

“Water quality design storm event” shall mean a design storm event as established pursuant to the Stormwater Manual for the purpose of establishing design performance criteria for water quality BMPs. Under most conditions, the term applies to the runoff rate and volume resulting from 64 percent of the precipitation of the two-year frequency, 24-hour duration storm event.

“Wetland” shall mean those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

15.32.030 Stormwater drainage—Administration.

(1) Authority. The Director shall have the authority to develop and implement procedures to administer and enforce this chapter.

(2) Inspections. All activities regulated by this chapter shall be inspected by the Department. The Department's designee shall inspect projects at various stages of the work requiring approval to determine that adequate control is being exercised. Stages of work requiring inspection include, but are not limited to, preconstruction, installation of BMPs, land disturbing activities, installation of utilities, permanent storm water control facilities, landscaping, retaining walls, and completion of project. When required by the Director, a special inspection and/or testing shall be performed.

15.32.040 Stormwater drainage — Applicability.

(1) The provisions of this chapter shall apply to all development proposals within the bounds of incorporated Port Orchard.

(2) Any land development which is required by operation of any City of Port Orchard ordinance, state law, or federal law to construct, install, or modify any natural or manmade drainage features, either public or private, within, abutting, or serving the development shall do so in accordance with this chapter.

(3) The provisions of POMC 15.32.150, Operation and maintenance, shall also apply to existing stormwater facilities in incorporated Port Orchard.

(4) The requirements of this chapter are in addition to other City codes, standards, and regulations. Where conflicts exist between the provisions of this chapter and other codes and standards, the most restrictive shall apply. Where the provisions of this chapter directly conflict with any other state law, federal law, or comprehensive drainage plan, the more stringent provisions shall apply to the extent permissible by law.

15.32.050 Stormwater drainage — Exemptions.

The following activities are exempt from the provisions of this chapter:

- (1) Commercial agriculture and forest practices regulated under WAC Title 222;
- (2) Development that is undertaken by the Washington State Department of Transportation in state highway rights-of-way and is regulated by Chapter 173-270 WAC, the Puget Sound Highway Runoff Program; and
- (3) Pavement maintenance. Pavement Maintenance practices which are exempt include potholes and square cut patching, overlaying existing asphalt or concrete pavement with asphalt or concrete without expanding the area of coverage, shoulder grading, reshaping/regrading drainage systems, crack sealing, resurfacing with in-kind material without expanding the road prism, pavement restoration activities that do not expand the road prism, and vegetation maintenance. See Appendix 1 of the Western Washington Phase II Municipal Stormwater Permit for practices which are not categorically exempt.

15.32.060 Stormwater drainage—Regulations and guidelines—Adopted manuals.

- (1) The provisions of this chapter together with those manuals and standards described herein, shall constitute the City’s stormwater regulations.
- (2) All activity under this chapter shall also comply with the applicable provisions of Chapter 15.34, Land Disturbing Activity; Appendix J of the International Building Code, as adopted in Chapter 15.04 POMC; and equivalent standards approved by the Director.
- (3) The following state and local regulations and guidelines pertaining to surface and stormwater design and management are adopted by reference and shall be collectively referred to as the “Port Orchard Stormwater Manuals” or the “Stormwater Manuals”:
 - (a) The 2012 Edition (as amended in December 2014) of the Washington State Department of Ecology Stormwater Manual for Western Washington;
 - (b) The 2012 Edition of the Puget Sound Partnership Low Impact Development Technical Guidance Manual for Puget Sound;

(c) The 2016 Edition of the City of Port Orchard Design and Construction Standards; and

(d) The definitions, minimum requirements, adjustment, and variance criteria found in Appendix 1 of the Western Washington Phase II Municipal Stormwater Permit, except that the erosivity waiver is not adopted.

(e) All references to this chapter shall include the Port Orchard Stormwater Manuals adopted herein.

(4) All development proposal activities in the City shall comply with the standards, specifications, and requirements contained in the City's stormwater regulations and Stormwater Manuals. When best management practices (BMPs) are required by this chapter or any other chapter of the POMC, they shall comply with the Stormwater Manuals.

(5) Where there are differences and/or conflicts between the Stormwater Manuals and/or Appendix 1 of the Western Washington Phase II Municipal Stormwater Permit, the most stringent criteria shall apply.

(6) The adopted regulations and guidelines in the Stormwater Manuals may be modified for projects located within specific areas for which specialized stormwater drainage plan has been approved by the City and the Washington State Department of Ecology.

(7) The Director may amend the Port Orchard Stormwater Manuals as necessary, by ordinance passed by a majority of the Port Orchard City Council, to reflect changing conditions and technology.

(8) Compliance with the regulations in this chapter and the Stormwater Manuals does not necessarily mitigate all probable and significant environmental impacts to aquatic biota. Fishery resources and other living components of aquatic systems are affected by a complex set of factors. While employing a specific flow control standard may prevent stream channel erosion or instability, other factors affecting fish and other biotic resources (such as increases in stream flow velocities) are not directly addressed by the Stormwater Manuals. Thus, compliance with the Stormwater Manuals should not be construed as mitigating all probable and significant stormwater impacts, and additional mitigation,

beyond what is required in the Stormwater Manuals, may be required to protect aquatic biota in streams and wetlands.

15.32.070 Stormwater drainage—Special stormwater drainage improvements.

In order to mitigate or eliminate potential drainage-related impacts on critical drainage areas, the Director may require drainage improvements in excess of those required in this chapter and the Stormwater Manuals. For particularly sensitive drainage areas, the Director may specify the general type of drainage improvement required. Accordingly, the following are designated as critical drainage areas:

- (a) All lands having a slope of thirty (30) percent or greater:
 - (i) As determined by a topographic survey of the site; or
 - (ii) As shown on a U.S.G.S. topographic quadrangle map, when other topographic survey information is not available; or
 - (iii) As determined by the director based on field investigation of the site;
- (b) Geologic hazardous area and historically documented unstable slopes;
- (c) All lands within 200 feet of the ordinary high water mark of bodies of water possessing fish spawning and rearing habitat for anadromous and resident fish species, as designated by the State Department of Fish and Wildlife;
- (d) All lands designated critical areas in any comprehensive drainage plan, or defined as critical areas by separate ordinance;
- (e) All lands that are classified as wetlands as defined by any separate city ordinance or policy;
- (f) Any lands that have existing local requirements for the management or protection of ground water, aquifers, or sole source aquifers;
- (g) Any lands that drain to a closed depression;
- (h) Any lands that have existing local or state requirements for the protection of particular fish or wildlife habitats;
- (i) Any lands that are established by law as shellfish protection areas; and

(j) Any lands determined by the director to have a high potential for drainage and water quality problems, and/or are sensitive to the effects of construction or development.

In the event of conflict between maps or other available information resources regarding the above designations, the final determination of whether or not certain lands are critical drainage areas shall be made by the Development Director. In making such a final determination, the Development Director may use detailed site surveys and/or other topographic data that the Development Director may require the applicant to furnish at the applicant's expense.

15.32.080 Stormwater drainage—Permit—Form.

(1) Permit Required. A stormwater drainage permit is required for all development proposals, except as exempt under Chapter 15.34 POMC, Land Disturbing Activity, or as may be otherwise exempt herein. No construction or development activity shall occur until a stormwater drainage permit has been issued, nor shall said activity continue without an approved stormwater drainage permit in force.

(2) Application Form. The stormwater drainage permit shall be submitted pursuant to forms provided by the City. As required by this chapter and the permit submittal requirements in POMC 15.32.090, supporting documents submitted with the application shall address the applicable minimum requirements for surface and stormwater control pursuant to the Stormwater Manuals and include the proposed BMPs to mitigate such stormwater impacts.

(3) Fees. Stormwater drainage permits shall be subject to fees for application review and inspections during construction. Fees for stormwater drainage permits shall be set forth in the City's current fee schedule.

15.32.090 Stormwater drainage—Permit—Submittal requirements.

The following submittal requirements apply to all stormwater drainage permit applications.

(1) Low Impact Development Site Analysis Required. All development proposals shall conduct a Low Impact Development (LID) site analysis in accordance with

the minimum requirements outlined the Stormwater Manuals. LID site assessment findings shall be a required component of the stormwater drainage permit submittal.

(2) Drainage Report—When required. Development proposals that include any of the following activities shall submit a drainage report, as prescribed by this chapter and the Stormwater Manuals, together with the required calculations, plans, and details, as a component of the stormwater drainage permit; the drainage report and supporting plan documents shall address the applicable minimum stormwater management requirements and include the proposed BMPs to mitigate stormwater impacts:

(a) Development or redevelopment activities that qualify as a major development as defined herein; or

(b) Grading activities that result in the movement of 150 cubic yards or more of earth; or

(c) Grading activities that will result in a temporary or permanent slope having a steepness exceeding three to one (3:1) (three feet horizontal to one foot vertical) and having a total slope height, measured vertically from toe of slope to top of slope, exceeding five feet (5 ft.); or

(d) Grading activities that include the construction of embankment berms that will result in the impoundment of water to a depth exceeding eighteen (18) inches and/or with a maximum volume exceeding 2,500 cubic feet of water; or

(e) Grading activities that will result in the diversion of existing drainage courses, both natural and manmade, from their natural point of entry or exit from the grading site;

(f) Any land clearing or grading on slopes steeper than thirty (30) percent, or within the mandatory setback of a wetland, stream, lake, or Puget Sound, as established by separate ordinance or by the public works department.

(3) BMP plans, only—When required. Minor development, as defined herein, or projects that do not require a drainage report pursuant to subsection (2) of this section, shall submit plans that document the proposed BMPs to mitigate stormwater impacts as a component of the stormwater drainage permit. The

proposed BMPs shall address the applicable minimum requirements pursuant to the Stormwater Manuals.

(4) Off-Site Analysis. All development proposals that require a drainage report pursuant to subsection (2) of this section shall also include an off-site drainage analysis as defined in this chapter, prepared by a qualified professional engineer, and based on a field investigation of the development's off-site contributing and receiving drainage areas as a required component of the stormwater drainage permit submittal.

(5) Soils Analysis. All development proposals that require a drainage report pursuant to subsection (2) of this section and where the soils underlying the proposed project have not been mapped, or where existing soils maps of the project site are inconsistent, or where the Development Director deems that existing soils maps of the project site are not of sufficient resolution to allow proper engineering analysis, shall include a soils investigation report as a required component of the stormwater drainage permit submittal.

(6) Geotechnical Analysis. All development proposals where grading or the construction of stormwater retention facilities, detention facilities, LID BMPs, or other stormwater facilities is proposed within 200 feet of slopes steeper than thirty (30) percent, or where the Development Director deems that the proposed construction poses a potential hazard due to its proximity to a slope, shall, when required by the Development Director, include a geotechnical analysis prepared by a qualified geotechnical engineer as a required component of the stormwater drainage permit submittal. Said geotechnical analysis shall address the effects of ground water interception and infiltration, seepage, potential slip planes, and changes in soil bearing strength.

(7) When a Professional Engineer Is Required. Unless otherwise required in this chapter, documents submitted in support of a stormwater drainage permit application must be prepared by a qualified professional engineer when one of the following conditions exists:

(a) Any land use or building or development proposal on real property which meets the definition of a major development; or

(b) Any improvements within the boundaries of city rights-of-way for which Port Orchard will ultimately assume responsibility for maintenance; or

(c) Any development proposal that the Director deems to be in the public's best interest to require that certain stormwater drainage permit application submittal documents be prepared by a professional civil engineer.

(8) Engineering and drainage plans. All engineering plans shall be submitted to the Department for review in accordance with the Stormwater Manuals. All drainage plans, if required, shall be submitted to the Department for review in accordance with the Stormwater Manuals and in accordance with the requirements of any associated permit applications or development approvals.

15.32.100 Stormwater drainage—Permit—Decision type; review criteria.

A stormwater drainage permit shall be issued as an administrative decision of the Director, appealable to the Port Orchard Hearing Examiner in a closed record hearing.

15.32.110 Stormwater drainage—Permit—Review criteria.

(1) Every stormwater drainage permit, or approval application with storm drainage review, must meet the design and submittal requirements of this chapter and the adopted Stormwater Manuals.

(a) The required review for any submitted stormwater drainage permit shall be scaled by the Director to the scope of the project's size, type of development, and potential for impacts to the regional surface water system to facilitate preparation and review of project applications. The Director shall determine which drainage reviews apply to a stormwater drainage permit application, as specified in the Stormwater Manuals.

(b) Stormwater generated on-site from all new impervious surfaces shall be managed through a combination of LID BMPs in accordance with this chapter and the Stormwater Manuals, or any other LID BMPs approved by the city through the design deviation process in POMC 15.32.120, unless site and soil conditions make LID infeasible as defined in the Stormwater Manual.

(2) **Low Impact Development BMPs—Additional conditions.** The following LID BMPs utilized as part of a stormwater drainage permit submittal shall be subject to additional review and conditions for implementation by the Director as part of the stormwater drainage permit review and issuance:

(a) Permeable pavements subject to vehicular use; and

(b) Reverse slope sidewalks.

15.32.120 Stormwater drainage—Permit—Technical deviations.

The Director may grant technical deviations from requirements contained in the Stormwater Manuals pursuant to the requirements Stormwater Manuals; and provided that all of the following criteria are met:

(a) The technical deviation will not otherwise result in noncompliance with this chapter;

(b) The granting of the technical deviation will not result in noncompliance with the development conditions imposed upon the project by the city;

(c) The granting of the technical deviation will produce a compensating or comparable result that is in the public interest; and

(d) The granting of the technical deviation will meet the objectives of safety, function, appearance, environmental protection, and maintainability based on sound engineering judgment.

15.32.130 Stormwater drainage—Permit—Variances.

(1) Eligibility.

(a) Requests for a variance from the minimum requirements under this chapter and the Stormwater manuals may be considered for stormwater drainage permits pending approval. The permit application review time will be extended by the Director as required for the review.

(b) Requests for a variance from the minimum requirements under this chapter and the Stormwater manuals may be considered for stormwater drainage permits that have not yet expired; provided, that the variance request must be

submitted a minimum of ninety (90) calendar days prior to the stormwater drainage permit expiration date. The 90-day requirement may be increased by the Director depending on the complexity of the variance.

(2) Submittal requirements.

(a) Applicants requesting a variance from the minimum requirements under this chapter and the Stormwater Manuals shall provide all necessary justification and supporting documentation in accordance with Appendix 1 of the Western Washington Phase II Municipal Stormwater Permit. Additional information shall be submitted if required by the Director.

(b) The permit applicant shall be responsible for all costs associated with analyses, documentation, and additional review time of the variance, in accordance with the process established by the Director.

(3) Review and approval.

The hearing examiner may grant a variance from the provisions of this chapter; provided, that all of the following criteria and requirements are met:

(a) The applicant has provided all necessary justification and supporting documentation to meet the requirements of Appendix 1 of the Western Washington Phase II Municipal Stormwater Permit;

(b) The granting of the variance will produce a compensating or comparable result that is in the public interest; and

(a) The granting of the variance will meet the objectives of safety, function, appearance, environmental protection, and maintainability based on sound engineering judgment.

(4) Denial; appeal.

(a) The permit applicant is responsible for fully meeting the minimum requirements of this chapter and the Stormwater Manuals if the variance is not approved prior to the stormwater drainage permit expiration.

(b) The decision of the hearing examiner to grant or deny a variance pursuant to this section may be appealed to the city council in a closed record appeal. The decision of the city council upon a closed record appeal is final.

15.32.140 Stormwater drainage—Permit—Construction timing and final approval.

(1) No work related to permanent or temporary storm drainage control for a permitted development may proceed without the approval of the Director pursuant to this chapter.

(2) Erosion and sediment control measures associated with both the interim and permanent drainage systems shall be approved and constructed pursuant to the requirements in Chapter 15.34 POMC, Land Disturbing Activity.

(3) Prior to the construction of any improvements or buildings on the site, or to final recording of a plat or short plat, those portions of the stormwater drainage facilities required pursuant to the applicable issued stormwater drainage permit(s) shall be constructed and in operation as approved by the city; but, after receipt of a written request, and the posting of a performance bond, the Director may authorize recording prior to final approval to minimize impacts that may result from construction of said stormwater drainage facilities during inappropriate times of the year.

15.32.150 Stormwater drainage—Permit—Expiration; extension.

(1) Expiration. A stormwater drainage permit issued pursuant to this chapter shall expire three (3) years from the date of issuance if the permitted work has not yet commenced. In the event that a stormwater drainage permit, and any renewal thereof pursuant to subsection (2) of this section, expires prior to the completion of construction, all construction activity must cease, a new stormwater drainage permit application must be submitted, and the issuance of a new stormwater drainage permit shall be at the discretion of the Director, subject to city development standards in force at the time of the new permit application.

(2) Permit extension.

(a) If construction pursuant to an issued stormwater drainage permit has begun, been documented, and is continuing prior to the expiration of said permit, the property owner or stormwater drainage permit applicant may request a permit extension, submitted in writing to the Director, prior to the expiration date of the permit. Having the required inspections performed and approved within every 360 days is evidence that work has commenced and is continuing.

(b) The Director may grant a one-time extension not to exceed two (2) additional years. The Director shall not grant more than one permit extension for a stormwater drainage permit.

(c) The Director's decision whether to grant an extension pursuant to this subsection shall be final.

15.32.160 Stormwater drainage—Standards—Minimum site development requirements.

The following minimum site development requirements apply to all new development, redevelopment, and construction site activities that result in land disturbance of equal or greater than one (1) acre, including projects less than one (1) acre that are part of a larger common plan of development or sale, regardless of whether a permit under this chapter or chapter 15.34 POMC, Land Disturbing Activity, is required:

(1) Plans and Reports (Minimum Requirement No. 1). All development and redevelopment meeting the thresholds contained in this section shall submit plans and reports in accordance with the criteria stipulated in the manual.

(2) Construction Stormwater Pollution Prevention Plan (SWPPP) (Minimum Requirement No. 2). All new development and redevelopment is responsible for preventing erosion and discharge of sediment and other pollutants into receiving waters by preparing a SWPPP. The SWPPP shall include a narrative and drawings. All BMPs shall be clearly referenced in the narrative and marked on the drawings. The SWPPP narrative shall include documentation to explain and justify the pollution prevention decisions made for the project and shall be available to the director upon request. The SWPPP shall include each of the 12 elements below and shall be fully implemented, from initial soil disturbance until final stabilization, unless site conditions render the element unnecessary and the exemption from that element is clearly justified in the SWPPP.

- (a) Preservation of vegetation/marketing clearing limits;
- (b) Construction access;
- (c) Controlling flow rates;
- (d) Installing sediment controls;
- (e) Stabilizing soils;
- (f) Protecting slopes;
- (g) Protecting drain inlets;
- (h) Stabilizing channels and outlets;
- (i) Controlling pollutants;
- (j) Controlling de-watering;
- (k) Maintaining best management practices; and
- (l) Management of the project.

(3) Source Control of Pollution (Minimum Requirement No. 3). Source control best management practices (operational and/or structural) are required for all projects. Those practices listed in the source control chapter (Chapter 4) of the SWMMWW manual as applicable operational or structural source controls for a particular pollutant source are required under this minimum requirement.

(4) Preservation of Natural Drainage Systems and Outfalls (Minimum Requirement No. 4).

(a) Natural drainage patterns shall be maintained, and discharges from the project site shall occur at the natural location, to the maximum extent practicable. The manner by which runoff is discharged from the project site must not cause a significant adverse impact to downstream receiving waters and down gradient properties. All outfalls require energy dissipation.

(b) Downstream Analysis. The following projects shall conduct an analysis of downstream water quality impacts resulting from the project and shall provide mitigation of these impacts:

- (i) All major developments; and
- (ii) Any minor developments located within critical drainage areas.

The analysis shall extend a minimum of one-quarter of a mile downstream from the project site. The existing or potential impacts to be evaluated and mitigated shall include excessive sedimentation, erosion, discharges to ground water contributing to recharge zones, violations of water quality standards, and spills and discharges of priority pollutants.

(5) On-Site Stormwater Management (Minimum Requirement No. 5). All projects shall maintain the average annual volume of water that infiltrates on a site (ground water plus interflow) at or above predevelopment levels as predicted by an approved hydrologic model. Project proponents may use prescriptive predesigned best management practices contained in the manual to fulfill this requirement.

(6) Runoff Treatment (Minimum Requirement No. 6). The following require construction of stormwater treatment facilities designed in accordance with the manual.

(a) Projects in which the total pollution-generating impervious surface (PGIS) is 5,000 square feet or more; or

(b) Projects in which the total of pollution-generating pervious surface (PGPS) is three-quarters of an acre or more, and from which there is a surface discharge in a natural or manmade conveyance system from the site.

The level of treatment for each project will be determined by subsections (7) through (10) of this section.

(7) Oil Control Treatment Requirements.

(a) Treatment to achieve oil control applies to projects that have “high-use sites.” High-use sites are those that typically generate high concentrations of oil due to high traffic turnover or frequent transfer of oil. High-use sites include:

(i) An area of a commercial or industrial site subject to an expected average daily traffic (ADT) count equal to or greater than 100 vehicles per 1,000 square feet of gross building area;

(ii) An area of a commercial or industrial site subject to petroleum storage and transfer in excess of 1,500 gallons per year, not including routinely delivered heating oil;

(iii) An area of a commercial or industrial site subject to parking, storage or maintenance of 25 or more vehicles over 10 tons gross weight (trucks, buses, trains, heavy equipment, etc.);

(iv) A road intersection with a measured ADT count of 25,000 vehicles or more on the main roadway and 15,000 vehicles or more on any intersecting roadway, excluding projects proposing primarily pedestrian and bicycle use improvements.

(b) Oil/Water Separators. All stormwater from impervious areas at high use sites subject to motor vehicle traffic shall flow through a spill-containment type oil/water separator prior to surface discharge off site.

(8) Phosphorus Treatment Requirements. Phosphorus treatment as described in the manual is required for the following:

- (a) Those water bodies reported under Section 305(b) of the Clean Water Act, and designated as not supporting beneficial uses due to phosphorus;
- (b) Those water bodies listed in Washington State's Nonpoint Source Assessment required under Section 319(a) of the Clean Water Act due to nutrients.

(9) Enhancement Treatment Requirements. Enhanced treatment for reduction in dissolved metals (primarily copper and zinc) is required for the following project sites that discharge to fish-bearing streams, lakes, or to waters or conveyance systems tributary to fish-bearing streams or lakes:

(a) Industrial project sites;

(b) Commercial project sites;

(c) Multifamily project sites; and

(d) High annual average daily traffic (AADT) roads as follows:

(i) Within urban growth management areas:

(A) Fully controlled and partially controlled limited access highways with AADT counts of 15,000 or more;

(B) All other roads with an AADT of 7,500 or greater.

(10) Basic Treatment Requirements. Basic treatment applies to:

(a) Project sites that discharge to the ground, unless:

(i) The soil suitability criteria for infiltration treatment are met (see the manual for soil suitability criteria); or

(ii) The project uses infiltration strictly for flow control and not treatment and the discharge is within one-quarter mile of a phosphorus sensitive lake (use a phosphorus treatment facility), or within one-quarter mile of a fish-bearing stream or a lake (use an enhanced treatment facility);

(b) Residential projects not otherwise needing phosphorus control as designated by U.S. EPA, the Department of Ecology, or by the city of Port Orchard;

(c) Project sites discharging directly to salt waters, river segments, and lakes listed in Appendix 1-C of the currently adopted Stormwater Management Manual for Western Washington;

(d) Project sites that drain to streams that are not fish-bearing, or to waters not tributary to fish-bearing streams; and

(e) Landscaped areas of industrial, commercial, and multifamily project sites, and parking lots of industrial and commercial project sites that do not involve pollution-generating sources (e.g., industrial activities, customer parking, storage of erodible or leachable material, wastes or chemicals) other than parking of employees' private vehicles. For developments with a mix of land use types, the basic treatment requirement shall apply when the runoff from the areas subject to the basic treatment requirement comprise 50 percent or more of the total runoff.

(11) Flow Control (Minimum Requirement No. 7). Except as provided in subsection (12) of this section, the following require construction of flow control facilities and/or land use management BMPs that result in stormwater discharges that match developed condition discharge durations to predeveloped condition durations for the range of predeveloped discharge rates from 50 percent of the two-year peak flow up to the full 50-year peak flow.

(a) Projects in which the total of effective impervious surfaces is 10,000 square feet or more;

(b) Projects that convert three-quarter acre or more of native vegetation to lawn or landscape, or convert 2.5 acres or more of native vegetation to pasture, and from which there is a surface discharge in a natural or manmade conveyance system from the site; or

(c) Projects that through a combination of effective impervious surfaces and converted pervious surfaces cause a 0.1 cubic feet per second increase in the 100-year flow frequency as estimated using the Western Washington Hydrology Model or other approved model.

(12) Flow Control Exemption. Flow control is not required for projects that discharge directly to Puget Sound if all the following are satisfied:

(a) Direct discharge to the exempt receiving water does not result in the diversion of drainage from any perennial stream classified as Types 1, 2, 3, or 4 in the State of Washington Interim Water Typing System, or Types "S," "F," or "Np" in the Permanent Water Typing System, or from any Category I, II, or III wetland;

(b) Flow splitting devices or drainage BMPs are applied to route natural runoff volumes from the project site to any downstream Type 5 stream or Category IV wetland:

(i) Design of flow splitting devices or drainage BMPs will be based on continuous hydrologic modeling analysis. The design will assure that flows delivered to Type 5 stream reaches will approximate, but in no case exceed, durations ranging from 50 percent of the two-year to the 50-year peak flow; and

(ii) Flow splitting devices or drainage BMPs that deliver flow to Category IV wetlands will also be designed using continuous hydrologic modeling to preserve preproject wetland hydrologic conditions unless specifically waived or exempted by regulatory agencies with permitting jurisdiction;

(c) The project site must be drained by a conveyance system that is comprised entirely of manmade conveyance elements (e.g., pipes, ditches, outfall protection, etc.) and extends to the ordinary high water line of the exempt receiving water;

(d) The conveyance system between the project site and the exempt receiving water shall have sufficient hydraulic capacity to convey discharges from future build-out conditions (under current zoning) of the site, and the existing condition from nonproject areas from which runoff is or will be collected;

(e) Any erodible elements of the manmade conveyance system must be adequately stabilized to prevent erosion; and

(f) Shoreline erosion is avoided through the use of appropriate energy dissipation or other protective measures.

(13) Wetlands Protection (Minimum Requirement No. 8).

(a) Discharges to wetlands shall maintain the hydrologic conditions, hydrophytic vegetation, and substrate characteristics necessary to support existing and designated uses. The hydrologic analysis shall use the existing land cover condition to determine the existing hydrologic conditions unless directed otherwise by a regulatory agency with jurisdiction.

(b) Stormwater treatment and flow control facilities shall not be built within a natural vegetated buffer, except for:

- (i) Necessary conveyance systems as approved by the permittee; or
- (ii) As allowed in wetlands approved for hydrologic modification and/or treatment in accordance with Guidesheet 1B in Appendix 1-D of the currently adopted Stormwater Management Manual for Western Washington.

(c) An adopted and implemented basin plan prepared in accordance with the provisions of POMC 15.32.230(12) may be used to develop requirements for wetlands that are tailored to a specific basin.

(14) **Operation and Maintenance (Minimum Requirement No. 9).** All stormwater facilities shall be operated and maintained in accordance with POMC 15.32.260.

15.32.170 Stormwater drainage—Standards—Redevelopment activities.

(1) Where redevelopment activities meet the definition of a major development, the requirements of this section shall apply to that portion of the site that is being redeveloped. In addition, where one or more of the following conditions exist, the requirements of this section shall apply, to the maximum extent practicable, for the entire site, including adjoining parcels, if they are part of the project:

(a) Existing sites greater than one acre in size with 35 percent or more impervious surface;

(b) Sites that discharge to a receiving water that has a documented water quality problem; and

(c) Sites where the need for additional stormwater control measures has been identified through a basin plan.

(2) Approved Hydrological Methods for Design. Estimation of peak stormwater runoff rates used in the design of stormwater quantity control facilities shall utilize hydrograph methods of analysis approved by the Director. The design of storage facilities that are a part of stormwater quantity control facilities shall be designed using methods approved by the Director.

15.32.180 Stormwater drainage—Standards—Stormwater quality control.

The following minimum requirements for stormwater quantity control shall apply to all development proposals that meet the definition of a major development:

(1) All surface water and stormwater entering the development site in its predevelopment state shall be received at the naturally occurring or otherwise legally existing locations. All surface water and stormwater leaving the development site shall be discharged at all times during and after development at the naturally occurring or otherwise legally existing locations so as not to be diverted onto or away from adjacent downstream properties, except diversion which will correct an existing manmade downstream problem may be permitted by the Director. For the purposes of this chapter, “naturally occurring location” shall mean the location of those channels, swales, and pre-existing and established systems as defined by the first documented topographic contours existing for the subject property, either from maps or photographs, site inspections, decisions of a court of law, or other means determined appropriate by the Director.

(2) The post-development peak stormwater discharge rates from the development site for the two-, 10-, and 100-year, 24-hour duration storm events and the 100-year, seven-day duration storm event shall at no time exceed the predevelopment peak stormwater runoff rates for the same design storm events, except as expressly permitted by this chapter. Also, where stormwater directly or indirectly discharges to open channels or streams, streambank erosion protection is required; the post-development peak stormwater discharge rate from the development site for the two-year, 24-hour duration storm event shall not exceed 50 percent of the predevelopment peak stormwater runoff rate for the same design storm event. The Director may require that runoff from a

development site be controlled for additional design storm events.

(3) Closed depressions shall be analyzed using hydrograph routing methods. Infiltration shall be addressed where appropriate. If a proposed project will discharge runoff to an existing closed depression that has greater than 5,000 square feet of water surface area at overflow elevation, the following requirements must be met:

(a) Case 1. The predevelopment 100-year, seven-day and 24-hour duration design storms from the drainage basin tributary to the closed depression are routed into the closed depression using only infiltration as outflow. If the design storms do not overflow the closed depression, no runoff may leave the site for the same storm events following development of a proposed project. This may be accomplished by excavating additional volume in the closed depression subject to all applicable requirements. If a portion of the depression is located off of the project site, impacts to adjacent properties shall be evaluated.

(b) Case 2. The predevelopment 100-year, seven-day, 24-hour duration design storm events from the drainage basin tributary to the closed depression are routed to the closed depression using only infiltration as outflow, and overflow occurs. The closed depression shall then be analyzed as a detention/infiltration pond. The required performance, therefore, shall not exceed the predevelopment runoff rates for 50 percent of the two-year and 100 percent of the 10-year and 100-year, 24-hour duration and 100-year, seven-day duration design storms. This will require that a control structure, emergency overflow spillway, access road, and other applicable design criteria be met. If the facility will be maintained by the city, the closed depression shall be placed in a dedicated tract. If the facility will be privately maintained, the tract shall be located within a drainage easement. If a portion of the depression is located off of the project site, impacts to adjacent properties shall be evaluated.

(c) Case 3. When a proposed project is contributory to a closed depression located off-site, the volume of runoff discharged may not be increased for the two-, 10-, and 100-year, 24-hour duration, and the 100-year, seven-day duration storm events. The exception to this requirement is in the case where discharge would not result in an increase in water surface elevation of greater than 0.01 foot for the 100-year storm events.

(4) Land developments shall provide stormwater quantity control facilities designed to meet, as a minimum performance standard, the requirements of this section, except in the following circumstances:

(a) The development site discharges directly into Puget Sound, or directly into the tidally influenced areas of rivers and streams discharging into Puget Sound, where runoff quantity control is not required by other governmental agencies.

(b) The development site discharges to a regional stormwater facility approved by the director to receive the developed site runoff.

(c) The development site discharges to a receiving body of water (lake, wetland, etc.) where it can be demonstrated by the applicant, to the satisfaction of the director, that stormwater quantity control is not warranted.

(5) In the event that conditions downstream from a proposed development site are determined by the Director to be exceptionally sensitive to potential stormwater discharges from the subject site, the Director may require a factor of safety be applied to the total retention/detention storage volume and/or a reduction of allowable stormwater release rates.

(6) Submittals for all proposed development projects shall include an analysis of downstream water quantity impacts resulting from the project and shall provide for mitigation of these impacts. The analysis shall extend a minimum of one-quarter of a mile downstream from the project. The existing or potential impacts to be evaluated and mitigated shall include, but not be limited to, excessive streambank erosion, flooding, surcharging of existing closed drainage conveyance facilities, discharge to closed depressions, and discharge to existing off-site runoff control facilities.

(7) Retention facilities and open stormwater quantity control facilities shall not be located in dedicated public road rights-of-way.

(8) Reasonable access for maintenance, as determined by the Director, shall be provided to all stormwater facilities.

(9) As the first priority, streambank erosion control BMPs shall utilize infiltration to the fullest extent practicable, only if site conditions are appropriate and ground water quality is protected. Streambank erosion control BMPs shall be

selected, designed, and maintained according to the manual. Streambank erosion control BMPs shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the department of public works.

15.32.190 Stormwater drainage—Standards—Water quality BMPs.

(1) Water quality best management practices (BMPs) shall be used to the maximum extent practicable to control pollution in stormwater. Water quality BMPs shall be used to comply with the standards of this chapter, including those contained in the Stormwater Manual. Construction and post-development water quality BMPs shall be utilized for all developments. Said water quality BMPs shall provide runoff water quality treatment for all storm events with intensities less than or equal to the water quality design storm event, as defined in this chapter.

(2) Illicit Discharges. Illicit discharges or illicit connections to a stormwater drainage system, pursuant to chapter 15.30 POMC are prohibited.

(3) Experimental Best Management Practices. In those instances where appropriate best management practices are not in the Stormwater Manual, experimental BMPs should be considered. In an effort to improve stormwater quality technology, experimental BMPs are encouraged as a means of solving problems in a manner not addressed by the Stormwater Manual. Experimental BMPs must be approved by the Director. The Director may require that the performance of experimental BMPs be monitored according to the Department of Ecology's Technology Assessment Protocol (TAPE) guidelines, to document their effectiveness for future use.

(4) Incorporation into Stormwater Quantity Control Facilities. Water quality BMPs may be incorporated into the design of stormwater quantity control facilities where appropriate.

15.32.200 Stormwater drainage—Standards—Stormwater conveyance facilities.

(1) All proposed developments must provide on-site stormwater conveyance facilities having sufficient capacity to convey, without flooding or otherwise damaging existing or proposed structures, the post-development peak stormwater runoff rate resulting from a 100-year storm event, plus any existing

upstream runoff that will be conveyed through the development site.

(2) Estimation of peak stormwater runoff rates used in the design of water conveyance facilities shall use either the rational method or a hydrograph method of analysis accepted by the Director.

(3) Existing drainage ways and/or other conveyance facilities downstream from proposed developments that are identified within the scope of the downstream portion of the off-site drainage analysis shall have sufficient capacity to convey, without flooding or otherwise damaging existing or proposed structures, the post-development peak stormwater discharge for the 25-year storm event. All newly constructed downstream drainage ways and/or conveyance facilities shall have sufficient capacity to convey the post-development peak stormwater discharge for the 100-year storm event. Downstream improvements or additional on-site stormwater quantity control measures shall be provided to eliminate any potential downstream flooding or other damage that may occur following completion of the proposed development. The Director has the authority to waive the requirement for downstream improvements.

(4) Drainage through closed conveyance structures such as pipes shall not discharge directly onto the surface of a public road.

(5) Easements, Tracts, and Covenants.

(a) Drainage easements shall be provided in a proposed development for all stormwater conveyance systems that are not located in public rights-of-way or tracts. Said drainage easements shall be granted to the parties responsible for providing ongoing maintenance of the systems.

(b) Stormwater facilities that are to be maintained by the city, together with maintenance access roads to said facilities, shall be located in public right-of-way, separate tracts dedicated to the city, or drainage easements located in designated open space. The exception is for stormwater conveyance pipes that may be located within easements on private property; provided, that all catch basins can be accessed without entering private property.

(c) All runoff from impervious surfaces, roof drains, and yard drains shall be directed so as not to adversely affect adjacent properties. Wording to this effect

shall appear on the face of all final plats/PUDs, and shall be contained in any covenants required for a development.

15.32.210 Stormwater drainage—Standards—Wetlands.

The following requirements apply only to situations where stormwater discharges directly or indirectly into a wetland and must be met in addition to meeting the requirements of Volume V and Volume I Appendix 1-D:

(1) Stormwater discharges to wetlands must be controlled and treated to the same extent as all other discharges, with the goal of meeting state water quality and ground water quality standards.

(2) Discharges to wetlands shall maintain the hydroperiod and flows of predevelopment site conditions to the extent necessary to protect the characteristic functions of the wetland. Prior to discharging to a wetland, alternative discharge locations shall be evaluated, and natural water storage and infiltration opportunities outside the wetland shall be maximized.

(3) Created wetlands that are intended to mitigate for loss of wetland acreage, function and value shall not be designed to also treat stormwater.

(4) In order for constructed wetlands to be considered treatment systems, they must be constructed in areas which are not designated as wetland or wetland buffer or in other areas which are in conflict with designated critical areas and associated buffers, and they must be managed for stormwater treatment. If these systems are not managed and maintained in accordance with the manual for a period exceeding three years, these systems may no longer be considered constructed wetlands.

(5) Wetland BMPs shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the department of public works.

15.32.220 Stormwater drainage—Standards—Regional facilities.

When the Director has determined that the public would benefit by the establishment of a regional stormwater facility which would serve as an alternative to the construction of separate on-site drainage facilities, the director may recommend to the city council that a regional stormwater facility be

constructed which would serve more than one development in providing stormwater quantity and/or quality control. The associated owner(s) shall meet currently adopted stormwater regulations at the time of development. In the event that a regional stormwater facility is required by the city council, such a regional stormwater facility shall be located outside of fish-bearing streams, unless otherwise accepted by the Washington State Department of Fish and Wildlife. All future developments constructed on lands designated by the city council to be served by the regional facility shall, at the time of issuance of a stormwater management permit for a development, be required to contribute a fair share to the cost of land purchase, design, and construction of said regional facility. In the event that a proposed regional stormwater facility is not yet in operation at the time of completion of construction of a development that is to be served by said regional facility, the applicant for said development shall be required to provide temporary stormwater quantity and quality controls. Temporary quantity and quality controls may be constructed in temporary easements, rather than in separate tracts.

15.32.230 Stormwater drainage—Standards—Basin planning.

An adopted and implemented basin plan may be used to develop requirements for source control, stormwater treatment, streambank erosion control, wetlands, and water quality sensitive areas that are tailored to a specific basin. Adopted and implemented watershed-based basin plans may be used to modify any or all of the minimum requirements for stormwater quantity or quality control addressed in this chapter; provided, that the level of protection for surface or ground water achieved by the basin plan will equal or exceed that which would otherwise be achieved by implementation of the provisions of this chapter in the absence of a basin plan. Basin plans shall evaluate and include, as necessary, retrofitting of BMPs for existing development and/or redevelopment in order to achieve watershed-wide pollutant reduction goals. Standards developed from basin plans shall not modify any of the above requirements until the basin plan is formally adopted and fully implemented by the city.

15.32.240 Stormwater drainage—Standards—Exemptions.

Residential lots one acre or larger shall be exempt from the provisions of POMC 15.32.170 through 15.32.230, or as otherwise determined by the Director. Cases where this exemption does not apply include, but are not limited to, sites within or adjacent to critical areas or watersheds, steep or unstable slopes, or where

the cumulative impacts of development warrant compliance with these provisions. Site development activities taking place on individual lots of one acre or larger, which meet the definition of a major development, are not exempt from the requirements of POMC 15.32.160. Proposed access roadways serving residential lots larger than two and one-half acres, which meet the definition of a major development, are not exempt from the requirements of POMC 15.32.170.

15.32.250 Stormwater drainage—Facilities—Covenants, sureties, and liability insurance.

(1) Site Stabilization Surety.

(a) Prior to the issuance of a stormwater drainage permit and prior to beginning any construction activity on a project site, the owner of the project will be required to record a performance covenant or post a performance surety for site stabilization and erosion and sedimentation control. In addition, the owner may be required to provide a certificate of commercial liability insurance as outlined in subsection (5) of this section.

(b) This performance requirement for stabilization and erosion control should not be confused with the performance bond accepted at the time of final plat recording as a surety for construction items not yet completed. When a performance bond is accepted for a final plat in lieu of construction completion, the surety or covenant for stabilization and erosion control will be released, and the new performance bond shall cover site stabilization and erosion control along with the other incomplete construction items.

(2) Performance Covenant for Site Stabilization. For project sites with less than five (5) acres of land disturbing activity, a performance covenant may be recorded in lieu of performance surety for site stabilization prior to issuance of the stormwater drainage permit to guarantee the city that temporary erosion and sedimentation control and permanent site stabilization measures will perform in accordance with this chapter. This covenant shall be recorded with the Kitsap County auditor and shall run with the land until such a time as the city issues final acceptance of the permitted activities, or until a separate performance bond is posted prior to final plat approval. Upon issuance of final project approval, the department of public works will record a document that extinguishes the performance covenant.

(3) Performance Surety for Site Stabilization.

(a) The term “bond” as defined in this chapter shall mean a surety bond, assignment of funds, or irrevocable bank letter of credit. For project sites with five (5) or more acres of land disturbing activity, a performance bond shall be posted prior to issuance of a stormwater drainage permit to guarantee the city that temporary erosion and sedimentation control and permanent site stabilization measures will perform in accordance with this chapter. The amount of the performance bond shall be as follows:

- i. One hundred fifty percent of the estimated cost of performing minor grading and installing temporary erosion and sedimentation control, and permanent site stabilization measures to bring the construction site into compliance with this chapter. A cost estimate shall be submitted by the project engineer subject to the approval of the Director. The minimum amount of the bond shall be \$5,000; or
- ii. One thousand dollars per acre of land disturbing activity. No engineer’s estimate is required.

(b) If the site work is determined by the Director to be in violation of this chapter, the city may use the performance bond to provide temporary and permanent site stabilization.

(c) All performance bonds shall run continuously until released by the city, and shall not be subject to an expiration or cancellation date.

(4) Performance Bond for Uncompleted Site Improvements.

(a) For single-family residential developments, a performance bond shall be provided prior to the final recording of the plat/PUD, guaranteeing completion of all site improvements not yet completed. The amount of the performance bond shall be 150 percent of the estimated cost of said improvements. The estimated cost of the construction shall be determined by a civil engineer subject to the approval of the director.

(b) All performance bonds shall run continuously until released by the city, and shall not be subject to an expiration or cancellation date.

(5) Commercial Liability Insurance. The owner of any project must provide a certificate of liability insurance to the department of public works prior to issuance of a stormwater drainage permit. The liability insurance shall remain in force until final project approval is issued by the city. The commercial liability insurance shall be in the amount of not less than \$1,000,000 combined single limit bodily injury and property damage, with a \$2,000,000 aggregate. Such insurance shall include the City of Port Orchard, its officers, and employees as additional insureds, with respect to the terms and conditions of the policy.

(6) Maintenance Bonds. A maintenance bond is required for all subdivisions and commercial projects for which stormwater facilities and/or roads are required pursuant to the following:

(a) Prior to the final approval of construction and release of any performance sureties, a maintenance bond must be posted and maintained by the project owner for a period of two (2) years.

(b) The maintenance bond shall guarantee the stormwater facilities and roads constructed under permit against design defects and/or failures in workmanship and shall guarantee that the facilities constructed under the permit will be regularly and adequately maintained throughout the maintenance period. At the end of this time, the city will inspect the system and, when the facility is acceptable and 80 percent of the lots in that phase have been improved, the city will release the maintenance bond. In the event that 80 percent of the lots in a residential development have not been improved by the end of the two-year maintenance period, the maintenance bond may be extended, subject to the approval of the Director, for one (1) additional year.

(c) The amount of the maintenance bond shall be ten (10) percent of the estimated construction cost of the stormwater facilities and roads requiring maintenance, or \$5,000, whichever is greater. The construction cost of the stormwater facilities requiring maintenance shall be estimated by the project engineer, subject to the approval of the Director.

15.32.260 Stormwater drainage—Facilities—Operation and maintenance.

(1) Maintenance of Stormwater Facilities by Owners.

(a) Any person or persons holding title to a nonresidential property for which stormwater facilities and BMPs have been required by the city shall be responsible for the continual operation, maintenance, and repair of said stormwater facilities and BMPs in accordance with the provisions of this chapter.

(b) For privately maintained stormwater facilities, the maintenance requirements specified in this chapter, including the Stormwater Manuals, shall be enforced against the owner(s) of the subject property served by the stormwater facility.

(2) Maintenance Covenant Required for Privately Maintained Drainage Facilities.

(a) Prior to the beneficial use of a development constructed under a city permit, the owner shall record a maintenance covenant that guarantees Port Orchard that the owner shall properly operate, maintain, and inspect the stormwater facilities, and that also gives the city the authority to enter and inspect the facility. The restrictions set forth in such covenant shall be included in any instrument of conveyance of the subject property and shall be recorded with the Kitsap County auditor.

(b) The Director may require the owners of existing stormwater facilities for which the city has not previously accepted operation and maintenance responsibility to record a maintenance covenant, or to request that the city accept operation and maintenance responsibility for the stormwater facilities subject to the requirements of this chapter.

(c) Maintenance covenants shall remain in force for the life of the development, or until the responsibility for the operation and maintenance of the subject stormwater facilities is accepted by the city.

(3) City Acceptance of New Stormwater Facilities. The city may accept for maintenance those new residential stormwater facilities constructed under an accepted stormwater drainage permit that meet the following conditions:

(a) Improvements in residential plats/PRDs have been completed on at least 80 percent of the lots, unless waived by the Director;

(b) All drainage facilities have been inspected and accepted by the Director and said drainage facilities have been in satisfactory operation for at least two (2)

years;

(c) All drainage facilities reconstructed during the maintenance period have been accepted by the Director;

(d) The stormwater facility, as designed and constructed, conforms to the provisions of this chapter;

(e) All easements required under this chapter, entitling the city to properly operate and maintain the subject drainage facility, have been conveyed to the city and have been recorded with the Kitsap County auditor;

(f) For nonstandard drainage facilities, an operation and maintenance manual, including a maintenance schedule, has been submitted to and accepted by the city; and

(g) A complete and accurate set of reproducible Mylar as-built drawings and a CD containing an acceptable electronic set of as-built drawings have been provided to the city. A professional engineer shall certify that both the vertical and horizontal alignment meet the design objectives.

(h) The Director may terminate the city's assumption of maintenance responsibilities under this section in writing after determining that continued maintenance will not significantly contribute to protecting or improving the health, safety and welfare of the community.

(4) City Acceptance of Existing Stormwater Facilities. The city may accept for maintenance those stormwater facilities for residential developments existing prior to the effective date of the ordinance codified in this chapter that meet the following conditions:

(a) Improvements in residential plats/PRDs have been completed on at least 80 percent of the lots; and

(b) An inspection by the Director has determined that the stormwater facilities are functioning as designed; and

(c) The stormwater facilities have had at least two (2) years of satisfactory operation and maintenance, unless otherwise waived by the Director; and

(d) The person or persons holding title to the properties served by the stormwater facilities submit a petition containing the signatures of the title holders of more than fifty (50) percent of the lots served by the stormwater facilities requesting that the city maintain the stormwater facilities; and

(e) All easements required under this chapter, entitling the city to properly operate and maintain the subject stormwater facilities, have been conveyed to the city and have been recorded with the Kitsap County auditor; and

(f) The person or persons holding title to the properties served by the stormwater facilities show proof of the correction of any defects in the drainage facilities, as required by the Director.

(g) The Director may terminate the city's assumption of maintenance responsibilities under this section in writing after determining that continued maintenance will not significantly contribute to protecting or improving the health, safety and welfare of the community.

(5) Inspections of Privately Owned and Maintained Stormwater Facilities.

(a) Privately owned facilities require annual inspections. These inspections must be conducted by a qualified third party inspector. Private facility owners may be granted a variance by the Director to reduce their inspection frequency based upon maintenance records of double the length of time of the owner's proposed inspection frequency. The purpose of this inspection program shall be to determine if said stormwater facilities, conveyance structures, and water quality facilities are in good working order and are properly maintained and to ensure that stormwater quality BMPs are in place and that nonpoint source pollution control is being implemented.

(b) Whenever the provisions of the inspection program are being implemented, or whenever there is cause to believe that a violation of this chapter has been or is being committed, the city inspector is authorized to inspect during regular working hours and at other reasonable times any and all stormwater drainage facilities within the city to determine compliance with the provisions of this chapter.

15.32.270 Stormwater drainage—Enforcement.

(1) Failure to Comply. It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter.

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

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

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

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

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

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

SECTION 3. A new Chapter 15.34 is hereby added to Title 15 of the Port Orchard Municipal Code, to read as follows:

CHAPTER 15.34 LAND DISTURBING ACTIVITY

15.34.010 Land disturbing activity—Purpose and objectives.

15.34.020 Land disturbing activity—Definitions.

15.34.030 Land disturbing activity—Applicability; additional regulations.

15.34.040 Land disturbing activity—Permits—Decision type.

15.34.050 Land disturbing activity—Administration.

15.34.060 Land disturbing activity—Permit—Form; exemptions.

15.34.070 Land disturbing activity—Permit—Stormwater drainage permit required; exemptions.

15.34.080 Land disturbing activity—Permit—Submittal requirements.

15.34.090 Land disturbing activity—Permit—Issuance; expiration.

15.34.100 Land disturbing activity—Permit—Final approval.

15.34.110 Land disturbing activity—Standards—Generally.

15.34.120 Land disturbing activity—Standards—Timing of work.

15.34.130 Land disturbing activity—Standards—Drainage.

15.34.140 Land disturbing activity—Standards—Grading.

15.34.150 Land disturbing activity—Standards—Erosion control.

15.34.160 Land disturbing activity—Standards—Hazards.

15.34.170 Land disturbing activity—Maintenance.

15.34.180 Land disturbing activity—Enforcement, violations, and penalties.

15.34.010 Land disturbing activity—Purpose and objectives.

- (1) This chapter is intended to regulate clearing, grading, and earthwork construction, including cuts and fills, within the City of Port Orchard, to protect public health, safety, welfare, and aesthetics by:

- (a) Preventing damage to property and harm to persons caused by excavations and fills;
- (b) Minimizing adverse stormwater impacts generated by the removal of vegetation and alteration of landforms;
- (c) Protecting water quality from the adverse impacts associated with erosion and sedimentation;
- (d) Minimizing the height, steepness, and number of graded slopes;
- (e) Minimizing the amount of grading after a property is developed and prepared for building construction;
- (f) Minimizing the height and number of rock and retaining walls;
- (g) Protecting critical areas and associated buffers from adverse clearing and grading activities;
- (h) Minimizing aquatic and terrestrial wildlife habitat loss caused by the removal of vegetation;
- (i) Establishing minimum access requirements to and around buildings for safety, security, maintenance, and general use and enjoyment of property;
- (j) Establishing administrative procedures for the issuance of permits, approval of plans, and inspection of clearing and grading operations; and
- (k) Providing enforcement and penalties for the violation of this chapter.

15.34.020 Land disturbing activity—Definitions.

Unless otherwise specifically defined in this chapter, the definitions provided in Chapter 15.32 POMC, Stormwater Management, shall apply to this chapter.

15.34.030 Land disturbing activity—Applicability; additional regulations.

- (1) The provisions of this chapter shall apply to all land disturbing activity, as defined in this chapter, in the City of Port Orchard.

- (2) The requirements of this chapter are in addition to other City codes, standards, and regulations. Where conflicts exist between the provisions of this chapter and other codes and standards, the most restrictive shall apply.
- (3) The applicant shall comply with this chapter and the City of Port Orchard Design and Construction Standards; Appendix J of the International Building Code, as adopted in Chapter 15.04 POMC; Chapter 15.32 POMC, Stormwater Drainage; and all equivalent standards approved by the Director.
- (4) Requirements administered by other state and local agencies may also apply to clearing and grading activity. The responsibility for determining the existence and application of other agency requirements rests solely with the applicant.

15.34.040 Land disturbing activity—Permits—Decision type.

A land disturbing activity permit is an administrative decision of the Director, which may be appealed to city's hearing examiner as a closed record appeal. The decision of the hearing examiner on appeal shall be final.

15.34.050 Land disturbing activity—Administration.

- (1) The Director shall have the authority to develop and implement procedures to administer and enforce this chapter.
- (2) A land disturbing activity permit may be issued as a component of a building permit, or other permit, rather than as a separate permit. The Director may require that single-family building permits and land disturbing activity permits be combined.
- (3) As a condition of any permit issued for activity covered by this chapter, the property owner shall be required to consent to entry upon the land by the Director or his/her designee at all reasonable times to inspect the same or to perform any duty imposed upon the Director by this chapter. If the land is occupied, the Director shall first present proper credentials and request entry. If the land is unoccupied, a reasonable effort shall be made to locate the owner or other persons at the site who are in apparent charge or control of the land and demand entry. If no person is located, the Director may enter said property and shall, with due diligence, make attempts to notify the owner, occupant, or other person having charge within a reasonable amount of time of the entry.

15.34.060 Land disturbing activity—Permit—Form; exemptions.

- (1) Permit required. A land disturbing activity permit is required to be submitted for all land disturbing activity and must be obtained prior to the commencement of any land disturbing activity unless the activity is exempted in this section. A land disturbing activity permit shall be required regardless of any other permits issued by any other department or governmental agency who may be interested in certain aspects of the proposed work.
- (2) Permit form. Applications shall be on forms prescribed by the Director and shall include such information as deemed necessary by the Director to establish compliance with this chapter.
- (3) Permit exemptions. If a person or entity determines that a proposed land disturbing activity is exempt from obtaining a land disturbing activity permit under this chapter, the person or entity may consult with the department to confirm the determination or to ensure compliance with other applicable requirements of this code. A consultation may be requested in the form of a pre-application meeting.
- (4) Permit fee. Application fees shall be collected pursuant to the city's current fee schedule to compensate the Department for the investigation, permit administration, plan review, and ongoing monitoring/inspection of all land disturbing activity permit applications. In Additional review fees required under this code may be applicable to individual land disturbing activity permit applications, including, but not limited to, shoreline management, SEPA, and critical areas review fees.
- (5) Increased fee for work without a permit. Whenever any work for which a land disturbing activity permit is required by this chapter has been commenced without first obtaining a valid permit, the City may double the land disturbing activity application fee. This fee increase may be imposed in addition to any other enforcement procedures pursuant to this chapter.
- (6) Any rockery or other retaining structure greater than four (4) feet in height shall be permitted under a separate building permit.

15.34.070 Land disturbing activity—Permit—Stormwater drainage permit required; exemptions.

- (1) Stormwater drainage permit required. Except as specifically exempt herein, the issuance of a stormwater drainage permit pursuant to chapter 15.32 POMC shall be required for all activities requiring a land disturbing activity permit under this chapter.

- (2) Exemptions. The following land disturbing activities do not require the issuance of a stormwater drainage permit; provided, that an exemption from issuance of a stormwater drainage permit under this section does not constitute an exemption from the other requirements of this chapter or chapter 15.32 POMC:
- (a) Excavation for utilities, or for wells or tunnels, under a separate permit.
 - (b) An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt the placement of any fill material removed from such an excavation and shall not exempt any excavation beyond the limits of the basement or footing excavations nor exempt excavations having an unsupported height greater than five (5) feet after the completion of such a structure.
 - (c) Agricultural crop management outside of critical drainage areas limited to the preparation of soil by turning, discing, or other means endorsed by the Kitsap conservation district.
 - (d) Excavation for cemetery graves.
 - (e) Landscape installation where fill is confined to less than one (1) foot of topsoil and land disturbing activities are limited to less than one (1) acre.
 - (f) The disposal of solid waste, wood waste, problem waste, and demolition waste authorized pursuant to Chapter 70.95 RCW, and regulations presently enacted or as may be amended or as specifically approved by the Bremerton-Kitsap County health district.
 - (g) Mining, quarrying, excavating, processing, and/or stockpiling of rock, sand, gravel, aggregate, or clay where established and provided by law and a permit for said activity has been issued by the state of Washington or the federal government, provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous land.
 - (h) Exploratory excavations under the direction of a qualified civil engineer.
 - (i) Grading activities already approved by separate permit granted by any governing authority.

- (j) Emergency sandbagging, diking, ditching, filling, or similar work during or after periods of extreme weather conditions when done to protect life or property.
- (k) Maintenance activities within public rights-of-way performed by city personnel.

15.34.080 Land disturbing activity—Permit—Submittal requirements.

- (1) General requirements. Each application for a land disturbing activity permit shall be accompanied by plans and specifications and other supporting data, as applicable. The plans and specifications shall be prepared and signed by a civil engineer registered to practice in the State of Washington. Plans and specifications for single-family residential construction shall not require preparation by a licensed engineer unless deemed necessary by the City Engineer.
- (2) Soils Report. A soils report shall be prepared by a licensed soils or geotechnical engineer and shall cover all portions of the project within the engineer's expertise, including site history; geologic structures; surface conditions; subsurface conditions; recommendations for foundation support, site preparation, structural fill, slope stability, and mitigation; design parameters for retaining structures and structure backfill, surface and subsurface drainage, dewatering, excavation conditions, and hazards; seismic conditions, erosion, and sedimentation hazards and controls; use of on-site materials for structural fill and backfill; and pavement design. The soils or geotechnical engineer shall be retained as the engineer-of-record for the duration of the project.
- (3) Grading Plan. Land disturbing activities that include grading and that meet the definition of a major development shall be required to have an approved engineered grading plan.
- (4) Abbreviated Grading Plan. Land disturbing activities that include grading and that meet the definition of a minor development will require an approved abbreviated grading plan in lieu of an engineered grading plan. An abbreviated grading plan is a grading plan that does not require the seal of a professional civil engineer.
- (5) Erosion and Sedimentation Control. The grading plan shall include a temporary erosion and sedimentation control plan. The plan shall clearly indicate the construction sequence for establishment of all erosion and sedimentation control work, both temporary and permanent. The plan shall conform to all requirements and standards for erosion and sedimentation control set forth in this chapter.

- (6) Critical Areas. If the land disturbing activity is proposed to take place in or adjacent to a critical area as regulated in Title 18 POMC, additional information as required by that title shall be submitted with the application.

15.34.090 Land disturbing activity—Permit—Issuance; expiration.

- (1) Issuance.
- (a) After an application has been filed and reviewed, the Director shall determine that the land disturbing activity complies with the other provisions of this chapter, chapter 15.32 POMC, and all other applicable provisions of this code or request that the application be corrected or amended to comply with the same.
 - (b) No land disturbing activity permit shall be issued until approved by any and all federal, state, and local agencies having jurisdiction, by laws or regulations, pertaining to the proposed work.
 - (c) Upon approval of the application and issuance of the land disturbing activity permit, no work shall be done that is not provided for in the permit.
- (2) Mitigation. In issuing a land disturbing activity permit, the Director may require measures to mitigate the impacts of the land disturbing activity.
- (3) Inactivity. An application for a land disturbing activity permit may be canceled for inactivity if an applicant fails, without reasonable justification, to respond to the Director's written request for revisions or corrections within sixty (60) days of receipt of such request. The Director may extend the response period beyond sixty (60) days if the applicant provides and adheres to a reasonable schedule for submitting the full revisions.
- (4) Permit expiration. Land disturbing activity permits expire as follows:
- (a) If a building permit is issued for the same site, the land disturbing activity permit shall automatically expire or be extended when the building permit expires or is extended; or
 - (b) If a building permit is not issued for the same site, the land disturbing activity permit shall expire if the authorized work has not begun within 180 days from the date of permit issuance, or if work is abandoned for over sixty (60) consecutive days, unless an extension has been granted. The applicant shall be responsible for notifying the Director, in writing, if delays or unforeseen circumstances are impacting the start or

continuation of the work. If the authorized work is continually performed, the permit shall expire one (1) year from the date of issuance, unless a different time frame is specified on the permit or an extension is granted.

- (5) Permit extensions. Up to two one-year extensions may be granted by the Director; provided, that conditions which were relevant to issuance of the permit have not changed substantially and no material detriment to the public welfare will result from the extension. The applicant shall be responsible for notifying the Director, in writing, if delays or unforeseen circumstances are impacting the completion of the work. An extension may be granted by the Director, provided the applicant provides the following:
 - (a) A written request and applicable fee. The request should be submitted no later than sixty (60) days prior to expiration of the permit; and
 - (b) The applicant's project engineer submits a signed statement certifying that they have reviewed the current physical conditions of the site and such conditions have not changed to a degree as to require a revision to the design of the site in order to remain consistent with the applicable standards and requirements which were in effect at the time of the original land disturbing activity permit approval and the associated land use approval (if any).
- (6) Failure to pick up permit. When a land disturbing activity permit is ready to be issued, the applicant shall be notified and must pick up the permit within sixty (60) days of notification. If the permit is not picked up within sixty (60) days of notification, it may be canceled by the Director and become null and void. If the permit is canceled, the Director shall notify the applicant by mail.

15.34.100 Land disturbing activity—Permit—Final approval.

- (1) The Director shall give final approval to the land disturbing operations once all the work is completed per the permit. The following must be completed, as a minimum, prior to final approval:
 - (a) All land disturbing activity must be complete;
 - (b) The site shall be permanently stabilized, temporary erosion control measures removed, and storm drainage control facilities constructed and operational;

- (c) The site shall be in a neat and orderly manner, free from junk, trash, debris, equipment, stockpiles and other construction materials;
 - (d) All required reports, certification letters, as-built drawings, and other documents shall be submitted and approved by the City;
 - (e) The site shall be free of hazards; and
 - (f) All disputes regarding property damage caused by the clearing and grading operations shall be resolved to the satisfaction of the Director.
- (2) The Director shall not issue final approval for any development proposal or issue a certificate of occupancy or final building inspection for property that has not received final approval for the land disturbing activity operations.
- (3) Final Reports. Upon completion of the land disturbing activity, the professionals having conducted inspections in their respective areas shall submit, in a form acceptable to the Director, final reports certifying that all portions of the project pertaining to their area of expertise have been constructed in accordance with the approved plans and specifications. The reports shall identify problems encountered, field changes, methods or designs utilized to correct deficiencies, and other information deemed necessary by the Director.
- (a) Geotechnical Engineer. For clearing and grading activities, the geotechnical engineer shall submit a final soil grading report prepared by the geotechnical engineer, including locations and elevations of field density tests, summaries of field and laboratory tests, final description of the geology of the site including any new information disclosed during the grading and the effect of same, and other substantiating data and comments on any changes made during grading and their effect on the recommendation made in the approved geotechnical report. The geotechnical engineer shall provide certification as to the adequacy of the site for the intended use as affected by soil and geologic factors.
 - (b) Civil Engineer. For clearing and grading activities, a civil engineer shall submit an as-built grading plan, including original ground surface elevations, as-graded ground surface elevations, lot drainage patterns, and locations and elevations of all surface and subsurface drainage facilities. The civil engineer shall provide certification that the work was done in accordance with the final approved grading plan. Upon completion of the work, a reproducible as-built drawing, stamped by the civil engineer of record, of the storage, conveyance, and discharge elements of the detention system and the newly

constructed downstream components of the storm drainage system shall be required. The Director may require additional information in respect to any significant deviations from the approved plans, specifications, or reports.

- (c) Special Inspectors. Special inspectors, if any, shall submit final reports describing original and final conditions, changes, and methods utilized to correct deficiencies or mitigate specific conditions.

15.34.110 Land disturbing activity—Standards—Generally.

- (1) This chapter sets forth minimum standards which shall apply to land disturbing activities as defined in chapter 15.32 POMC. For circumstances not specifically addressed in this chapter or the Stormwater Design Manual, the provisions of the Uniform Building Code shall apply.
- (2) All land disturbing activities within the City, regardless of whether a permit is required, shall meet the performance and restoration standards and requirements of this chapter and shall include the use of low impact development best management practices pursuant to chapter 15.32 POMC to reduce erosion and protect water and air quality.
- (3) All land disturbing activities within critical areas and their associated buffers shall conform to the applicable provisions of this chapter and Title 18 POMC. The applicant shall be responsible for obtaining and coordinating all required state or federal permits associated with the filling of wetlands or other regulated activities.

15.34.120 Land disturbing activity—Standards—Timing of work.

All work permitted under this chapter shall proceed continuously to completion in an expeditious manner unless otherwise authorized by the Director, with the intent that work may be halted due to weather conditions or the need to coordinate other construction on the project site. Stormwater management permits, issued for grading only, shall be administered in accordance with chapter 15.32 POMC.

15.34.130 Land disturbing activity—Standards—Drainage.

- (1) All land disturbing activities shall conform to the requirements of this chapter concerning stormwater management.
- (2) Where required by the Director, all discharge of runoff from the project site shall be of like quality, flow rate, and velocity as that which flowed from the project site prior to the work

for which the stormwater management permit has been issued.

- (3) Stormwater flows shall be accepted onto, and shall be discharged from, a project site at the natural or otherwise legally existing locations.

15.34.140 Land disturbing activity—Standards—Grading.

- (1) The maximum surface gradient on any artificially created slope shall be two feet of horizontal run to one foot of vertical fall. This gradient may be increased to that gradient which can be demonstrated through engineering calculations to be stable, if, in the opinion of the director, it has been demonstrated by the applicant through engineering calculations performed by a qualified professional engineer that surface erosion can be controlled to that erosion rate equal to a properly stabilized two to one slope under the same conditions.
- (2) The applicant shall, at all times, protect adjacent private properties and public rights-of-way or easements from damage occurring during grading operations. The applicant shall restore public improvements damaged by his/her operations.

15.34.150 Land disturbing activity—Standards—Erosion control.

- (1) Minor Developments. All minor developments, as defined in chapter 15.32.POMC, shall be required to control erosion and sedimentation during construction, to permanently stabilize soil exposed during construction, and to comply with the minor development requirements described in this section.
- (2) Minor Development Requirements.
 - (a) Construction Access Route. Construction vehicle access shall be, whenever possible, limited to one route. Access points shall be stabilized with quarry spall or crushed rock to minimize the tracking of sediment onto public roads.
 - (b) Stabilization of Denuded Area. All exposed and unworked soils not actively being worked shall be stabilized by suitable application of BMPs. From September 15th through April 30th, soils not actively being worked shall remain unstabilized for no more than 48 hours. From May 1st through September 14th, the owner or contractor shall have the materials readily available to stabilize denuded areas as site and weather conditions dictate. Prior to leaving the site, stormwater runoff shall pass through a sediment pond, sediment trap, or other appropriate BMP.

- (c) Protection of Adjacent Properties. Adjacent properties shall be protected from sediment deposition by appropriate use of vegetative buffer strips, sediment barriers or filters, dikes or mulching, or by a combination of these measures and other appropriate BMPs.
 - (d) Maintenance. All erosion and sediment control BMPs shall be regularly inspected and maintained to ensure continued performance of their intended function.
 - (e) Other BMPs. Any adverse effects of increased runoff resulting from land disturbing and/or land development activities shall be controlled by appropriate BMPs.
- (3) Major Developments. Any new development meeting the definition of a major development in chapter 15.32 POMC shall comply with subsection (4) of this section. For any redevelopment project meeting the definition of a major development, those portions of the site that are being redeveloped shall comply with subsection (4) of this section.
- (4) Major Development Erosion and Sedimentation Control Minimum Requirements.
- (a) Erosion and Sedimentation Control Plan Required. Compliance with the erosion and sedimentation control requirements of this section shall be demonstrated through the implementation of an approved erosion and sedimentation control plan.
 - (b) Stabilization and Sediment Trapping. All exposed soils shall be stabilized by suitable application of BMPs, including but not limited to sod or other vegetation, mat covering, mulching, or application of compacted ground base material on areas to be paved. All BMPs shall be selected, designed and maintained in accordance with the manual. From September 15th through April 30th, soils not actively being worked for more than 48 hours shall be protected or stabilized. From May 1st through September 14th, soils not actively being worked for more than seven days shall be protected and stabilized by the owner or contractor.
 - (c) Delineate Clearing and Easement Limits. Clearing limits and/or any easements, setbacks, sensitive/critical areas and their buffers and drainage courses shall be clearly marked in the field, and on the construction plans.
 - (d) Protection of Adjacent Properties. Adjacent properties shall be protected from sediment deposition by appropriate use of vegetative buffer strips, sediment barriers or filters, dikes or mulching, or by a combination of these measures and other appropriate BMPs.

- (e) Timing and Stabilization of Sediment Trapping Measures. Sediment ponds and traps, perimeter dikes, sediment barriers and other BMPs intended to trap sediment on-site shall be constructed as a first step. These BMPs shall be functional before land disturbing activities take place. Earthen structures such as dams, dikes, and diversions shall be stabilized according to the timing indicated in the erosion and sedimentation control requirement in subsection (4)(a) of this section.
- (f) Cut and Fill Slopes. Cut and fill slopes shall be designed and constructed in a manner that will minimize erosion. In addition, slopes shall be stabilized in accordance with the erosion and sedimentation control requirement in subsection (4)(a) of this section.
- (g) Controlling Off-Site Erosion. Properties and waterways downstream from development sites shall be protected from erosion due to increases in the velocity of stormwater runoff from the development site.
- (h) Stabilization of Temporary Conveyance Channels and Outlets. All temporary on-site conveyance channels shall be designed, constructed, and stabilized to prevent erosion from the expected flow velocity from a two-year/24-hour duration storm for the post-development condition. Stabilization adequate to prevent erosion of outlets, adjacent streambanks, and slopes shall be provided at the outlets of all conveyance systems.
- (i) Inlet Protection. All storm drain inlets made operable during construction shall be protected so that stormwater runoff does not enter the conveyance system without first being filtered or otherwise treated to remove sediment. The requirement for inlet protection may be waived on a site-specific basis when the conveyance system downstream of the inlet discharges to an appropriate sediment containment BMP and the conveyance system can be adequately cleaned following site stabilization.
- (j) Underground Utility Construction. The construction of underground utility lines shall be subject to the following criteria:
 - (i) For trenches on a downslope of more than five percent, no more than 500 feet of trench shall be opened at one time, unless otherwise approved by the director.
 - (ii) Where consistent with safety and space considerations, excavated material shall be placed on the uphill side of trenches.
 - (iii) Trench dewatering devices shall discharge into a sediment trap or sediment pond.
- (k) Constructed Access Routes. Wherever construction vehicle access routes intersect paved roads, provisions must be made to minimize the transport of sediment (mud)

onto the paved road by use of appropriate BMPs such as a stabilized construction entrance. If sediment is transported onto a road surface, the roads shall be cleaned thoroughly, as a minimum, at the end of each day. Sediment shall be removed from roads by shoveling or sweeping and be transported to a controlled sediment disposal area. Street washing shall be allowed only after sediment is removed in this manner.

- (l) Dewatering Construction Sites. Dewatering devices shall discharge into a sediment trap or sediment pond.
 - (m) Control of Pollutants Other Than Sediment on Construction Sites. All pollutants other than sediment that occur on-site during construction shall be handled and legally disposed of in a manner that does not cause contamination of stormwater.
 - (n) Maintenance. All temporary and permanent erosion and sedimentation control BMPs shall be maintained and repaired as needed to assure continued performance of their intended function. All maintenance and repair shall be conducted in accordance with the manual. The applicant shall be responsible for assuring that any such facilities damaged during floods, storms or other adverse weather conditions are immediately returned to normal operating condition.
 - (o) Removal of Temporary BMPs. All temporary erosion and sedimentation control BMPs shall be removed within 30 days after final site stabilization is achieved or after the temporary BMPs are no longer needed. Trapped sediment shall be removed or stabilized on-site. Disturbed soil areas resulting from removal of temporary BMPs shall be permanently stabilized. The removal of temporary erosion and sedimentation control BMPs may not be required for those projects, such as single-family plats, that will be followed by additional construction under a different permit. In these circumstances, the need for removing or retaining the measures will be evaluated on a site-specific basis.
 - (p) Financial Liability. A performance covenant, performance bonding, or other appropriate financial instruments, required by POMC 15.32, shall ensure compliance with the approved erosion and sedimentation control plan.
- (5) Erosion Control Design Storm Event. Facilities designed for the control of erosion and sedimentation shall be designed for the erosion and sedimentation control design storm event, defined as the six-month, 24-hour duration storm.

15.34.160 Land disturbing activity—Standards—Hazards.

Whenever the Director determines that an existing excavation, embankment, or fill on private property has become a hazard to public safety, endangers property, or adversely affects the safety, use or stability of a public way, critical drainage area, or drainage channel, such conditions shall become a violation of chapter 15.32 POMC.

15.34.170 Land disturbing activity—Maintenance.

It shall be the responsibility of the applicant to maintain all erosion control and drainage facilities in good operating condition at all times, as required in this chapter and chapter 15.32 POMC.

15.34.180 Land disturbing activity—Enforcement, violations, and penalties.

(1) Permit Suspension/Revocation. The Director may suspend work or revoke a land disturbing activity permit, as appropriate, whenever:

(a) The work is not authorized by a valid permit;

(b) The applicant requests such revocation or suspension;

(c) The work does not proceed in accordance with the plans, as approved, or is not in compliance with the requirements of this chapter or other applicable City ordinances;

(d) Entry upon the property for the purposes of investigation or inspection has been denied;

(e) The applicant has made a misrepresentation of a material fact in applying for such permit;

(f) The progress of the work indicates that the plan is or will be inadequate to protect the public, the adjoining property, the street, critical areas, the drainage system, or other utilities, or the work endangers or will endanger the public, the adjoining property, the street, protected areas, the drainage system or other utilities;

(g) The required project security has expired or been expended to the point that it no longer provides assurance of completion of the project in compliance with the terms of the permit; or

(h) The permit has not been acted upon or extended within the time allowed pursuant to this chapter.

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

SECTION 3. Savings. The enactment of this ordinance shall not affect any application, case, proceeding, appeal, or other matter currently pending administratively or judicially in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this ordinance.

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

SECTION 5. Corrections. Upon the approval of the city attorney, the city clerk and/or code publisher is authorized to make any necessary technical corrections to this ordinance, including but not limited to the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

SECTION 6. Effective Date; Publication. This ordinance shall be published in the official newspaper of the city and shall take full force and effect as of 11:59 pm on December 31, 2016. 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 13th of December 2016.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, CMC, City Clerk

APPROVED AS TO FORM:

Sponsored by:

Sharon Cates, City Attorney

Bek Ashby, Councilmember

PUBLISHED:

EFFECTIVE DATE:

GREEN TEXT = New provisions (not currently included in the POMC)

BLACK TEXT = Existing provisions from the currently adopted POMC 15.32 (with slight technical revisions, only). Edits to these provisions are shown in track changes.

Chapter 15.32 (New) STORMWATER DRAINAGE

(The existing Ch. 15.32 will be repealed in its entirety and replaced with this new Ch. 15.32)

Sections:

- 15.32.010 Stormwater drainage—Purpose and objectives—Liability.**
- 15.32.020 Stormwater drainage—Definitions.**
- 15.32.030 Stormwater drainage—Administration.**
- 15.32.040 Stormwater drainage—Applicability.**
- 15.32.050 Stormwater drainage—Exemptions.**
- 15.32.060 Stormwater drainage—Regulations and guidelines—Adopted manuals.**
- 15.32.070 Stormwater drainage—Special stormwater drainage improvements.**
- 15.32.080 Stormwater drainage—Permit—Form.**
- 15.32.090 Stormwater drainage—Permit—Submittal requirements.**
- 15.32.100 Stormwater drainage—Permit—Decision type.**
- 15.32.110 Stormwater drainage—Permit—Review criteria.**
- 15.32.120 Stormwater drainage—Permit—Technical deviations.**
- 15.32.130 Stormwater drainage—Permit—Variances.**
- 15.32.140 Stormwater drainage—Permit—Construction timing and final approval.**
- 15.32.150 Stormwater drainage—Permit—Expiration; extension.**
- 15.32.160 Stormwater drainage—Standards—Minimum site development requirements.**
- 15.32.170 Stormwater drainage—Standards—Redevelopment activities.**
- 15.32.180 Stormwater drainage—Standards—Stormwater quality control.**
- 15.32.190 Stormwater drainage—Standards—Water quality BMPs.**
- 15.32.200 Stormwater drainage—Standards—Stormwater conveyance facilities.**
- 15.32.210 Stormwater drainage—Standards—Wetlands.**
- 15.32.220 Stormwater drainage—Standards—Regional facilities.**
- 15.32.230 Stormwater drainage—Standards—Basin planning.**
- 15.32.240 Stormwater drainage—Standards—Exemptions.**
- 15.32.250 Stormwater drainage—Facilities—Covenants, sureties, and liability insurance.**
- 15.32.260 Stormwater drainage—Facilities—Operation and maintenance.**
- 15.32.270 Stormwater drainage—Enforcement.**

15.32.010 Stormwater drainage—Purpose and objectives—Liability.

(1) Purpose. The purpose of this chapter is to regulate storm and surface water discharges from all new development and redevelopment to prevent and control adverse impacts of drainage and storm and surface water on the public health, safety, and general welfare, consistent with the provisions of the Federal Clean Water Act (33 U.S.C. § 1251 et seq.) as administered by the Washington State Department of Ecology through issuance of the National Pollutant Discharge Elimination System (NPDES) Phase II Municipal Stormwater Permit (Permit), in accordance with chapter 90.48 RCW. The provisions of this subtitle shall be liberally construed to accomplish the purposes of the chapters herein and the protection and preservation of the public health, safety, and general welfare.

(2) Objectives. The objectives of this subtitle are to:

- (a) Establish a water quality restoration and storm and surface water management program for the City of Port Orchard to be administered by the City of Port Orchard's department of public works;
- (b) Promote sound, practical, and economical development practices and construction procedures that prevent or minimize impacts to the City's waters;
- (c) Prevent or minimize degradation of water quality and to control the sedimentation of streams, rivers, lakes, wetlands, marine waters, and other waters to the maximum extent practicable by all known and reasonable methods of prevention, control, and treatment;
- (d) Control stormwater runoff originating from new development or redevelopment;
- (e) Preserve the quality of water for recreation and fish and wildlife habitat;
- (f) Maintain aquatic habitat;
- (g) Maintain the quality of the City's water resources;
- (h) Prevent or minimize adverse effects caused by degradation of surface water quality flow patterns or quantities, locations, and changes to hydrologic flow patterns;
- (i) Prevent groundwater degradation from surface water flows;
- (j) Preserve and protect the city's wetlands by maintaining hydrologic continuity with other aquatic resources;

- (k) Maintain the safety of city roads and rights-of-way;
- (l) Protect public safety by reducing soil erosion, slope instability, and landslides;
- (m) Promote non-structural preventative and source control activities and actions; and
- (n) Require the use of low impact development (LID) best management practices (BMPs) where feasible, as defined in the City's Stormwater Manual.

(3) Liability. Administration of this chapter shall not be construed to create the basis for any liability on the part of the City, its appointed and elected officials, and/or employees while working within the scope of their duties for any action or inaction thereof authorized or done in connection with the implementation of this chapter.

15.32.020 Stormwater drainage—Definitions.

Definitions provided below apply only to this chapter, unless otherwise indicated. In the application of this chapter, where a definition in this chapter conflicts with a definition in the Stormwater Manuals, as adopted herein, the most restrictive definition shall control. Where a term used in the Stormwater Manuals is not defined in this chapter, the definition in the Stormwater Manuals shall control. The following definitions of terms shall apply to this chapter:

(1) "A"

"Accepted performance of construction" shall mean the written acknowledgment from the director of the satisfactory completion of all work accepted by the city, including all work shown on the accepted plans, accepted revisions to the plans, and accepted field changes.

"Applicant" shall mean the person, party, firm, corporation, or other legal entity that proposes to engage in site development activities in incorporated Port Orchard by submitting an application for any of the activities covered by this chapter on a form furnished by the city and paying the required application fees.

"Arterial" shall mean a road or street primarily for through traffic. A major arterial connects an interstate highway to cities and counties. A minor arterial connects major arterials to collectors. A collector connects an arterial to a neighborhood. A collector is not an arterial. A local access road connects individual homes to a collector.

(2) "B"

"Basin plan" shall mean a plan and all implementing regulations and procedures including, but not limited to, land use management adopted by ordinance for managing stormwater quality and quantity management facilities and drainage features within individual sub-basins.

“Best management practices (BMPs)” shall mean the schedule of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices that, when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington and have been approved by the city as accepted BMPs.

“Biofiltration/biofilter facilities” shall mean vegetative BMPs that treat stormwater by filtration through vegetation. Biofiltration facilities include, but are not limited to, grassed or vegetated swales and filter strips.

“Bioretention” shall mean an engineered facility that treats stormwater by passing it through a specific soil profile and either retain or detain the treated stormwater for flow attenuation. Refer to the Stormwater Management Manual for Western Washington, Chapter 7 of Volume V for Bioretention BMP types and design specifications.

“Bond” shall mean a financial guarantee, in the form of a surety bond, assignment of funds, or irrevocable bank letter of credit, that shall guarantee compliance with applicable provisions of this chapter.

(3) “C”

“Certified erosion and sediment control lead (CESCL)” shall mean an individual who has current certification through an approved erosion and sediment control training program that meets the minimum training standards established by the Department of Ecology (see BMP C160 in the currently adopted Stormwater Management Manual for Western Washington ~~(2005)~~). A CESCL is knowledgeable in the principles and practices of erosion and sediment control. The CESCL must have the skills to assess site conditions and construction activities that could impact the quality of stormwater and the effectiveness of erosion and sediment control measures used to control the quality of stormwater discharges. Certification is obtained through an Ecology-approved erosion and sediment control course. Course listings are provided online at Ecology’s web site.

“City” shall mean the City of Port Orchard, Washington, or as indicated by the context, the public works director, or other authorized representative of the governmental authority of the City of Port Orchard.

“Civil engineer” shall mean a professional engineer currently registered in the state of Washington to practice in the field of civil engineering.

“Clearing” or “land clearing” shall mean the surface removal of vegetation.

“Closed depressions” shall mean low-lying areas that have no surface outlet, or such a limited surface outlet that in most storm events the area acts as a retention basin, holding water for infiltration, evaporation, or transpiration.

“Commercial Agriculture” shall mean those activities conducted on lands defined under RCW 84.34.020(2) and activities involved in the production of crops or livestock for commercial trade. An activity ceases to be considered commercial agriculture when the area on which it is conducted is proposed for conversion to a nonagricultural use or has lain idle for more than five years, unless the idle land is registered in a federal or state soils conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals, or drainage ditches related to an existing and ongoing agricultural activity.

“Comprehensive drainage plan” shall mean a detailed analysis, adopted by the city, for a drainage basin which assesses the capabilities and needs for runoff accommodation due to various combinations of development, land use, structural and nonstructural management alternatives. The plan recommends the form, location and extent of stormwater quantity and quality control measures that would satisfy legal constraints, water quality standards, and community standards, and identifies the institutional and funding requirements for plan implementation.

“Contiguous land” shall mean land adjoining and touching other land regardless of whether or not portions of the parcels have separate assessor’s tax numbers or were purchased at different times, lie in different sections, are in different government lots, or are separated from each other by private road or private rights-of-way.

“Converted vegetation (areas)” shall mean surfaces on a project site where native vegetation, pasture, scrub/shrub, or unmaintained non-native vegetation (e.g. Himalayan blackberry, scotch broom) are converted to lawn or landscaped areas, or where native vegetation is converted to pasture.

“Critical drainage area” shall refer to those areas designated in POMC 15.32.070, Critical drainage areas, which have a high potential for stormwater quantity or quality problems.

(4) “D”

“Design storm event” shall mean a theoretical storm event, of a given frequency, interval, and duration, used in the analysis and design of a stormwater facility.

“Detention facilities” shall mean stormwater facilities designed to store runoff while gradually releasing it at a predetermined controlled rate. “Detention facilities” shall include all appurtenances associated with their designed function, maintenance, and security.

“Development proposal” shall mean any activity requiring a permit or other approval from the City of Port Orchard relative to the use or development of land.

“Developed site” shall mean the condition of the development site following completion of construction of the development including all approved phases of construction.

“Director” shall mean the public works director or designee(s).

“Discharge point” shall mean the location where a discharge leaves the City’s (Permittee’s) Municipal Separate Storm Sewer System (MS4) through the Permittee’s MS4 facilities/BMPs designed to infiltrate.

“Diversion” shall mean the routing of stormwater to other than its natural discharge location.

“Drainage feature” shall mean any natural or manmade structure, facility, conveyance, or topographic feature which has the potential to concentrate, convey, detain, retain, infiltrate, or affect the flow rate of stormwater runoff.

“Drainage plan” shall mean a plan for the collection, transport, treatment, and discharge of runoff, and may include both the plan and profile views of the site as well as construction details and notes.

(5) “E”

“Easement” shall mean an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality, or other legal entity has in the land of another.

“Effective impervious surface” shall mean impervious surfaces that are connected via sheet flow or discrete conveyance to a drainage system. Impervious surfaces on residential development sites are considered ineffective if the runoff is dispersed through at least 100 feet of native vegetation in accordance with BMP T5.30 – “Full Dispersion,” as described in Chapter 5 of Volume V of the Stormwater Management Manual for Western Washington (SWMMWW), ~~(2005)~~ is residential roof runoff infiltrated in accordance with Downspout Full Infiltration Systems in BMP T5.10A in Volume III of the SWMMWW, or approved continuous runoff modeling methods indicate that the entire runoff file is infiltrated.

“Erodible or leachable materials” shall mean wastes, chemicals, or other substances that measurably alter the physical or chemical characteristics of runoff when exposed to rainfall. Examples include erodible soils that are stockpiled, uncovered process wastes, manure, fertilizers, oily substances, ashes, kiln dust, and garbage dumpster leakage.

“Erosion control design storm” shall mean the six-month frequency, 24-hour duration storm event used for analysis and design of sedimentation and erosion control facilities.

“Existing stormwater facilities” shall mean those facilities constructed or under permitted construction prior to the effective date of the ordinance codified in this chapter.

(6) “F”

“Forested land” shall mean as defined in RCW 76.09.020, and shall include all land which is capable of supporting a merchantable stand of timber and is not being actively used in a manner incompatible with timber growing.

(7) “G”

“Geotechnical engineer” shall mean a practicing professional engineer licensed as a professional civil engineer by the state of Washington who has at least four years of professional ~~experience~~ employment as a geotechnical engineer in geotechnical and landslide evaluation.

“Geotechnical report” shall mean a study of the effects of drainage and drainage facilities on soil characteristics, geology and ground water. The geotechnical analysis shall be prepared by a geotechnical engineer.

“Grading” shall mean any excavating, filling, or embanking of earth materials.

“Grubbing” shall mean the removal of vegetative matter from underground, such as sod, stumps, roots, buried logs, or other debris, and shall include the incidental removal of topsoil to a depth not exceeding 12 inches.

(8) “H”

“Hard surface” shall mean an impervious surface, a permeable pavement, or a vegetated roof.

“Highway” shall mean a public road connecting towns and cities.

“Hydrograph” shall mean a graph of runoff rate, inflow rate, or discharge rate, past a specific point over time.

“Hydrograph method” shall mean a method of estimating a hydrograph using a mathematical simulation. Commonly accepted hydrograph methods include the Soil Conservation Service TR-55 Method and the Santa Barbara Urban Hydrograph Method.

(9) “I”

“Illicit connection” means (a) any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including, but not limited to, any conveyances which allow any nonstormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the city;

or (b) any drain or conveyance connected from a residential, commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the city.

“Illicit discharge” shall mean any discharge to a municipal separate storm sewer or to surface or ground water that is not composed entirely of stormwater, except discharges pursuant to an NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer), discharges resulting from fire fighting activities, and those discharges expressly allowed conditionally by Chapter 15.30 POMC, Illicit Discharge Detection and Elimination.

“Impervious surface” shall mean a hard-non-vegetated surface area that either (a) prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, or (b) causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots, or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for the purposes of determining whether the thresholds for application of minimum requirements are exceeded. Open, uncovered retention/detention facilities shall be considered impervious surfaces for purposes of runoff modeling.

(10) “L”

“Land disturbing activity” shall mean any activity that results in movement of earth, or a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography, including the creation and/or replacement of impervious surfaces. Land disturbing activities include, but are not limited to, demolition, construction, paving, clearing, grading, filling, excavation, and grubbing. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices, including landscape maintenance and gardening, are not considered land-disturbing activity. Stormwater facility maintenance is not considered land disturbing activity if conducted according to established standards and procedures.

“Land use permits and approvals” shall mean any use or development of land that requires city action in legislation, administration, or approval.

“Low Impact Development (LID)” shall mean a stormwater and land use strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features,

site planning, and distributed stormwater management practices that are integrated into a project design.

“LID Best Management Practices (BMPs)” shall mean distributed stormwater management practices, integrated into a project design, that emphasize pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration. LID BMPs include, but are not limited to, bioretention, rain gardens, permeable pavements, roof downspout controls, dispersion, soil quality and depth, minimal excavation foundations, vegetated roofs, and water re-use.

“LID pPrinciples” shall mean land use management strategies that emphasize conservation, use of on-site natural features, and site planning to minimize impervious surfaces, native vegetation loss, and stormwater runoff.

(11) “M”

“Maintenance” shall mean any activity that is ~~necessary to keep~~conducted on currently serviceable stormwater structures, facilities, and equipment in good working order so as to function as designed without expansion or use beyond that previously existing and results in no significant adverse hydrologic impact. Maintenance shall include activities taken to prevent decline, lapse or cessation in use of the systems or structures, including complete reconstruction of a dysfunctional stormwater facility, including cases where environmental permits require replacing an existing structure with a different type structure, as long as the functioning characteristics of the original structure are not changed. Maintenance of stormwater facilities shall ~~also~~ include assessment to ensure ongoing proper operation, removal of built up pollutants (i.e. sediments), replacement of failed or failing treatment media, and the correction of any problem on the site property that may directly impair the functions of the stormwater facilities as identified in the maintenance standards of Chapter 4, Volume V of the Stormwater Management Manual for Western Washington.

“Maintenance covenant” shall mean a binding agreement between the city of Port Orchard and the person or persons holding title to a property served by a stormwater facility whereby the property owner promises to maintain certain stormwater facilities, grants the city the right to enter the subject property to inspect and to make certain repairs or perform certain maintenance procedures on the stormwater control facilities when such repairs or maintenance have not been performed by the property owner, and promises to reimburse the city for the cost should the city perform such repairs or maintenance.

“Maintenance schedule” shall mean a document detailing required stormwater facility maintenance activities to be performed at specified intervals.

“Major development” shall mean any new development or any redevelopment activity that (a) includes the creation or cumulative addition of 5,000 square feet or greater of impervious surface area from the predevelopment conditions, or (b) includes land

disturbing activity of one acre or greater, or (c) includes grading involving the movement of 5,000 cubic yards or more of material.

“Minor development” shall mean any new development or redevelopment activity that (a) includes the creation or addition of less than 5,000 square feet of new impervious surface area, and (b) includes land disturbing activity of less than one acre, and (c) includes grading involving the movement of less than 5,000 cubic yards of material.

“Municipal separate storm sewer system (MS4)” means a conveyance or system of conveyances which is intended to convey only stormwater (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) and which are: (a) owned or operated by the city of Port Orchard; (b) designed or used for collecting or conveying stormwater; (c) are not part of a publicly owned treatment works (any device or system used in treatment of municipal sewage or industrial wastes of a liquid nature which is publicly owned); and (d) are not a combined sewer (a system that collects sanitary sewage and stormwater in a single sewer system).

(12) “N”

“Native vegetation” shall mean vegetation comprised of plant species, other than noxious weeds, that are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been expected to naturally occur on the site. Examples include trees such as Douglas Fir, western hemlock, western red cedar, alder, big-leaf maple, and vine maple; shrubs such as willow, elderberry, salmonberry, and salal; and herbaceous plants such as sword fern, foam flower, and fireweed.

“National Pollutant Discharge Elimination System (NPDES) permit” shall mean a permit issued by the Environmental Protection Agency (EPA) or by the Washington State Department of Ecology that authorizes the discharge of pollutants to waters of the United States from point sources, whether the permit is applicable to an individual, group, or general area-wide basis.

“New development” shall mean land disturbing activities, including Class IV – general forest practices that are conversions from timber land to other uses; structural development, including construction or installation of a building or other structure; creation of impervious surfaces; and subdivision, short subdivision and binding site plans, as defined and applied in Chapter 58.17 RCW. Projects meeting the definition of redevelopment shall not be considered new development.

“Nonforestry use” shall mean an active use of land that is incompatible with timber growing.

(13) “O”

“Off-site drainage analysis” shall mean a study of those land areas contributing surface runoff to a development site as well as a study of the existing and predicted impacts of surface runoff from the development site on properties and drainage features that have the potential to receive stormwater from the development site.

“Oil/water separator” shall mean a structure or device used to remove suspended oil and greasy solids from water.

“On-site stormwater BMPs” shall mean a synonym for Low Impact Development BMPs.

“Outfall” shall mean a point source as defined by 40 CFR 122.2 at the point where a discharge leaves the permittee’s MS4 and enters a surface receiving waterbody or surface receiving waters. Outfall does not include pipes, tunnels, or other conveyances which connect segments of the same stream or other surface waters and are used to convey primarily surface waters (i.e., culverts).

“Operation and maintenance manual” shall mean a written manual, prepared by a qualified civil engineer, which provides a description of operation and maintenance procedures for specific stormwater control facilities, for use by operation and maintenance personnel.

“Operator” shall mean any party associated with a construction project that meets either of the following two criteria:

- (a) The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
- (b) The party has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a SWPPP for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWPPP or comply with other permit conditions).

“Owner” shall mean any person or persons having a legal or equitable property right or interest, whether or not said right is legal or equitable in character, including a fee owner, contract purchaser or seller, mortgagor or mortgagee, optionor or optionee, and beneficiary or grantor of a trust or deed of trust.

(14) “P”

“Permeable pavement” shall mean pervious concrete, porous asphalt, permeable pavers or other forms of pervious or porous paving material intended to allow passage of water through the pavement section. It often includes an aggregate base that provides structural support and acts as a stormwater reservoir.

“Pervious surface” shall mean any surface material that allows stormwater to infiltrate into the ground. Examples include lawn, landscape, pasture, native vegetation areas, and permeable pavements.

“Pollution” shall mean contamination or other alteration of the physical, chemical, or biological properties of any waters of the city, state, or United States, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters as will or is likely to create a nuisance or render such waters harmful, or is otherwise detrimental or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.

“Pollution-generating hard surface (PGHS)” shall mean those hard surfaces considered to be a significant source of pollutants in stormwater runoff. See listing of surfaces under pollution-generating impervious surface.

“Pollution-generating impervious surface (PGIS)” shall mean those impervious surfaces considered to be a significant source of pollutants in stormwater runoff. Such surfaces include those which are subject to: vehicular use; industrial activities (as further defined in the glossary of the Stormwater Management Manual for Western Washington); ~~or~~ storage of erodible or leachable materials, wastes, or chemicals, and which receive direct rainfall or the run-on or blow-in of rainfall. ~~Erodible or leachable materials, wastes, or chemicals are those substances which, when exposed to rainfall, measurably alter the physical or chemical characteristics of the rainfall runoff. Examples include erodible soils that are stockpiled, uncovered processed wastes, manure, fertilizers, oily substances, ashes, kiln dust, and garbage dumpster leakage.; Metal-metal roofs are also considered to be PGIS unless they are coated with an inert, non-leachable material (i.e., baked-on enamel coating); or Roofs roofs that are subject to venting significant amounts of dust, mists, or fumes from manufacturing, commercial, or other indoor activities of indoor pollutants from manufacturing, commercial, or other operations or processes are also considered PGIS. A surface, whether paved or not, shall be considered PGIS if it is regularly used by motor vehicles. The following are considered regularly used surfaces: roads, unvegetated road shoulders, bike lanes within the traveled lane of a roadway, driveways, parking lots, unfenced fire lanes, vehicular equipment storage yards, and airport runways. The following are not considered regularly used surfaces: paved bicycle pathways, separated from and not subject to drainage from roads for motor vehicles, fenced fire lanes, and infrequently used maintenance access roads.~~

“Pollution-generating pervious surface (PGPS)” shall mean any non-impervious surface subject to vehicular use, industrial activities-activities (as further defined in the glossary of the Stormwater Management Manual for Western Washington); or storage of erodible or leachable materials, wastes, or chemicals, and which receive direct rainfall or the run-on or blow-in of rainfall, use of pesticides and fertilizers, or loss of soil. Typical PGPS include

permeable pavement subject to vehicular use, lawns, landscaped areas including; golf courses, parks, cemeteries, and sports fields (natural and artificial turf).

“Predevelopment conditions” shall mean ~~site conditions~~native vegetation and soils as they that existed prior to ~~any manmade alterations~~the influence of Euro-American settlement. Predeveloped condition shall be assumed to be forested land cover unless reasonable, historic information is provided that indicates the site was prairie prior to settlement.

“Professional engineer” shall mean a person who, by reason of his or her special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering as attested by his or her legal registration as a professional engineer in the state of Washington.

“Project engineer” shall mean the professional engineer responsible for the design of the project, who will affix his/her seal on the project drainage plans and drainage analysis. The project engineer shall be licensed in the state of Washington and qualified by experience or examination.

“Project site” shall mean that portion of a property, properties, or right of way subject to land disturbing activities, new hard surfaces, or replaced hard surfaces.

(15) “R”

“Rain garden” shall mean a non-engineered shallow landscaped depression, with compost-amended native soils and adapted plants. The depression is designed to pond and temporarily store stormwater runoff from adjacent areas, and allow stormwater to pass through the amended soil profile.

“Receiving waters” shall mean naturally and/or reconstructed naturally occurring surface water bodies, such as creeks, streams, rivers, lakes, wetlands, estuaries, and marine waters, or ground water, to which a MS4 discharges ~~of water or surface water systems to which surface runoff is discharged via a point source of stormwater or via sheet flow.~~

“Redevelopment” shall mean any land disturbing activity occurring on existing substantially developed property (i.e., has 35 percent or more of existing impervious-hard surface coverage), the creation or addition of impervious-hard surfaces; the expansion of a building footprint or addition or replacement of a structure; structural development including construction, installation or expansion of a building or other structure; replacement of impervious-hard surface that is not part of a routine maintenance activity; and land disturbing activities.

“Replaced hard surface” shall mean for structures, the removal and replacement of hard surfaces down to the foundation. For other hard surfaces, the removal down to bare soil or base course and replacement.

“Replaced impervious surface” shall mean for structures, the removal and replacement of hard surfaces down to the foundation. For other hard surfaces, the removal down to bare soil or base course and replacement.

“Retention facilities” shall mean drainage facilities designed to store runoff for gradual release by evaporation, plant transpiration, or infiltration into the soil. Retention facilities shall include all such drainage facilities designed so that none of the runoff entering the facility will be discharged as surface water. Retention facilities shall include all appurtenances associated with their designed function, maintenance, and security.

“SEPA” shall mean the Washington State Environmental Policy Act.

“Shorelines of the state” shall mean the total of all “shorelines” and “shorelines of state-wide significance” within the state, as defined in RCW 90.58.030, also known as the Shoreline Management Act.

“Site” shall mean the area defined by the legal boundaries of a parcel or parcels of land that is (are) subject to new development or redevelopment. For road projects, the length of the project site and the right-of-way boundaries define the site.

“Site development activity” shall mean the alteration of topography, clearing, paving, grading, construction, alteration of stormwater systems, site preparation, or other activity commonly associated with site development.

“Soils investigation report” shall mean a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils investigation report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.

“Soils engineer” shall mean a practicing civil engineer licensed as a professional civil engineer in the state of Washington who has at least four years of professional employment as a civil engineer dealing with soil descriptions and characterizations.

“Source control BMP” shall mean a best management practice (BMP), either a structure or operation that is intended to prevent pollutants from coming into contact with stormwater through physical separation of areas or careful management of activities that are sources of pollutants. The Stormwater Management Manual for Western Washington (SWMMWW) separates source control BMPs into two types. Structural source control BMPs are physical, structural, or mechanical devices, or facilities that are intended to prevent pollutants from

entering stormwater. Operational BMPs are nonstructural practices that prevent or reduce pollutants from entering stormwater. [See Volume IV of the SWMMWW for details.](#)

“Stormwater” shall mean the surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, including snowmelt, during and following precipitation, and resulting from such precipitation that meets the nonpollutant requirements.

“Stormwater facility” shall mean a component of a manmade drainage feature, or features, designed or constructed to perform a particular function or multiple functions, including, but not limited to, pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, wetponds, constructed wetlands, infiltration devices, catch basins, oil/water separators, and sediment basins. Stormwater facilities shall not include building gutters, downspouts, and drains serving one single-family residence.

“Stormwater pollution prevention plan (SWPPP)” shall mean a documented plan to implement measures to identify, prevent, and control the contamination of point source discharges of stormwater.

“Stormwater quality control” shall mean the control of the introduction of pollutants into stormwater and the process of separating pollutants from stormwater. Stormwater quality control facilities include, but are not limited to, source controls, biofiltration/biofilter facilities, wet ponds, wetland forebays, oil/water separators, constructed wetlands and erosion and sedimentation control facilities.

“Stormwater quantity control” shall mean the control of the rate and/or volume of stormwater released from a development site. Stormwater quantity control facilities include, but are not limited to, detention and retention facilities.

(16) “T”

“Technical deviation” shall mean permission granted by the director to deviate from the provisions of this chapter.

“Threshold discharge area” shall mean an on-site area draining to a single natural discharge location or multiple natural discharge locations that combine within one-quarter mile downstream (as determined by the shortest flowpath).

(17) “V”

“Variance” shall mean permission granted by the city council to deviate from the provisions of this chapter.

“Vehicular Use” shall mean regular use of an impervious or pervious surface by motor vehicles. The following are subject to regular vehicular use: roads, un-vegetated road shoulders, bike lanes within the traveled lane of a roadway, driveways, parking lots, unrestricted access fire lanes, vehicular equipment storage yards, and airport runways. The following are not considered subject to regular vehicular use: paved bicycle pathways separated from and not subject to drainage from roads for motor vehicles, restricted access fire lanes, and infrequently used maintenance access roads.

(18) “W”

“Waters of the state” shall include those waters as defined as “waters of the United States” in 40 CFR Subpart 122.2 within the geographic boundaries of Washington State and “waters of the state” as defined in Chapter 90.48 RCW which include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface waters and watercourses within the jurisdiction of the state of Washington.

“Water quality design storm event” shall mean a design storm event selected by the Director for the purpose of establishing design performance criteria for water quality BMPs. Under most conditions, the term applies to the runoff rate and volume resulting from 64 percent of the precipitation of the two-year frequency, 24-hour duration storm event.

“Wetland” shall mean those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands. (Ord. 028-09 § 3; Ord. 1939 § 1, 2004; Ord. 1845 § 2, 2002).

15.32.030 Stormwater drainage—Administration.

(1) Authority. The Director shall have the authority to develop and implement procedures to administer and enforce this chapter.

(2) Inspections. All activities regulated by this chapter shall be inspected by the Department. The Director shall inspect projects at various stages of the work requiring approval to determine that adequate control is being exercised. Stages of work requiring inspection include, but are not limited to, preconstruction, installation of BMPs, land disturbing activities, installation of utilities, permanent storm water control facilities, landscaping, retaining walls, and completion of project. When required by the Director, a special inspection and/or testing shall be performed.

15.32.040 Stormwater drainage—Applicability.

- (1) The provisions of this chapter shall apply to all development proposals within the bounds of incorporated Port Orchard.
- (2) Any land development which is required by operation of any City of Port Orchard ordinance, state law, or federal law to construct, install, or modify any natural or manmade drainage features, either public or private, within, abutting, or serving the development shall do so in accordance with this chapter.
- (3) The provisions of POMC 15.32.150, Operation and maintenance, shall also apply to existing stormwater facilities in incorporated Port Orchard.
- (4) The requirements of this chapter are in addition to other City codes, standards, and regulations. Where conflicts exist between the provisions of this chapter and other codes and standards, the most restrictive shall apply. Where the provisions of this chapter directly conflict with any other state law, federal law, or comprehensive drainage plan, the more stringent provisions shall apply to the extent permissible by law.

15.32.050 Stormwater drainage—Exemptions.

The following activities are exempt from the provisions of this chapter:

- (1) Commercial agriculture and forest practices regulated under WAC Title 222;
- (2) Development that is undertaken by the Washington State Department of Transportation in state highway rights-of-way and is regulated by Chapter 173-270 WAC, the Puget Sound Highway Runoff Program; and
- (3) Pavement maintenance. Pavement Maintenance practices which are exempt include potholes and square cut patching, overlaying existing asphalt or concrete pavement with asphalt or concrete without expanding the area of coverage, shoulder grading, reshaping/regrading drainage systems, crack sealing, resurfacing with in-kind material without expanding the road prism, pavement restoration activities that do not expand the road prism, and vegetation maintenance. See Appendix 1 of Municipal NPDES Permit for practices which are not categorically exempt.

15.32.060 Stormwater drainage—Regulations and guidelines—Adopted manuals.

- (1) The provisions of this chapter together with those manuals and standards described herein, shall constitute the City's stormwater regulations.

- (2) All activity under this chapter shall also comply with the applicable provisions of Chapter 15.34, Land Disturbing Activity; Appendix J of the International Building Code, as adopted in Chapter 15.04 POMC; and equivalent standards approved by the Director.
- (3) The following state and local regulations and guidelines pertaining to surface and stormwater design and management are adopted by reference and shall be collectively referred to as the “Port Orchard Stormwater Manuals” or the “Stormwater Manuals”:

 - (a) The 2012 Edition (as amended in December 2014) of the Washington State Department of Ecology Stormwater Manual for Western Washington;
 - (b) The 2012 Edition of the Puget Sound Partnership Low Impact Development Technical Guidance Manual for Puget Sound;
 - (c) The 2016 Edition of the City of Port Orchard Design and Construction Standards,; and
 - (d) The definitions, minimum requirements, adjustment, and variance criteria found in Appendix 1 of the Western Washington Phase II Municipal Stormwater Permit, except that the erosivity waiver is not adopted.
 - (e) All references to this chapter shall include the Port Orchard Stormwater Manuals adopted herein.
- (4) All development proposal activities in the City shall comply with the standards, specifications, and requirements contained in the City’s stormwater regulations and Stormwater Manuals. When best management practices (BMPs) are required by this chapter or any other chapter of the POMC, they shall comply with the Stormwater Manuals.
- (5) Where there are differences and/or conflicts between the Stormwater Manuals and/or Appendix 1 of the Western Washington Phase II Municipal Stormwater Permit, the most stringent criteria shall apply.
- (6) The adopted regulations and guidelines in the Stormwater Manuals may be modified for projects located within specific areas for which specialized stormwater drainage plan has been approved by the City and the Washington State Department of Ecology.
- (7) The Director may amend the Port Orchard Stormwater Manuals as necessary, by ordinance passed by a majority of the Port Orchard City Council, to reflect changing conditions and technology.
- (8) Compliance with the regulations in this chapter and the Stormwater Manuals does not necessarily mitigate all probable and significant environmental impacts to aquatic biota. Fishery resources and other living components of aquatic systems are affected by a complex set of factors. While employing a specific flow control standard may prevent stream channel

erosion or instability, other factors affecting fish and other biotic resources (such as increases in stream flow velocities) are not directly addressed by the Stormwater Manuals. Thus, compliance with the Stormwater Manuals should not be construed as mitigating all probable and significant stormwater impacts, and additional mitigation, beyond what is required in the Stormwater Manuals, may be required to protect aquatic biota in streams and wetlands.

15.32.070 Stormwater drainage—Special stormwater drainage improvements.

In order to mitigate or eliminate potential drainage-related impacts on critical drainage areas, the Director may require drainage improvements in excess of those required in [this chapter and the Stormwater Manuals](#). For particularly sensitive drainage areas, the Director may specify the general type of drainage improvement required. Accordingly, the following are designated as critical drainage areas:

- (a) All lands having a slope of thirty (30) percent or greater:
 - (i) As determined by a topographic survey of the site; or
 - (ii) As shown on a U.S.G.S. topographic quadrangle map, when other topographic survey information is not available; or
 - (iii) As determined by the director based on field investigation of the site;
- (b) Geologic hazardous area and historically documented unstable slopes;
- (c) All lands within 200 feet of the ordinary high water mark of bodies of water possessing fish spawning and rearing habitat for anadromous and resident fish species, as designated by the State Department of Fish and Wildlife;
- (d) All lands designated critical areas in any comprehensive drainage plan, or defined as critical areas by separate ordinance;
- (e) All lands that are classified as wetlands as defined by any separate city ordinance or policy;
- (f) Any lands that have existing local requirements for the management or protection of ground water, aquifers, or sole source aquifers;
- (g) Any lands that drain to a closed depression;
- (h) Any lands that have existing local or state requirements for the protection of particular fish or wildlife habitats;
- (i) Any lands that are established by law as shellfish protection areas; and

(j) Any lands determined by the director to have a high potential for drainage and water quality problems, and/or are sensitive to the effects of construction or development.

In the event of conflict between maps or other available information resources regarding the above designations, the final determination of whether or not certain lands are critical drainage areas shall be made by the Director. In making such a final determination, the Director may use detailed site surveys and/or other topographic data that the Director may require the applicant to furnish at the applicant's expense.

15.32.080 Stormwater drainage—Permit—Form.

(1) Permit Required. A stormwater drainage permit is required for all development proposals, except as exempt under Chapter 15.34 POMC, Land Disturbing Activity, or as may be otherwise exempt herein. -No construction or development activity shall occur until a stormwater drainage permit has been issued, nor shall said activity continue without an approved stormwater drainage permit in force.

(2) Application Form. The stormwater drainage permit shall be submitted pursuant to forms provided by the City. As required by this chapter and the permit submittal requirements in POMC 15.32.090, supporting documents submitted with the application shall address the applicable minimum requirements for surface and stormwater control pursuant to the Stormwater Manuals and include the proposed BMPs to mitigate such stormwater impacts.

(3) Fees. Stormwater drainage permits shall be subject to fees for application review and inspections during construction. Fees for stormwater drainage permits shall be set forth in the City's current fee schedule.

15.32.090 Stormwater drainage—Permit—Submittal requirements.

The following submittal requirements apply to all stormwater drainage permit applications.

(1) Low Impact Development Site Analysis Required. All development proposals shall conduct a Low Impact Development (LID) site analysis in accordance with the minimum requirements outlined the Stormwater Manuals. LID site assessment findings shall be a required component of the stormwater drainage permit submittal.

(2) Drainage Report—When required. Development proposals that include any of the following activities shall submit a drainage report, as prescribed by this chapter and the Stormwater Manuals, together with the required calculations, plans, and details, as a component of the stormwater drainage permit; the drainage report and supporting plan documents shall address the applicable minimum stormwater management requirements and include the proposed BMPs to mitigate stormwater impacts:

- (a) Development or redevelopment activities that qualify as a major development as defined herein; or
- (b) Grading activities that result in the movement of 150 cubic yards or more of earth; or
- (c) Grading activities that will result in a temporary or permanent slope having a steepness exceeding three to one (3:1) (three feet horizontal to one foot vertical) and having a total slope height, measured vertically from toe of slope to top of slope, exceeding five feet (5 ft.); or
- (d) Grading activities that include the construction of embankment berms that will result in the impoundment of water to a depth exceeding eighteen (18) inches and/or with a maximum volume exceeding 2,500 cubic feet of water; or
- (e) Grading activities that will result in the diversion of existing drainage courses, both natural and manmade, from their natural point of entry or exit from the grading site;

~~(f) Clearing activities;~~

~~(g)~~(f) Any land clearing or grading on slopes steeper than thirty (30) percent, or within the mandatory setback of a wetland, stream, lake, or Puget Sound, as established by separate ordinance or by the public works department.

(3) BMP plans, only—When required. Minor development, as defined herein, or pProjects that do not require a drainage report pursuant to subsection (2) of this section, ~~but involve new development, redevelopment, and/or construction site activities that result in land disturbance of equal or greater than one (1) acre, including projects less than one (1) acre that are part of a larger common plan of development or sale~~ shall submit plans that document the proposed BMPs to mitigate stormwater impacts as a component of the stormwater drainage permit. The proposed BMPs shall address the applicable minimum requirements pursuant to the Stormwater Manuals.

(4) Off-Site Analysis. All development proposals that require a drainage report pursuant to subsection (2) of this section shall also include an off-site drainage analysis as defined in this chapter, prepared by a qualified professional engineer, and based on a field investigation of the development's off-site contributing and receiving drainage areas as a required component of the stormwater drainage permit submittal.

(5) Soils Analysis. All development proposals that require a drainage report pursuant to subsection (2) of this section and where the soils underlying the proposed project have not been mapped, or where existing soils maps of the project site are inconsistent, or where the Director deems that existing soils maps of the project site are not of sufficient resolution to allow proper engineering analysis, shall include a soils investigation report as a required

component of the stormwater drainage permit submittal.

- (6) Geotechnical Analysis.** All development proposals where grading or the construction of stormwater retention facilities, detention facilities, LID BMPs, or other stormwater facilities is proposed within 200 feet of slopes steeper than thirty (30) percent, or where the Director deems that the proposed construction poses a potential hazard due to its proximity to a slope, shall, when required by the Director, include a geotechnical analysis prepared by a qualified geotechnical engineer as a required component of the stormwater drainage permit submittal. Said geotechnical analysis shall address the effects of ground water interception and infiltration, seepage, potential slip planes, and changes in soil bearing strength.
- (7) When a Professional Engineer Is Required.** Unless otherwise required in this chapter, documents submitted in support of a stormwater drainage permit application must be prepared by a qualified professional engineer when one of the following conditions exists:
- (a) Any land use or building or development proposal on real property which meets the definition of a major development; or
 - (b) Any improvements within the boundaries of city rights-of-way for which Port Orchard will ultimately assume responsibility for maintenance; or
 - (c) Any development proposal that the Director deems to be in the public's best interest to require that certain stormwater drainage permit application submittal documents be prepared by a professional civil engineer.
- (8) Engineering and drainage plans.** All engineering plans shall be submitted to the Department for review in accordance with the Stormwater Manuals. All drainage plans, if required, shall be submitted to the Department for review in accordance with the Stormwater Manuals and in accordance with the requirements of any associated permit applications or development approvals.

15.32.100 Stormwater drainage—Permit—Decision type; review criteria.

A stormwater drainage permit shall be issued as an administrative decision of the Director, appealable to the Port Orchard Hearing Examiner in a closed record hearing.

15.32.110 Stormwater drainage—Permit—Review criteria.

- (1)** Every stormwater drainage permit, or approval application with storm drainage review, must meet the design and submittal requirements of this chapter and the adopted Stormwater Manuals.

- (a) The required review for any submitted stormwater drainage permit shall be scaled by the Director to the scope of the project's size, type of development, and potential for impacts to the regional surface water system to facilitate preparation and review of project applications. The Director shall determine which drainage reviews apply to a stormwater drainage permit application, as specified in the Stormwater Manuals.
- (b) Stormwater generated on-site from all new impervious surfaces shall be managed through a combination of LID BMPs in accordance with this chapter and the Stormwater Manuals, or any other LID BMPs approved by the city through the design deviation process in POMC 15.32.110, unless site and soil conditions make LID infeasible as determined by the Director.

(2) Low Impact Development BMPs—Additional conditions. The following LID BMPs utilized as part of a stormwater drainage permit submittal shall be subject to additional review and conditions for implementation by the Director as part of the stormwater drainage permit review and issuance:

- (a) Permeable pavements subject to vehicular use; and
- (b) Reverse slope sidewalks.

15.32.120 Stormwater drainage—Permit—Technical deviations.

The Director may grant technical deviations from requirements contained in the Stormwater Manuals pursuant to the requirements Stormwater Manuals; and provided that all of the following criteria are met:

- (a) The technical deviation will not otherwise result in noncompliance with this chapter;
- (b) The granting of the technical deviation will not result in noncompliance with the development conditions imposed upon the project by the city;
- (c) The granting of the technical deviation will produce a compensating or comparable result that is in the public interest; and
- (d) The granting of the technical deviation will meet the objectives of safety, function, appearance, environmental protection, and maintainability based on sound engineering judgment.

15.32.130 Stormwater drainage—Permit—Variances.

(1) Eligibility.

- (a) Requests for a variance from the minimum requirements under this chapter and the Stormwater manuals may be considered for stormwater drainage permits pending approval. The permit application review time will be extended by the Director as required for the review.
- (b) Requests for a variance from the minimum requirements under this chapter and the Stormwater manuals may be considered for stormwater drainage permits that have not yet expired; provided, that the variance request must be submitted a minimum of ninety (90) calendar days prior to the stormwater drainage permit expiration date. The 90-day requirement may be increased by the Director depending on the complexity of the variance.

(2) Submittal requirements.

- (a) Applicants requesting a variance from the minimum requirements under this chapter and the Stormwater Manuals shall provide all necessary justification and supporting documentation in accordance with Appendix 1 of the Western Washington Phase II Municipal Stormwater Permit. Additional information shall be submitted if required by the Director.
- (b) The permit applicant shall be responsible for all costs associated with analyses, documentation, and additional review time of the variance, in accordance with the process established by the Director.

(3) Review and approval. The ~~city council~~hearing examiner may ~~, at a public hearing,~~ grant a variance from the provisions of this chapter; provided, that all of the following criteria and requirements are met:

- (a) The applicant has provided all necessary justification and supporting documentation to meet the requirements of Appendix 1 of the Western Washington Phase II Municipal Stormwater Permit;
- (b) The granting of the variance will produce a compensating or comparable result that is in the public interest; and
- (a) The granting of the variance will meet the objectives of safety, function, appearance, environmental protection, and maintainability based on sound engineering judgment.

(4) Denial; appeal.

- (a) The permit applicant is responsible for fully meeting the minimum requirements of this chapter and the Stormwater Manuals if the variance is not approved prior to the stormwater drainage permit expiration.

- (b) The decision of the hearing examiner to grant or deny a variance pursuant to this section may be appealed to the city council in a closed record appeal. The decision of the city council upon a closed record appeal is final.

15.32.140 Stormwater drainage—Permit—Construction timing and final approval.

- (1) No work related to permanent or temporary storm drainage control for a permitted development may proceed without the approval of the Director pursuant to this chapter.
- (2) Erosion and sediment control measures associated with both the interim and permanent drainage systems shall be approved and constructed pursuant to the requirements in Chapter 15.34 POMC, Land Disturbing Activity.
- (3) Prior to the construction of any improvements or buildings on the site, or to final recording of a plat or short plat, those portions of the stormwater drainage facilities required pursuant to the applicable issued stormwater drainage permit(s) shall be constructed and in operation as approved by the city; but, after receipt of a written request, the Director may authorize recording prior to final approval to minimize impacts that may result from construction of said stormwater drainage facilities during inappropriate times of the year.

15.32.150 Stormwater drainage—Permit—Expiration; extension.

- (1) **Expiration.** A stormwater drainage permit issued pursuant to this chapter shall expire three (3) years from the date of issuance if the permitted work has not yet commenced. In the event that a stormwater drainage permit, and any renewal thereof pursuant to subsection (2) of this section, expires prior to the completion of construction, all construction activity must cease, a new stormwater drainage permit application must be submitted, and the issuance of a new stormwater drainage permit shall be at the discretion of the Director, subject to city development standards in force at the time of the new permit application.

(2) Permit extension.

- (a) If construction pursuant to an issued stormwater drainage permit has begun, been documented, and is continuing prior to the expiration of said permit, the property owner or stormwater drainage permit applicant may request a permit extension, submitted in writing to the Director, prior to the expiration date of the permit. Having the required inspections performed and approved within every 360 days is evidence that work has commenced and is continuing.
- (b) The Director may grant a one-time extension not to exceed two (2) additional years. The Director shall not grant more than one permit extension for a stormwater drainage

permit.

(c) The Director's decision whether to grant an extension pursuant to this subsection shall be final.

15.32.160 Stormwater drainage—Standards—Minimum site development requirements.

The following minimum site development requirements apply to all new development, redevelopment, and construction site activities that result in land disturbance of equal or greater than one (1) acre, including projects less than one (1) acre that are part of a larger common plan of development or sale, regardless of whether a permit under this chapter or chapter 15.34 POMC, Land Disturbing Activity, is required:-

- (1) Plans and Reports (Minimum Requirement No. 1).** All development and redevelopment meeting the thresholds contained in this section shall submit plans and reports in accordance with the criteria stipulated in the manual.
- (2) Construction Stormwater Pollution Prevention Plan (SWPPP) (Minimum Requirement No. 2).** All new development and redevelopment is responsible for preventing erosion and discharge of sediment and other pollutants into receiving waters by preparing a SWPPP. The SWPPP shall include a narrative and drawings. All BMPs shall be clearly referenced in the narrative and marked on the drawings. The SWPPP narrative shall include documentation to explain and justify the pollution prevention decisions made for the project and shall be available to the director upon request. The SWPPP shall include each of the 12 elements below and shall be fully implemented, from initial soil disturbance until final stabilization, unless site conditions render the element unnecessary and the exemption from that element is clearly justified in the SWPPP.
 - (a) Preservation of vegetation/marking clearing limits;
 - (b) Construction access;
 - (c) Controlling flow rates;
 - (d) Installing sediment controls;
 - (e) Stabilizing soils;
 - (f) Protecting slopes;
 - (g) Protecting drain inlets;
 - (h) Stabilizing channels and outlets;

- (i) Controlling pollutants;
- (j) Controlling de-watering;
- (k) Maintaining best management practices; and
- (l) Management of the project.

(3) Source Control of Pollution (Minimum Requirement No. 3). Source control best management practices (operational and/or structural) are required for all projects. Those practices listed in the source control chapter (Chapter 4) of the [SWMMWW](#) manual as applicable operational or structural source controls for a particular pollutant source are required under this minimum requirement.

(4) Preservation of Natural Drainage Systems and Outfalls (Minimum Requirement No. 4).

(a) Natural drainage patterns shall be maintained, and discharges from the project site shall occur at the natural location, to the maximum extent practicable. The manner by which runoff is discharged from the project site must not cause a significant adverse impact to downstream receiving waters and down gradient properties. All outfalls require energy dissipation.

(b) Downstream Analysis. The following projects shall conduct an analysis of downstream water quality impacts resulting from the project and shall provide mitigation of these impacts:

- (i) All major developments; and
- (ii) Any minor developments located within critical drainage areas.

The analysis shall extend a minimum of one-quarter of a mile downstream from the project site. The existing or potential impacts to be evaluated and mitigated shall include excessive sedimentation, erosion, discharges to ground water contributing to recharge zones, violations of water quality standards, and spills and discharges of priority pollutants.

(5) On-Site Stormwater Management (Minimum Requirement No. 5). All projects shall maintain the average annual volume of water that infiltrates on a site (ground water plus interflow) at or above predevelopment levels as predicted by an approved hydrologic

model. Project proponents may use prescriptive predesigned best management practices contained in the manual to fulfill this requirement.

(6) Runoff Treatment (Minimum Requirement No. 6). The following require construction of stormwater treatment facilities designed in accordance with the manual.

(a) Projects in which the total pollution-generating impervious surface (PGIS) is 5,000 square feet or more; or

(b) Projects in which the total of pollution-generating pervious surface (PGPS) is three-quarters of an acre or more, and from which there is a surface discharge in a natural or manmade conveyance system from the site.

The level of treatment for each project will be determined by subsections (7) through (10) of this section.

(7) Oil Control Treatment Requirements.

(a) Treatment to achieve oil control applies to projects that have “high-use sites.” High-use sites are those that typically generate high concentrations of oil due to high traffic turnover or frequent transfer of oil. High-use sites include:

(i) An area of a commercial or industrial site subject to an expected average daily traffic (ADT) count equal to or greater than 100 vehicles per 1,000 square feet of gross building area;

(ii) An area of a commercial or industrial site subject to petroleum storage and transfer in excess of 1,500 gallons per year, not including routinely delivered heating oil;

(iii) An area of a commercial or industrial site subject to parking, storage or maintenance of 25 or more vehicles over 10 tons gross weight (trucks, buses, trains, heavy equipment, etc.);

(iv) A road intersection with a measured ADT count of 25,000 vehicles or more on the main roadway and 15,000 vehicles or more on any intersecting roadway, excluding projects proposing primarily pedestrian and bicycle use improvements.

(b) Oil/Water Separators. All stormwater from impervious areas at high use sites subject to motor vehicle traffic shall flow through a spill-containment type oil/water separator prior to surface discharge off site.

(8) Phosphorus Treatment Requirements. Phosphorus treatment as described in the manual is required for the following:

(a) Those water bodies reported under Section 305(b) of the Clean Water Act, and designated as not supporting beneficial uses due to phosphorus;

(b) Those water bodies listed in Washington State's Nonpoint Source Assessment required under Section 319(a) of the Clean Water Act due to nutrients.

(9) Enhancement Treatment Requirements. Enhanced treatment for reduction in dissolved metals (primarily copper and zinc) is required for the following project sites that discharge to fish-bearing streams, lakes, or to waters or conveyance systems tributary to fish-bearing streams or lakes:

(a) Industrial project sites;

(b) Commercial project sites;

(c) Multifamily project sites; and

(d) High annual average daily traffic (AADT) roads as follows:

(i) Within urban growth management areas:

(A) Fully controlled and partially controlled limited access highways with AADT counts of 15,000 or more;

(B) All other roads with an AADT of 7,500 or greater.

(10) Basic Treatment Requirements. Basic treatment applies to:

(a) Project sites that discharge to the ground, unless:

(i) The soil suitability criteria for infiltration treatment are met (see the manual for soil suitability criteria); or

(ii) The project uses infiltration strictly for flow control and not treatment and the discharge is within one-quarter mile of a phosphorus sensitive lake (use a phosphorus treatment facility), or within one-quarter mile of a fish-bearing stream or a lake (use an enhanced treatment facility);

(b) Residential projects not otherwise needing phosphorus control as designated by U.S. EPA, the Department of Ecology, or by the city of Port Orchard;

(c) Project sites discharging directly to salt waters, river segments, and lakes listed in Appendix 1-C of the currently adopted Stormwater Management Manual for Western Washington ~~(2005)~~;

(d) Project sites that drain to streams that are not fish-bearing, or to waters not tributary to fish-bearing streams; and

(e) Landscaped areas of industrial, commercial, and multifamily project sites, and parking lots of industrial and commercial project sites that do not involve pollution-generating sources (e.g., industrial activities, customer parking, storage of erodible or leachable material, wastes or chemicals) other than parking of employees' private vehicles. For developments with a mix of land use types, the basic treatment requirement shall apply when the runoff from the areas subject to the basic treatment requirement comprise 50 percent or more of the total runoff.

(11) Flow Control (Minimum Requirement No. 7). Except as provided in subsection (12) of this section, the following require construction of flow control facilities and/or land use management BMPs that result in stormwater discharges that match developed condition discharge durations to predeveloped condition durations for the range of predeveloped discharge rates from 50 percent of the two-year peak flow up to the full 50-year peak flow.

(a) Projects in which the total of effective impervious surfaces is 10,000 square feet or more;

(b) Projects that convert three-quarter acre or more of native vegetation to lawn or landscape, or convert 2.5 acres or more of native vegetation to pasture, and from which there is a surface discharge in a natural or manmade conveyance system from the site; or

(c) Projects that through a combination of effective impervious surfaces and converted pervious surfaces cause a 0.1 cubic feet per second increase in the 100-year flow frequency as estimated using the Western Washington Hydrology Model or other approved model.

(12) Flow Control Exemption. Flow control is not required for projects that discharge directly to Puget Sound if all the following are satisfied:

(a) Direct discharge to the exempt receiving water does not result in the diversion of drainage from any perennial stream classified as Types 1, 2, 3, or 4 in the State of Washington Interim Water Typing System, or Types "S," "F," or "Np" in the Permanent Water Typing System, or from any Category I, II, or III wetland;

(b) Flow splitting devices or drainage BMPs are applied to route natural runoff volumes from the project site to any downstream Type 5 stream or Category IV wetland:

(i) Design of flow splitting devices or drainage BMPs will be based on continuous hydrologic modeling analysis. The design will assure that flows delivered to Type 5 stream reaches will approximate, but in no case exceed, durations ranging from 50 percent of the two-year to the 50-year peak flow; and

(ii) Flow splitting devices or drainage BMPs that deliver flow to Category IV wetlands will also be designed using continuous hydrologic modeling to preserve preproject wetland hydrologic conditions unless specifically waived or exempted by regulatory agencies with permitting jurisdiction;

(c) The project site must be drained by a conveyance system that is comprised entirely of manmade conveyance elements (e.g., pipes, ditches, outfall protection, etc.) and extends to the ordinary high water line of the exempt receiving water;

(d) The conveyance system between the project site and the exempt receiving water shall have sufficient hydraulic capacity to convey discharges from future build-out conditions

(under current zoning) of the site, and the existing condition from nonproject areas from which runoff is or will be collected;

(e) Any erodible elements of the manmade conveyance system must be adequately stabilized to prevent erosion; and

(f) Shoreline erosion is avoided through the use of appropriate energy dissipation or other protective measures.

(13) Wetlands Protection (Minimum Requirement No. 8).

(a) Discharges to wetlands shall maintain the hydrologic conditions, hydrophytic vegetation, and substrate characteristics necessary to support existing and designated uses. The hydrologic analysis shall use the existing land cover condition to determine the existing hydrologic conditions unless directed otherwise by a regulatory agency with jurisdiction.

(b) Stormwater treatment and flow control facilities shall not be built within a natural vegetated buffer, except for:

(i) Necessary conveyance systems as approved by the permittee; or

(ii) As allowed in wetlands approved for hydrologic modification and/or treatment in accordance with Guidesheet 1B in Appendix 1-D of the currently adopted Stormwater Management Manual for Western Washington ~~(2005)~~.

(c) An adopted and implemented basin plan prepared in accordance with the provisions of POMC 15.32.230070(12) may be used to develop requirements for wetlands that are tailored to a specific basin.

(14) Operation and Maintenance (Minimum Requirement No. 9). All stormwater facilities shall be operated and maintained in accordance with POMC 15.32.260080.

15.32.170 Stormwater drainage—Standards—Redevelopment activities.

(1) Where redevelopment activities meet the definition of a major development, the requirements of this section shall apply to that portion of the site that is being redeveloped. In addition, where one or more of the following conditions exist, the requirements of this

section shall apply, to the maximum extent practicable, for the entire site, including adjoining parcels, if they are part of the project:

- (a) Existing sites greater than one acre in size with 35 percent or more impervious surface;
- (b) Sites that discharge to a receiving water that has a documented water quality problem;
and
- (c) Sites where the need for additional stormwater control measures has been identified through a basin plan.

(2) Approved Hydrological Methods for Design. Estimation of peak stormwater runoff rates used in the design of stormwater quantity control facilities shall utilize hydrograph methods of analysis approved by the Director. The design of storage facilities that are a part of stormwater quantity control facilities shall be designed using methods approved by the Director.

15.32.180 Stormwater drainage—Standards—Stormwater quality control.

The following minimum requirements for stormwater quantity control shall apply to all development proposals~~land developments~~ that meet the definition of a major development:

- (1) All surface water and stormwater entering the development site in its predevelopment state shall be received at the naturally occurring or otherwise legally existing locations. All surface water and stormwater leaving the development site shall be discharged at all times during and after development at the naturally occurring or otherwise legally existing locations so as not to be diverted onto or away from adjacent downstream properties, except diversion which will correct an existing manmade downstream problem may be permitted by the Director. For the purposes of this chapter, “naturally occurring location” shall mean the location of those channels, swales, and pre-existing and established systems as defined by the first documented topographic contours existing for the subject property, either from maps or photographs, site inspections, decisions of a court of law, or other means determined appropriate by the Director.
- (2) The post-development peak stormwater discharge rates from the development site for the two-, 10-, and 100-year, 24-hour duration storm events and the 100-year, seven-day duration storm event shall at no time exceed the predevelopment peak stormwater runoff rates for the same design storm events, except as expressly permitted by this chapter. Also, where stormwater directly or indirectly discharges to open channels or streams, streambank erosion protection is required; the post-development peak stormwater discharge rate from the development site for the two-year, 24-hour duration storm event shall not exceed 50 percent of the predevelopment peak stormwater runoff rate for the same design storm event. The Director may require that runoff from a development site be controlled for additional design storm events.

- (3)** Closed depressions shall be analyzed using hydrograph routing methods. Infiltration shall be addressed where appropriate. If a proposed project will discharge runoff to an existing closed depression that has greater than 5,000 square feet of water surface area at overflow elevation, the following requirements must be met:
- (a) Case 1. The predevelopment 100-year, seven-day and 24-hour duration design storms from the drainage basin tributary to the closed depression are routed into the closed depression using only infiltration as outflow. If the design storms do not overflow the closed depression, no runoff may leave the site for the same storm events following development of a proposed project. This may be accomplished by excavating additional volume in the closed depression subject to all applicable requirements. If a portion of the depression is located off of the project site, impacts to adjacent properties shall be evaluated.
 - (b) Case 2. The predevelopment 100-year, seven-day, 24-hour duration design storm events from the drainage basin tributary to the closed depression are routed to the closed depression using only infiltration as outflow, and overflow occurs. The closed depression shall then be analyzed as a detention/infiltration pond. The required performance, therefore, shall not exceed the predevelopment runoff rates for 50 percent of the two-year and 100 percent of the 10-year and 100-year, 24-hour duration and 100-year, seven-day duration design storms. This will require that a control structure, emergency overflow spillway, access road, and other applicable design criteria be met. If the facility will be maintained by the city, the closed depression shall be placed in a dedicated tract. If the facility will be privately maintained, the tract shall be located within a drainage easement. If a portion of the depression is located off of the project site, impacts to adjacent properties shall be evaluated.
 - (c) Case 3. When a proposed project is contributory to a closed depression located off-site, the volume of runoff discharged may not be increased for the two-, 10-, and 100-year, 24-hour duration, and the 100-year, seven-day duration storm events. The exception to this requirement is in the case where discharge would not result in an increase in water surface elevation of greater than 0.01 foot for the 100-year storm events.
- (4)** Land developments shall provide stormwater quantity control facilities designed to meet, as a minimum performance standard, the requirements of this section, except in the following circumstances:
- (a) The development site discharges directly into Puget Sound, or directly into the tidally influenced areas of rivers and streams discharging into Puget Sound, where runoff quantity control is not required by other governmental agencies.
 - (b) The development site discharges to a regional stormwater facility approved by the director to receive the developed site runoff.

(c) The development site discharges to a receiving body of water (lake, wetland, etc.) where it can be demonstrated by the applicant, to the satisfaction of the director, that stormwater quantity control is not warranted.

- (5) In the event that conditions downstream from a proposed development site are determined by the Director to be exceptionally sensitive to potential stormwater discharges from the subject site, the Director may require a factor of safety be applied to the total retention/detention storage volume and/or a reduction of allowable stormwater release rates.
- (6) Submittals for all proposed development projects shall include an analysis of downstream water quantity impacts resulting from the project and shall provide for mitigation of these impacts. The analysis shall extend a minimum of one-quarter of a mile downstream from the project. The existing or potential impacts to be evaluated and mitigated shall include, but not be limited to, excessive streambank erosion, flooding, surcharging of existing closed drainage conveyance facilities, discharge to closed depressions, and discharge to existing off-site runoff control facilities.
- (7) Retention facilities and open stormwater quantity control facilities shall not be located in dedicated public road rights-of-way.
- (8) Reasonable access for maintenance, as determined by the Director, shall be provided to all stormwater facilities.
- (9) As the first priority, streambank erosion control BMPs shall utilize infiltration to the fullest extent practicable, only if site conditions are appropriate and ground water quality is protected. Streambank erosion control BMPs shall be selected, designed, and maintained according to the manual. Streambank erosion control BMPs shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the department of public works.

15.32.190 Stormwater drainage—Standards—Water quality BMPs.

- (1) Water quality best management practices (BMPs) shall be used to the maximum extent practicable to control pollution in stormwater. Water quality BMPs shall be used to comply with the standards of this chapter, including those contained in the Stormwater Manual. Construction and post-development water quality BMPs shall be utilized for all developments. Said water quality BMPs shall provide runoff water quality treatment for all storm events with intensities less than or equal to the water quality design storm event, as defined in ~~subsection (8)(b) of this chapter~~ section.
- (2) **Illicit Discharges.** Illicit discharges ~~, as described in POMC 15.32.100(1),~~ or illicit connections to a stormwater drainage system, pursuant to chapter 15.30 POMC, ~~as described in POMC~~

~~15.32.100(2)~~, are prohibited.

- (3) Experimental Best Management Practices.** In those instances where appropriate best management practices are not in the [Stormwater Manual](#), experimental BMPs should be considered. In an effort to improve stormwater quality technology, experimental BMPs are encouraged as a means of solving problems in a manner not addressed by the [Stormwater Manual](#). Experimental BMPs must be approved by the Director. The Director may require that the performance of experimental BMPs be monitored to document their effectiveness for future use.
- (4) Incorporation into Stormwater Quantity Control Facilities.** Water quality BMPs may be incorporated into the design of stormwater quantity control facilities where appropriate.

15.32.200 Stormwater drainage—Standards—Stormwater conveyance facilities.

- (1)** All proposed developments must provide on-site stormwater conveyance facilities having sufficient capacity to convey, without flooding or otherwise damaging existing or proposed structures, the post-development peak stormwater runoff rate resulting from a 100-year storm event, plus any existing upstream runoff that will be conveyed through the development site.
- (2)** Estimation of peak stormwater runoff rates used in the design of water conveyance facilities shall use either the rational method or a hydrograph method of analysis accepted by the Director.
- (3)** Existing drainage ways and/or other conveyance facilities downstream from proposed developments that are identified within the scope of the downstream portion of the off-site drainage analysis shall have sufficient capacity to convey, without flooding or otherwise damaging existing or proposed structures, the post-development peak stormwater discharge for the 25-year storm event. All newly constructed downstream drainage ways and/or conveyance facilities shall have sufficient capacity to convey the post-development peak stormwater discharge for the 100-year storm event. Downstream improvements or additional on-site stormwater quantity control measures shall be provided to eliminate any potential downstream flooding or other damage that may occur following completion of the proposed development. The Director has the authority to waive the requirement for downstream improvements.
- (4)** Drainage through closed conveyance structures such as pipes shall not discharge directly onto the surface of a public road.
- (5)** Easements, Tracts, and Covenants.

- (a) Drainage easements shall be provided in a proposed development for all stormwater conveyance systems that are not located in public rights-of-way or tracts. Said drainage easements shall be granted to the parties responsible for providing ongoing maintenance of the systems.
- (b) Stormwater facilities that are to be maintained by the city, together with maintenance access roads to said facilities, shall be located in public right-of-way, separate tracts dedicated to the city, or drainage easements located in designated open space. The exception is for stormwater conveyance pipes that may be located within easements on private property; provided, that all catch basins can be accessed without entering private property.
- (c) All runoff from impervious surfaces, roof drains, and yard drains shall be directed so as not to adversely affect adjacent properties. Wording to this effect shall appear on the face of all final plats/PUDs, and shall be contained in any covenants required for a development.

15.32.210 Stormwater drainage—Standards—Wetlands.

The following requirements apply only to situations where stormwater discharges directly or indirectly into a wetland and must be met in addition to meeting the requirements of Volume V and Volume I Appendix 1-D in Major Development Minimum Requirement 7.35(2), Stormwater Treatment BMPs:

- (1) Stormwater discharges to wetlands must be controlled and treated to the same extent as all other discharges, with the goal of meeting state water quality and ground water quality standards.
- (2) Discharges to wetlands shall maintain the hydroperiod and flows of predevelopment site conditions to the extent necessary to protect the characteristic functions of the wetland. Prior to discharging to a wetland, alternative discharge locations shall be evaluated, and natural water storage and infiltration opportunities outside the wetland shall be maximized.
- (3) Created wetlands that are intended to mitigate for loss of wetland acreage, function and value shall not be designed to also treat stormwater.
- (4) In order for constructed wetlands to be considered treatment systems, they must be constructed in areas which are not designated as wetland or wetland buffer or in other areas which are in conflict with designated critical areas and associated buffers, and they must be managed for stormwater treatment. If these systems are not managed and maintained in accordance with the manual for a period exceeding three years, these systems may no longer be considered constructed wetlands.
- (5) Wetland BMPs shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the department of public works.

15.32.220 Stormwater drainage—Standards—Regional facilities.

When the Director has determined that the public would benefit by the establishment of a regional stormwater facility which would serve as an alternative to the construction of separate on-site drainage facilities, the director may recommend to the city council that a regional stormwater facility be constructed which would serve more than one development in providing stormwater quantity and/or quality control. The associated owner(s) shall meet currently adopted stormwater regulations at the time of development. In the event that a regional stormwater facility is required by the city council, such a regional stormwater facility shall be located outside of fish-bearing streams, unless otherwise accepted by the Washington State Department of Fish and Wildlife. All future developments constructed on lands designated by the city council to be served by the regional facility shall, at the time of issuance of a stormwater management permit for a development, be required to contribute a fair share to the cost of land purchase, design, and construction of said regional facility. In the event that a proposed regional stormwater facility is not yet in operation at the time of completion of construction of a development that is to be served by said regional facility, the applicant for said development shall be required to provide temporary stormwater quantity and quality controls. Temporary quantity and quality controls may be constructed in temporary easements, rather than in separate tracts.

15.32.230 Stormwater drainage—Standards—Basin planning.

An adopted and implemented basin plan may be used to develop requirements for source control, stormwater treatment, streambank erosion control, wetlands, and water quality sensitive areas that are tailored to a specific basin. Adopted and implemented watershed-based basin plans may be used to modify any or all of the minimum requirements for stormwater quantity or quality control addressed in this chapter; provided, that the level of protection for surface or ground water achieved by the basin plan will equal or exceed that which would otherwise be achieved by implementation of the provisions of this chapter in the absence of a basin plan. Basin plans shall evaluate and include, as necessary, retrofitting of BMPs for existing development and/or redevelopment in order to achieve watershed-wide pollutant reduction goals. Standards developed from basin plans shall not modify any of the above requirements until the basin plan is formally adopted and fully implemented by the city.

15.32.240 Stormwater drainage—Standards—Exemptions.

(1) Residential lots one acre or larger shall be exempt from the provisions of POMC 15.32.170 through 15.32.230 this section, or as otherwise determined by the Director. Cases where this exemption does not apply include, but are not limited to, sites within or adjacent to critical areas or watersheds, steep or unstable slopes, or where the cumulative impacts of development warrant compliance with these provisions. Site development activities taking place on individual lots of one acre or larger, which meet the definition of a major development, are not exempt from the requirements of POMC 15.32.160065. Proposed access roadways serving residential lots larger than two and one-half acres, which meet the definition of a major development, are not exempt from the requirements of POMC 15.32.170065.

15.32.250 Stormwater drainage—Facilities—Covenants, sureties, and liability insurance.

(1) Site Stabilization Surety.

- (a) Prior to the issuance of a stormwater drainage permit and prior to beginning any construction activity on a project site, the owner of the project will be required to record a performance covenant or post a performance surety for site stabilization and erosion and sedimentation control. In addition, the owner may be required to provide a certificate of commercial liability insurance as outlined in subsection (5) of this section.
- (b) This performance requirement for stabilization and erosion control should not be confused with the performance bond accepted at the time of final plat recording as a surety for construction items not yet completed. When a performance bond is accepted for a final plat in lieu of construction completion, the surety or covenant for stabilization and erosion control will be released, and the new performance bond shall cover site stabilization and erosion control along with the other incomplete construction items.

(2) Performance Covenant for Site Stabilization. For project sites with less than five (5) acres of land disturbing activity, a performance covenant may be recorded in lieu of performance surety for site stabilization prior to issuance of the stormwater drainage permit to guarantee the city that temporary erosion and sedimentation control and permanent site stabilization measures will perform in accordance with this chapter. This covenant shall be recorded with the Kitsap County auditor and shall run with the land until such a time as the city issues final acceptance of the permitted activities, or until a separate performance bond is posted prior to final plat approval. Upon issuance of final project approval, the department of public works will record a document that extinguishes the performance covenant.

(3) Performance Surety for Site Stabilization.

- (a) The term “bond” as defined in this chapter shall mean a surety bond, assignment of funds, or irrevocable bank letter of credit. For project sites with five (5) or more acres of land disturbing activity, a performance bond shall be posted prior to issuance of a stormwater drainage permit to guarantee the city that temporary erosion and sedimentation control and permanent site stabilization measures will perform in accordance with this chapter. The amount of the performance bond shall be as follows:
 - i. One hundred fifty percent of the estimated cost of performing minor grading and installing temporary erosion and sedimentation control, and permanent site stabilization measures to bring the construction site into compliance with this chapter. A cost estimate shall be submitted by the project engineer subject to the approval of the Director. The minimum amount of the bond shall be \$5,000; or

- ii. One thousand dollars per acre of land disturbing activity. No engineer's estimate is required.
- (b) If the site work is determined by the Director to be in violation of this chapter, the city may use the performance bond to provide temporary and permanent site stabilization.
- (c) All performance bonds shall run continuously until released by the city, and shall not be subject to an expiration or cancellation date.

(4) Performance Bond for Uncompleted Site Improvements.

- (a) For single-family residential developments, a performance bond shall be provided prior to the final recording of the plat/PUD, guaranteeing completion of all site improvements not yet completed. The amount of the performance bond shall be 150 percent of the estimated cost of said improvements. The estimated cost of the construction shall be determined by a civil engineer subject to the approval of the director.
- (b) All performance bonds shall run continuously until released by the city, and shall not be subject to an expiration or cancellation date.

(5) Commercial Liability Insurance. The owner of any project must provide a certificate of liability insurance to the department of public works prior to issuance of a stormwater drainage permit. The liability insurance shall remain in force until final project approval is issued by the city. The commercial liability insurance shall be in the amount of not less than \$1,000,000 combined single limit bodily injury and property damage, with a \$2,000,000 aggregate. Such insurance shall include the City of Port Orchard, its officers, and employees as additional insureds, with respect to the terms and conditions of the policy.

(6) Maintenance Bonds. A maintenance bond is required for all subdivisions and commercial projects for which stormwater facilities and/or roads are required pursuant to the following:

- (a) Prior to the final approval of construction and release of any performance sureties, a maintenance bond must be posted and maintained by the project owner for a period of two (2) years.
- (b) The maintenance bond shall guarantee the stormwater facilities and roads constructed under permit against design defects and/or failures in workmanship and shall guarantee that the facilities constructed under the permit will be regularly and adequately maintained throughout the maintenance period. At the end of this time, the city will inspect the system and, when the facility is acceptable and 80 percent of the lots in that phase have been improved, the city will release the maintenance bond. In the event that 80 percent of the lots in a residential development have not been improved by the end of the two-year maintenance period, the maintenance bond may be extended,

subject to the approval of the Director, for one (1) additional year.

- (c) The amount of the maintenance bond shall be ten (10) percent of the estimated construction cost of the stormwater facilities and roads requiring maintenance, or \$5,000, whichever is greater. The construction cost of the stormwater facilities requiring maintenance shall be estimated by the project engineer, subject to the approval of the Director.

15.32.260 Stormwater drainage—Facilities—Operation and maintenance.

(1) Maintenance of Stormwater Facilities by Owners.

- (a) Any person or persons holding title to a nonresidential property for which stormwater facilities and BMPs have been required by the city shall be responsible for the continual operation, maintenance, and repair of said stormwater facilities and BMPs in accordance with the provisions of this chapter.
- (b) For privately maintained stormwater facilities, the maintenance requirements specified in this chapter, including the Stormwater Manuals, shall be enforced against the owner(s) of the subject property served by the stormwater facility.

(2) Maintenance Covenant Required for Privately Maintained Drainage Facilities.

- (a) Prior to the beneficial use of a development constructed under a city permit, the owner shall record a maintenance covenant that guarantees Port Orchard that the owner shall properly operate, maintain, and inspect the stormwater facilities, and that also gives the city the authority to enter and inspect the facility. The restrictions set forth in such covenant shall be included in any instrument of conveyance of the subject property and shall be recorded with the Kitsap County auditor.
- (b) The Director may require the owners of existing stormwater facilities for which the city has not previously accepted operation and maintenance responsibility to record a maintenance covenant, or to request that the city accept operation and maintenance responsibility for the stormwater facilities subject to the requirements of this chapter.
- (c) Maintenance covenants shall remain in force for the life of the development, or until the responsibility for the operation and maintenance of the subject stormwater facilities is accepted by the city.

(3) City Acceptance of New Stormwater Facilities. The city may accept for maintenance those new residential stormwater facilities constructed under an accepted stormwater drainage permit that meet the following conditions:

- (a) Improvements in residential plats/PRDs have been completed on at least 80 percent of the lots, unless waived by the Director;
- (b) All drainage facilities have been inspected and accepted by the Director and said drainage facilities have been in satisfactory operation for at least two (2) years;
- (c) All drainage facilities reconstructed during the maintenance period have been accepted by the Director;
- (d) The stormwater facility, as designed and constructed, conforms to the provisions of this chapter;
- (e) All easements required under this chapter, entitling the city to properly operate and maintain the subject drainage facility, have been conveyed to the city and have been recorded with the Kitsap County auditor;
- (f) For nonstandard drainage facilities, an operation and maintenance manual, including a maintenance schedule, has been submitted to and accepted by the city; and
- (g) A complete and accurate set of reproducible Mylar as-built drawings and a CD containing an acceptable electronic set of as-built drawings have been provided to the city. A professional engineer shall certify that both the vertical and horizontal alignment meet the design objectives.
- (h) The Director may terminate the city's assumption of maintenance responsibilities under this section in writing after determining that continued maintenance will not significantly contribute to protecting or improving the health, safety and welfare of the community.

(4) City Acceptance of Existing Stormwater Facilities. The city may accept for maintenance those stormwater facilities for residential developments existing prior to the effective date of the ordinance codified in this chapter that meet the following conditions:

- (a) Improvements in residential plats/PRDs have been completed on at least 80 percent of the lots; and
- (b) An inspection by the Director has determined that the stormwater facilities are functioning as designed; and
- (c) The stormwater facilities have had at least two (2) years of satisfactory operation and maintenance, unless otherwise waived by the Director; and
- (d) The person or persons holding title to the properties served by the stormwater facilities submit a petition containing the signatures of the title holders of more than fifty (50)

percent of the lots served by the stormwater facilities requesting that the city maintain the stormwater facilities; and

(e) All easements required under this chapter, entitling the city to properly operate and maintain the subject stormwater facilities, have been conveyed to the city and have been recorded with the Kitsap County auditor; and

(f) The person or persons holding title to the properties served by the stormwater facilities show proof of the correction of any defects in the drainage facilities, as required by the Director.

(g) The Director may terminate the city's assumption of maintenance responsibilities under this section in writing after determining that continued maintenance will not significantly contribute to protecting or improving the health, safety and welfare of the community.

(5) City Inspections of Privately Maintained Stormwater Facilities.

(a) The Director is authorized to develop an inspection program for privately owned and maintained stormwater facilities in the city. The purpose of this inspection program shall be to determine if said stormwater facilities, conveyance structures, and water quality facilities are in good working order and are properly maintained and to ensure that stormwater quality BMPs are in place and that nonpoint source pollution control is being implemented.

(b) Whenever the provisions of the inspection program are being implemented, or whenever there is cause to believe that a violation of this chapter has been or is being committed, the inspector is authorized to inspect during regular working hours and at other reasonable times any and all stormwater drainage facilities within the city to determine compliance with the provisions of this chapter.

(6) Inspection Schedule. The Director is authorized to establish a master inspection and maintenance schedule to inspect appropriate stormwater facilities that are not owned and operated by the city. The party (or parties) responsible for maintenance and operation shall be identified. Critical stormwater facilities, as so deemed by the Director, may require a more frequent inspection schedule.

15.32.270 Stormwater drainage—Enforcement.

(1) Failure to Comply. It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter.

(2) Emergency Access and Reparation. In the event the violation constitutes an immediate danger to public health or safety, the Director is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. Any expense related to such remediation

undertaken by the city shall be fully reimbursed by the property owner and/or responsible party. Any relief obtained under this section shall not prevent the city from seeking further relief or applying other penalties as provided in this chapter.

- (3) Civil Infraction.** Except as provided in subsection (4) of this section, conduct made unlawful by this chapter shall constitute a civil infraction and is subject to enforcement and fines as provided in Chapter 2.64 POMC. A civil infraction under this section shall be processed in the manner set forth in Chapter 2.64. POMC.
- (4) Misdemeanor.** Any person who again violates this chapter within twelve (12) months after having been found to be in violation of this chapter commits a misdemeanor.
- (5) Civil Penalty.** In addition to any civil infraction fine, criminal penalty, and/or other available sanction or remedial procedure, any person engaging in conduct made unlawful by this chapter shall be subject to a cumulative civil penalty in the amount of \$1,000 per day for each violation from the date set for compliance until the date of compliance. Any such civil penalty shall be collected in accordance with Chapter 2.64 POMC.
- (6) Additional Remedies.** In addition to any other remedy provided by this chapter or under the Port Orchard Municipal Code, the city may initiate injunction or abatement proceedings or any other appropriate action in courts against any person who violates or fails to comply with any provision of this chapter to prevent, enjoin, abate, and/or terminate violations of this chapter and/or to restore a condition which existed prior to the violation. In any such proceeding, the person violating and/or failing to comply with any provisions of this chapter shall be liable for the costs and reasonable attorneys' fees incurred by the city in bringing, maintaining and/or prosecuting such action.
- (7) Violation of Additional Laws.** Any person who violates any provision of this chapter may also be in violation of the Federal Clean Water Act, NPDES Phase II permit, and/or Chapter 90.48 RCW and may be subject to sanctions associated with each, including civil and criminal penalties. Any enforcement action authorized under this chapter shall also include written notice to the violator of such potential liability.

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City of Port Orchard

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 POMC
Title 16, Land Use Regulatory Code, to
Comply With the Requirements of the
Western Washington Phase II Stormwater
Permit

Meeting Date: December 13, 2016
Prepared by: Nicholas Bond, AICP
Atty Routing No: 090-16
Atty Review Date: 12/7/2016

Summary: The Washington State Department of Ecology (Ecology) administers federal Municipal National Pollutant Discharge Elimination System (NPDES) permit requirements through its Western Washington Phase II Permit (Permit). In 2012, Ecology issued a directive that all municipalities operating under this Permit, including the City of Port Orchard, must update their local development regulations to eliminate barriers to low impact development (LID) techniques for stormwater management, no later than December 31, 2016.

The City Attorney has prepared revisions to Chapters 16.40 (Common Development Standards), 16.45 (Parking) and 16.50 (Landscaping Standards) of POMC Title 16, Land Use Regulatory Code, to comply with Ecology’s directive. The revisions include the following: update requirements for hardscape and impervious surface limits in the City’s various zoning districts; revise the calculation methodology for minimum/maximum density and net usable site area; integrate required landscaping design with LID stormwater management facilities; require LID best management practices for parking lot design and construction; and make several minor housekeeping changes and corrections. Chapter 16.80, Planned Low Impact Development, is made redundant by adoption of the proposed changes to POMC Titles 12, 15 and 16 in the LID update package, and has been repealed. The Planning Commission held a public hearing on the proposed amendments on December 6, 2016, and recommended approval.

Changes that have been made to the proposed revisions since the City Council study session on the proposed codes include: addition of an interpretation regarding LID in Chapter 16.01.040 (Interpretation); new definitions in Chapter 16.08 (Definitions); and updates to terminology for permit requirements in Chapter 16.20 (Property-specific Designations).

Recommendation: Staff recommends approval of an Ordinance amending POMC Title 16, Land Use Regulatory Code.

Fiscal Impact: N/A

Alternatives: Direct staff to revise the proposed amendments to POMC Title 16.

Attachments: Ordinance, Strikeout/underline of Chapters 16.40, 16.45 and 16.50.

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ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, AMENDING PORT ORCHARD MUNICIPAL CODE TITLE 16 (LAND USE REGULATORY CODE); PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the Washington State Department of Ecology (“Ecology”) administers federal Municipal National Pollutant Discharge Elimination System (“NPDES”) permit requirements in western Washington through its adopted Western Washington Phase II Permit (“Permit”); and

WHEREAS, in 2012, Ecology issued an updated Permit to be effective from August 1, 2013, through July 31, 2018. The updated Permit has built upon the requirements and programs developed under the original Permit and requires jurisdictions, including the City of Port Orchard (“City”), to revise their local development codes, rules, and standards to incorporate and require Low Impact Development (LID) principles and LID Best Management Practices (BMPs) (“LID Updates”), no later than December 31, 2016; and

WHEREAS, the City has prepared amendments to Title 16, Land Use Regulatory Code, of the Port Orchard Municipal Code (“POMC”) to comply with Ecology’s directive; and

WHEREAS, the City has also included several housekeeping items, including minor clarifications and corrections, within Title 16; and

WHEREAS, on November 7, 2016, the City provided required 14-day expedited notice of its intent to amend its development regulations to the Department of Commerce; and

WHEREAS, on November 11, 2016, the City’s SEPA official issued a determination of non-significance for the proposed amendments and there have been no appeals; and

WHEREAS, on December 6, 2016, the Port Orchard Planning Commission held a duly-noticed public hearing on the proposed amendments wherein public testimony was received, the Planning Commission reviewed the proposed amendments to the POMC, and forwarded a recommendation to the city council to approve the proposed amendments as proposed; and

WHEREAS, the proposed amendments to Title 16 of the POMC are consistent with the goals, objectives, and policies of the City’s comprehensive plan; and

WHEREAS, the City Council of the City of Port Orchard, upon review of the facts, findings, and recommendations of the Port Orchard Planning Commission, and after reviewing information provided by City staff, find that all applicable and substantive requirements of the law have been met, that the adoption of this ordinance promotes the public health, safety, and general welfare of the community, and that the adoption of this ordinance serves the public interest.

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. A new subsection 16.01.040(7) is added to the Port Orchard Municipal Code as follows:

16.01.040 Interpretation.

(7) Low Impact Development. No requirement of this title shall be interpreted or applied in such a way as to impose a barrier to Low Impact Development. All requirements of this Title that have an effect on use of Low Impact Development may be met using functionally equivalent Low Impact Development practices as specified in the Stormwater Permit, the Stormwater Manual, or any Low Impact Development general specifications adopted by the City.

SECTION 3. A new section 16.08.335 of the Port Orchard Municipal Code is hereby added as follows:

16.08.335 Hard Surface.

“Hard surface” shall mean an impervious surface, a permeable pavement, or a vegetated roof.

SECTION 4. A new section 16.08.349 of the Port Orchard Municipal Code is hereby added as follows:

16.08.349 Healthy soil.

“Healthy soil” shall mean soil that is of good quality with the capacity to sustain plant, animal, and human life by providing nutrients, air and water space to infiltrate, pollutant absorption and filtering, and habitat.

SECTION 5. Section 16.08.388 of the Port Orchard Municipal Code is hereby amended to read as follows:

16.08.388 Impervious surface.

“Impervious surface” shall mean a non-vegetated hard or compacted surface area which either prevents or retards the entry of water into the soil mantle as it entered under natural conditions preexistent to development, or a non-vegetated hard or compacted surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions preexistent to development. Common impervious surfaces include, but are not limited to, roof tops, concrete or asphalt paving, paved walkways, patios, compacted gravel, driveways, parking lots and storage areas, packed earthen materials, and oiled, macadam, or other surfaces which similarly impede the natural infiltration of surface water.

SECTION 6. A new section 16.08.450.2 of the Port Orchard Municipal Code is hereby added as follows:

16.08.450.2 Low Impact Development (LID).

“Low impact development” shall mean a stormwater and land management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation, and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

SECTION 7. A new section 16.08.450.4 of the Port Orchard Municipal Code is hereby added as follows:

16.08.450.4 Low Impact Development Best Management Practices (BMPs).

“Low impact development best management practices” shall mean distributed stormwater management practices integrated into a project design that emphasize pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation, and transpiration. LID BMPs include, but are not limited to, bioretention, rain gardens, permeable pavements, roof downspout controls, dispersion, soil quality and depth, vegetated roofs, minimum excavation foundations, and water re-use.

SECTION 8. A new section 16.08.450.6 of the Port Orchard Municipal Code is hereby added as follows:

16.08.450.6 Low Impact Development Principles.

“Low impact development principles” shall mean land management strategies that emphasize conservation, use of onsite natural features, and site planning to minimize impervious surfaces, native vegetation loss, and stormwater runoff.

SECTION 9. A new section 16.08.563.5 of the Port Orchard Municipal Code is hereby added as follows:

16.08.563.5 Pervious surface.

“Pervious surface” shall mean a surface material that allows stormwater to infiltrate into the ground. Examples include, but are not limited to, lawn, landscape, pasture, native vegetation area, and permeable pavements.

SECTION 10. A new section 16.08.603 of the Port Orchard Municipal Code is hereby added as follows:

16.08.603 Protected area.

“Protected area” shall mean all land where no construction activity, tree removal, vegetation removal, or soil compaction is allowed and includes the critical root zone of those trees to be preserved.

SECTION 11. A new section 16.08.789 of the Port Orchard Municipal Code is hereby added as follows:

16.08.789 Tree, Vegetation, and Soil Protection Area.

“Tree, Vegetation and Soil Protection Area” shall mean a separate tract of land, which may or may not be deeded as such, specifically set aside for the preservation of healthy soil and the preservation or planting of existing and/or native vegetation and trees. Stormwater retention/detention facilities, critical area buffers and other common areas may be considered TVSPA if they currently or are improved to an extent where they can support healthy soils and the growth of native vegetation and trees. The purpose of these areas for preserving healthy soils, preserving and/or planting native vegetation and trees is stated on the face of the plat when applicable.

SECTION 12. Section 16.08.812 of the Port Orchard Municipal Code (“Vegetation—Native”) is hereby repealed.

SECTION 13. A new section 16.08.349 of the Port Orchard Municipal Code is hereby added to read as follows:

16.08.349 Healthy soil.

“Healthy soil” shall mean soil that is of good quality with the capacity to sustain plant, animal, and human life by providing nutrients, air and water space to infiltrate, pollutant absorption and filtering, and habitat.

SECTION 14. Section 16.08.388 of the Port Orchard Municipal Code is hereby amended to read as follows:

16.08.388 Impervious surface.

“Impervious surface” shall mean a non-vegetated hard or compacted surface area which either prevents or retards the entry of water into the soil mantle as it entered under natural conditions preexistent to development, or a non-vegetated hard or compacted surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions preexistent to development. Common impervious surfaces include, but are not limited to, roof tops, concrete or asphalt paving, paved walkways, patios, compacted gravel, driveways, parking lots and storage areas, packed earthen materials, and oiled, macadam, or other surfaces which similarly impede the natural infiltration of surface water.

SECTION 15. A new section 16.08.450.2 of the Port Orchard Municipal Code is hereby added as follows:

16.08.450.2 Low Impact Development (LID).

“Low impact development” shall mean a stormwater and land management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation, and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

SECTION 16. A new section 16.08.450.4 of the Port Orchard Municipal Code is hereby added as follows:

16.08.450.4 Low Impact Development Best Management Practices (BMPs).

“Low impact development best management practices” shall mean distributed stormwater management practices integrated into a project design that emphasize pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation, and transpiration. LID BMPs include, but are not limited to, bioretention, rain gardens, permeable pavements, roof downspout controls, dispersion, soil quality and depth, vegetated roofs, minimum excavation foundations, and water re-use.

SECTION 17. A new section 16.08.450.6 of the Port Orchard Municipal Code is hereby added as follows:

16.08.450.6 Low Impact Development Principles.

“Low impact development principles” shall mean land management strategies that emphasize conservation, use of onsite natural features, and site planning to minimize impervious surfaces, native vegetation loss, and stormwater runoff.

SECTION 18. A new section 16.08.563.5 of the Port Orchard Municipal Code is hereby added as follows:

16.08.563.5 Pervious surface.

“Pervious surface” shall mean a surface material that allows stormwater to infiltrate into the ground. Examples include, but are not limited to, lawn, landscape, pasture, native vegetation area, and permeable pavements.

SECTION 19. A new section 16.08.603 of the Port Orchard Municipal Code is hereby added as follows:

16.08.603 Protected area.

“Protected area” shall mean all land where no construction activity, tree removal, vegetation removal, or soil compaction is allowed and includes the critical root zone of those trees to be preserved.

SECTION 20. A new section 16.08.789 of the Port Orchard Municipal Code is hereby added as follows:

16.08.789 Tree, Vegetation, and Soil Protection Area.

“Tree, Vegetation and Soil Protection Area” (TVSPA) shall mean a separate tract of land, which may or may not be deeded as such, specifically set aside for the preservation of healthy soil and the preservation or planting of existing and/or native vegetation and trees. Stormwater retention/detention facilities, critical area buffers and other common areas may be considered TVSPA if they currently or are improved to an extent where they can support healthy soils and the growth of native vegetation and trees. The purpose of these areas for preserving healthy soils, preserving and/or planting native vegetation and trees is stated on the face of the plat when applicable.

SECTION 21. Section 16.20.604 of the Port Orchard Municipal Code is hereby amended to read as follows:

16.20.604 TRMT – Project application requirements.

(1) In order to develop property in the TRMT zone, a property owner must obtain, at a minimum, a stormwater drainage permit and a building permit as required by POMC Title 15. A property owner may submit these permit applications separately or concurrently, but a building permit will not be issued prior to approval of the stormwater drainage permit and/or land disturbing activity permit.

SECTION 22. Section 16.20.605 of the Port Orchard Municipal Code is hereby amended to read as follows:

16.20.605 TRMT – Review process.

The permit processing requirements for stormwater drainage permit applications are described in Chapter 15.32 POMC. The permit processing requirements for land disturbing activity permit applications are described in Chapter 15.34 POMC. The permit processing requirements for building permit applications are described in POMC Title 15.

SECTION 23. Chapter 16.40 of the Port Orchard Municipal Code is hereby amended to read as follows:

Chapter 16.40

DEVELOPMENT STANDARDS—DENSITY AND DIMENSIONS

- 16.40.010 Purpose.**
- 16.40.020 Interpretation of table.**
- 16.40.025 Densities and dimensions.**
- 16.40.030 Measurement methods.**
- 16.40.040 Calculations – Net useable site area.**
- 16.40.050 Calculations – Allowable dwelling units.**
- 16.40.060 Density credits.**
- 16.40.070 Lot area – Reduction prohibited.**
- 16.40.080 Setbacks – Modifications.**
- 16.40.090 Setbacks – Regional utility corridors.**
- 16.40.100 Setbacks – Alleys.**
- 16.40.110 Setbacks – Adjoining half-street rights-of-way.**
- 16.40.120 Setbacks – Projections allowed.**
- 16.40.130 Heights – Exceptions to limits.**

16.40.010 Purpose.

The purpose of this chapter is to establish basic dimensional standards for development in relation to residential density, as well as specific rules for general application. These standards and rules are established to provide flexibility in project design, provide solar access, and maintain privacy between adjacent uses.

16.40.020 Interpretation of table.

(1) The table in POMC 16.40.025 contains general density and dimension standards for the various zones within the City, as well as limitations specific to a particular zone(s). Additional rules, exceptions, and methodologies relating to density and dimension are set forth in this chapter.

(2) The densities and dimensions table in POMC 16.40.025 is arranged in a matrix format. Development standards are listed down the left side of the table, and the zones are listed at the top. The matrix cells contain the minimum dimensional requirements of the zone. The parenthetical numbers in the matrix identify specific requirements

applicable to a specific use or zone. A blank box indicates that the standard does not apply in that situation. If more than one standard appears in a cell, each standard will be subject to any applicable parenthetical footnote following the standard. See Table 16.40.025, Densities and Dimensions.

Table 16.40.025 – Densities and Dimensions

ZONES

STANDARD DS	Greenbelt including Conservation and Open Space	Residential – 4.5 Units/Net Useable Acre	Residential – 8.0 Units/Net Useable Acre	Residential – 12.0 Units/Net Useable Acre	Residential – 20.0 Units/Net Useable Acre	Commercial Retail and Office	Business Professional	Mixed Use District	Employment Industrial and Office	Community Facilities
	Gb	R4.5	R8	R12	R20	Co	BP	Mxd	Eo	Cf
Density (dwelling units/gross useable acres)										
Maximum density (22)	0.5	4.5	8.0	12.0	20.0		12.0	30.0 (22)		
Minimum lot size (13)(14)		6,000	5,445	3,630	2,178		3,630			
Minimum setback in feet										
Street right-of- way (1)(11)	30	15	15	15	15	10	10	10	30 (12)	15
Side yard	5	5	5	5	5		5			
Rear yard (9)	10	10	10	10	10		5			
Corner lot rear yard	5	5	5	5	5		5			
From adjacent residential zoning (2)						5	5	5	20	20
From adjacent nonresidential zoning (2)(3)						5	5	5	5	5
Maximum site coverage in percent of net useable acres										

Maximum impervious surface (4)	15%	45%	75%	85%	85%	85%	95%	95%	85%	95%
Landscape area – Softscape (5)	85%	55%	25%	15%	15%	15%	5%	5%	15%	5%
Landscape area – Hardscape (6)						15%	5%	5%	15%	5%
Maximum building height in feet										
Standard maximum allowed (7)	33	33	33	33	33	33	33	33	33	33
Within view protection district (8)(15)	15	15	15	15	15	27	27	27	27	27
Downtown overlay district – North side of Bay Street (16)(18)(21)	27	27	27	27	27	27	27	27	27	27
Downtown overlay district – South side of Bay Street (17)(18)(21)	39	39	39	39	39	39	39	39	39	39
Downtown overlay district gateways – Bethel	39	39	39	39	39	39	39	39	39	39

Avenue (19)(21)										
Downtown overlay district gateways – North side of Bay Street (16)(18)(21)	27	27	27	27	27	27	27	27	27	27
Downtown overlay district gateways – South side of Bay Street (17)(18)(21)	39	39	39	39	39	39	39	39	39	39
Downtown overlay district (20)(21)	27	27	27	27	27	27	27	27	27	27

1. Measured from the existing edge of a street right-of-way. Applies to front yards, corner lots, and through lots.
2. From side or rear site or property boundary line. May be zero feet minimum within the mixed use district in the downtown area as allowed by the International Building Code (IBC).
3. May be zero lot line if structures meet IBC fire code and emergency access.
4. Useable acreage covered by buildings, roads, parking lots, and other built improvements. Mixed use developments within the downtown district may achieve 95 percent site coverage. Mixed use outside of downtown shall be no more than 85 percent site coverage.
5. Softscape may include perimeter buffers, parking lot plantings, and other landscape with soil or other natural surfaces.
6. Hardscape may include patios, plazas, entryways, and other paved or hard surfaced pedestrian/landscaped areas in lieu of softscape. Unless hardscape surfaces are

constructed with permeable materials, the hardscape surface area shall be included in calculating the maximum impervious surface percentage.

7. Building height is measured to the roof drip line at any point around the structure from the lowest point of the finished grade, unless a fire protection plan is approved by both the city development director and the fire authority.

8. View protection districts are established separately by city council resolution. Additional height may be allowed as a conditional use. Refer to POMC 16.40.030 and view protection overlay district standards, POMC 16.20.700 through 16.20.713.

9. Except as defined in POMC 16.40.100.

10. All lot sizes are measured in square feet unless a planned residential development has been approved.

11. If required parking is served by an alley, residential street setbacks may be reduced to 10 feet. Ten-foot front yard setback also applies to residential flag lots measured from the property line closest to the main entrance to the residence.

12. For every 10 feet of building height over 33 feet, an additional 10 feet of street setback shall be provided.

13. Plats recorded prior to 1910 as identified in the appendix are exempt from the minimum required lot size. Instead, minimum lot size shall be 5,000 square feet or any single lot of record in separate ownership on August 28, 1972.

14. See small lot development standards.

15. For purposes of the view protection overlay district, building height shall be measured to the mid-line of the roof from the elevation of the uphill property line.

16. Maximum building height may be increased from 27 feet up to a maximum of 39 feet through conditional use permit approval.

17. Maximum building height may be increased from 39 feet up to a maximum of 55 feet through conditional use permit approval.

18. For the purposes of those lots abutting Bay Street within the downtown overlay district, building height shall be measured from the existing Bay Street elevation.

19. Maximum building height may be increased from 39 feet up to a maximum of 55 feet through conditional use permit approval. Building height shall be measured from the existing elevation of Bethel Avenue at the parcel's frontage.

20. Maximum building height may be increased from 27 feet up to a maximum of 39 feet through conditional use permit approval. Building height shall be measured from the uphill elevation of either the existing or finished grade, whichever is lower, at the foundation or slab. Average uphill elevation shall be used if not level.

21. Building height shall be measured to the highest point of the structure or any appurtenance of the structure.

22. The maximum density allowed in the mixed use zone within the central downtown overlay district shall be 48 units per acre.

16.40.030 Measurement methods.

The following provisions shall be used to determine compliance with this chapter:

- (1) Street setbacks shall be measured from the existing edge of public rights-of-way, improved or unimproved.

- (2) Structure height shall be measured from the uphill elevation of the finished grade at the slab or foundation, whichever is lower, to the highest point on the structure roof. If the uphill elevation is not level, then the average uphill elevation shall be the measurement basis.

- (3) Lot area shall be the total horizontal land area contained within the boundaries of a lot.

- (4) Impervious surface calculations shall not include areas of turf, softscape landscaping, natural vegetation, or surface water retention/detention facilities.

16.40.035 Calculations—Minimum and maximum density.

- (1) The minimum density shall be calculated by multiplying the development's subject site net useable site area, as calculated pursuant to POMC 16.40.040, by the minimum number of dwelling units required in the applicable zoning district.

- (2) The maximum density shall be calculated by multiplying the development's subject site net useable site area, as calculated pursuant to POMC 16.40.040, by the maximum number of dwelling units allowed in the applicable zoning district.

- (3) The units associated with assisted living, congregate care, nursing home, residential care facilities and the like, that rely on shared cooking/dining facilities, will not be counted for purposes of the minimum/maximum density calculation. Independent dwelling units (i.e., containing a bed, bathroom, and a kitchen with a sink, stove, and refrigerator) in such group living residential uses, however, shall be counted as individual dwelling units in the density calculation. The density for non-independent dwelling units shall not be transferred to another portion of the development.

16.40.040 Calculations – Net useable site area.

The net useable site area is the development subject site’s total (gross) site area minus areas for public rights-of-way, private road easements, designated critical areas and buffer protection, and stormwater management facilities; but not including parks and public or private recreation facilities dedicated or created as an integral part of the development.

16.40.050 Calculations – Allowable dwelling units.

Permitted number of units shall be determined as follows:

(1) The maximum allowed number of dwelling units shall be computed by multiplying the net useable site area by the applicable residential density.

(2) When calculations result in a fraction, the fraction shall be rounded to the nearest whole number as follows:

(a) Fractions of 0.50 or above shall be rounded up; and

(b) Fractions below 0.50 shall be rounded down.

16.40.060 Density credits.

Critical areas and their buffers may be used in the calculation of allowed residential density whenever two or more residential lots or two or more multifamily dwelling units are created subject to the following limitations:

(1) Full density credit shall be allowed for erosion and seismic hazard areas. Flood hazard areas outside of streams, wetlands, or associated buffers shall be counted for full density credit.

(2) No density credit shall be allowed for streams, lakes, ponds, and other bodies of water.

(3) Partial to full density credit shall be allowed for steep slopes, landslide hazard areas, wetlands, and required buffers for any critical area according to the following table:

Percent of Site in Buffers and/or Critical Areas (percent)	Density Credit (percent)
1 – 10	100

Percent of Site in Buffers and/or Critical Areas (percent)	Density Credit (percent)
11 – 20	90
21 – 30	80
31 – 40	70
41 – 50	60
51 – 60	50
61 – 70	40
71 – 80	30
81 – 90	20
91 – 99	10

(4) Allowed density on sites containing critical areas shall be calculated as follows:

(a) Determine the percentage of site area in critical areas and buffers by dividing the total area in required critical areas and buffers by the total site area.

(b) Multiply the density credit percentage set forth in subsection (1) of this section by the site area in critical areas and buffers to determine the effective critical area.

(c) Add the effective critical area to the site area not in critical areas or buffers. The resulting acres shall be considered the effective site area for purposes of determining the allowable dwelling units pursuant to the zoning regulations.

(d) By way of example, the density credit provisions apply as follows for a 10-acre site under the R8 zone:

(i) The square feet in the site is 435,600 of which ponds include 45,000 square feet, steep slopes include 82,000 square feet, and required wetland buffers include 60,000 square feet.

(ii) Divide the total amount of critical areas and buffers (187,000 square feet) by the total site (435,600 square feet) equal to 42.9 percent.

(iii) Apply the density credit from the chart (equal to a 60 percent density credit where the amount of site in a critical area is between 41 and 50 percent).

(iv) Multiply the steep slopes and required buffers only (142,000 square feet since no credit is received for ponds) by the density credit of 60 percent equal to 85,200 square feet.

(v) Add the unconstrained site area (248,600 square feet) plus the critical area density credit (85,200 square feet) to create the effective site area for density calculations (333,800 square feet).

(vi) Divide the total effective site area by 43,560 square feet to determine acreage (333,800 square feet/43,560 square feet/acre equals 7.6 acres) and multiply by the density allowed in the R8 zone (7.6 acres multiplied by eight dwelling units/acre) equals 60.8 which is rounded up to 61 dwelling units maximum (note that the maximum density may be reduced by other provisions of this code).

(5) The density transfer can be utilized only within the development proposal site. The applicant may cluster and configure the site's development to accommodate the transfer of density but cannot change the type of uses or housing products allowed within the zone proper.

16.40.070 Lot area – Reduction prohibited.

Any portion of a lot that was required to calculate and ensure compliance with the standards and regulations of this chapter shall not be subsequently subdivided or segregated from such lot.

16.40.080 Setbacks – Modifications.

The following setback modifications are permitted:

(1) When the common property line of two lots is covered by a building(s), the setbacks required by this chapter shall not apply along the common property lines.

(2) When a lot is located between lots with structures having nonconforming street setbacks, the required street setback for such middle lot may be the average of the two nonconforming setbacks or 60 percent of the required street setback, whichever results in the greater street setback.

16.40.090 Setbacks – Regional utility corridors.

(1) In subdivisions and short subdivisions, areas used as regional utility corridors as identified in this code shall be contained in separate tracts.

(2) In other types of land development permits, easements shall be used to delineate such corridors.

(3) All buildings shall maintain a minimum distance of five feet from property or easement lines delineating the boundary of regional utility corridors, except for utility structures necessary to the operation of the utility corridor and/or as required by the Department of Health.

16.40.100 Setbacks – Alleys.

(1) Structures may be built no closer than 15 feet from the center line of an abutting alley.

(2) Vehicle access points from garages, carports or fenced parking areas shall be set back a minimum of 10 feet from the alley property line to provide a driving surface.

16.40.110 Setbacks – Adjoining half-street rights-of-way.

In addition to providing the standard street setback, a lot adjoining a half-street right-of-way or designated arterial shall provide an additional width of street setback sufficient to accommodate construction of the future planned right-of-way.

16.40.120 Setbacks – Projections allowed.

Projections complying with the adopted International Building Code may extend into the required setbacks as follows:

(1) On ground and upper floor uses in all districts and on upper floor uses only in the mixed use district (Mxd) in the downtown area – fireplace structures, bay or garden windows, enclosed stair landings, closets, or similar structures may project into any setback, provided such projections are:

(a) Limited to two per facade;

(b) Not wider than seven feet; and

(c) Not more than 24 inches into an interior setback or 24 inches into a street setback.

(2) Uncovered porches and decks which exceed 18 inches above the finished grade may project:

- (a) Twenty-four inches into interior setbacks; and
- (b) Six feet into the street setback except where the allowable setback is zero feet as in the mixed use district within the downtown area.

(3) Uncovered porches and decks not exceeding 18 inches above the finished grade may project to the property line.

(4) Roof eaves, including any part of a roof structure whether unsupported or supported by diagonal bracing to the building, must be more than seven feet above finished grade and may not project more than:

(a) Twenty-four inches into an interior setback including within a zero lot line development; or

(b) Twenty-four inches into a street setback except where the allowable setback is zero feet as in the mixed use district within the downtown area.

(5) Fences with a height of six feet or less may project into any setback; provided, that the sight distance requirements are maintained along street corridors.

16.40.130 Heights – Exceptions to limits.

The following structures may be erected above the height limits:

(1) Roof structures housing or screening the following: elevators, fire access stairways, tanks, ventilating fans, fire or parapet walls, skylights, or similar equipment required for building operation and maintenance; and

(2) Flagpoles, chimneys, smokestacks, church steeples, clock towers, communication transmission structures, utility line towers and poles, and similar structures.

SECTION 24. Chapter 16.45 of the Port Orchard Municipal Code is hereby amended to read as follows:

Chapter 16.45

DEVELOPMENT STANDARDS—PARKING AND CIRCULATION

16.45.100 Off-street parking design standards.

(1) The most distant parking space shall not be located more than 500 feet away from the nearest building entrance it is required to serve. Where the off-street parking areas do not abut the buildings they serve, the required maximum distance shall be measured from the nearest building entrance that the parking area serves:

(a) For all nonresidential uses permitted in residential zones, the parking spaces shall be located on the same lot they are required to serve and at least a portion of parking areas shall be located within 150 feet from the nearest building entrance they are required to serve.

(b) For all uses permitted within downtown mixed use district (Mxd), the parking spaces may be located on consolidated off-site parking lots distributed at accessible locations about the downtown district.

(2) Minimum parking space and aisle dimensions shall be determined by the planning director. Regardless of the parking angle, one-way aisles shall be at least 10 feet wide, and two-way aisles shall be at least 20 feet wide. Parking plans for angle parking shall use space widths no less than eight feet, six inches for a standard parking space design and eight feet for a compact car parking space design.

(3) Any parking spaces abutting a landscaped area on the driver or passenger side of the vehicle shall provide an additional 18 inches above the minimum space width requirement to provide a place to step other than in the landscaped area. The additional width shall be separated from the adjacent parking space by a parking space division stripe. The parking space depth may be reduced when vehicles overhang a walkway under the following conditions:

(a) Wheelstops or curbs are installed.

(b) The remaining walkway provides a minimum of 60 inches of unimpeded passageway for pedestrians.

(4) The amount of space depth reduction is limited to a maximum of 18 inches.

(5) Ingress and egress between off-street parking areas and abutting streets shall be designed, located, and constructed in accordance with Port Orchard street standards.

(6) Lighting of off-street parking areas shall be provided for safety of traffic and pedestrian circulation on the site, as specified in the International Building Code. Lighting shall be designed to minimize direct illumination of abutting properties and adjacent streets. The planning director shall have the authority to waive the requirement to provide lighting.

(7) Tandem or end-to-end parking is allowed in single-family detached residential developments. Driveways crossing required setback areas may be used for parking when serving single-family detached dwellings but shall not be considered for purposes of calculating required parking. Attached single-family and multifamily developments may have tandem parking areas for each dwelling unit but shall not combine parking for separate dwelling units in tandem parking areas.

(8) All required vehicle parking must be on a paved surface.

(9) LID best management practices (BMPs) shall be used for all parking lot design and construction, unless site and soil conditions make LID infeasible as determined by the City. LID BMPs for parking lot design and construction include, but are not limited to:

a. Pervious surfacing;

b. Integrating stormwater management facilities, such as bioretention swales, with required parking lot landscaping; and

c. Using native species in the landscape design.

d. LID BMPs shall be designed and constructed in accordance with the LID Technical Guidance Manual for Puget Sound (current edition).

SECTION 25. Chapter 16.50 of the Port Orchard Municipal Code is hereby amended to read as follows:

**Chapter 16.50
DEVELOPMENT STANDARDS—LANDSCAPING**

16.50.010 Purpose.

16.50.020 Applicability.

16.50.030 Exempt areas.

16.50.032 Landscape materials.

- 16.50.035 Integration with LID stormwater management facilities.**
- 16.50.040 General landscape requirements.**
- 16.50.050 Alternative landscape options.**
- 16.50.060 Irrigation.**
- 16.50.070 Landscape installation – Timing.**
- 16.50.080 Urban streetscape/pedestrian boardwalk corridors.**
- 16.50.090 Roadway corridors and street frontages.**
- 16.50.100 Buffers and urban buffers.**
- 16.50.110 Walkway and trail corridors.**
- 16.50.120 Greenways.**
- 16.50.130 Street trees.**
- 16.50.140 Buildings and yards.**
- 16.50.150 Screening.**
- 16.50.160 Parking lots.**
- 16.50.180 Significant tree retention.**
- 16.50.190 Significant tree retention plan.**
- 16.50.200 Incentives for retaining significant trees.**
- 16.50.210 Protecting significant trees.**
- 16.50.220 Replacement of significant trees.**
- 16.50.230 Tremont Street corridor overlay district landscape standards (TRMT).**
- 16.50.231 TRMT landscape standards – Generally.**
- 16.50.232 TRMT landscape as buffering.**
- 16.50.234 TRMT landscape area ratio.**
- 16.50.236 TRMT landscape irrigation.**
- 16.50.237 TRMT landscape maintenance.**
- 16.50.238 TRMT landscape sizes.**
- 16.50.239 TRMT landscape spacing.**
- 16.50.240 Downtown overlay district landscape standards (DOD).**
- 16.50.290 Maintenance.**
- 16.50.295 Bonds and security.**
- 16.50.296 Landscape design requirements.**
- 16.50.297 Suggested landscape materials.**

16.50.010 Purpose.

(1) The purpose of this chapter is to preserve the aesthetic character of the community, improve the aesthetic quality of the built environment, promote retention and protection of existing native vegetation, reduce the impacts of

development on storm drainage systems and natural habitats, and increase privacy for residential zones.

(2) These goals are established through standards that:

(a) Provide visual relief from large expanses of parking areas and reduce perceived building scale;

(b) Provide physical separation between residential and nonresidential areas;

(c) Provide visual screens and barriers as a transition between differing land uses;

(d) Retain existing vegetation and significant trees by incorporating them into the site design;

(e) Promote the use of native and drought-tolerant plant materials; and

(f) Provide areas of permeable surface to allow for infiltration of surface water into groundwater resources, reduce the quantity of stormwater discharge, and improve the quality of stormwater discharge.

16.50.020 Applicability.

(1) All development shall be subject to the landscaping provisions and requirements of this chapter; provided, that specific landscaping and tree retention provisions for uses established through a subdivision, short subdivisions, binding site plan, or conditional use permit application shall be determined during the application review process.

(2) Landscaping standards referenced in POMC 16.50.230 through 16.50.239 shall be applicable within the Tremont Street corridor overlay district (TRMT).

(3) Landscaping standards referenced in POMC 16.50.240 shall be applicable within the Downtown overlay district (DOD).

16.50.030 Exempt areas.

Development along both sides of Bay Street from the crosswalk at Harrison Avenue to Orchard Avenue is exempt from the landscaping requirements of this chapter.

16.50.032 Landscape materials.

Recommended species/variations of suitable landscape plants are shown in Table 16.50.297, Suggested Landscape Materials. An applicant may select from the suggested list or propose other alternative planting materials based on the objectives for the landscape zones outlined in this chapter. All proposed landscape plantings within these zones shall be reviewed and approved by the Director or his or her designee.

16.50.035 Integration with LID stormwater management facilities.

The required landscape design requirements in this chapter may be integrated with LID stormwater management facilities and BMPs unless site and soil conditions make LID infeasible, subject to the approval of the Director and Public Works Department. LID facilities shall not compromise the purpose or intent of required landscaping and landscaping shall not result in the disruption of the LID facilities' functions. LID facilities shall be designed and constructed in accordance with the LID Technical Guidance Manual for Puget Sound (current edition).

16.50.040 General landscape requirements.

Landscape designs shall conform to the following provisions:

- (1) New landscaping materials shall include native or ornamental species that have adapted to the climatic conditions of the coastal region of the Pacific Northwest. Required minimums are indicated in Table 16.50.296, Landscape Design Requirements.
- (2) New landscape materials shall include drought-tolerant species, except where site conditions within the required landscape areas assure adequate moisture for growth.
- (3) Existing vegetation may be used to augment new plantings to meet the standards of this chapter.

(4) Trees shall have a caliper of the dimensions shown in Table 16.50.296, Landscape Design Requirements, measured four feet above ground level at the time of planting. The caliper may be averaged, but no individual tree shall have a caliper of less than 75 percent of the requirement.

(5) When the width of any landscape strip is 20 feet or greater, the required trees shall be staggered in two or more rows.

(6) Shrubs shall be at least one gallon in size and of the minimum inches in height at the time of planting shown in Table 16.50.296, Landscape Design Requirements.

(7) Ground covers shall be planted and spaced to result in total coverage of the required landscape area within the number of years indicated in Table 16.50.296, by using four-inch pots at 18 inches on center, or one gallon or greater sized containers at 30 inches on center.

(8) Grass may be used as a ground cover only in urban buffer parking lots or filtered areas; provided, that the grass area constitutes no more than 30 percent of such landscape areas.

(9) Grass and ground cover areas shall contain at least two inches of composted organic material at finish grade. Existing soils shall be augmented with a two-inch layer of fully composted organic material rototilled a minimum of six inches in depth.

(10) Berms should not exceed a slope of two horizontal feet to one vertical foot (2:1), unless there are extenuating circumstances.

(11) Landscape areas shall be covered with two to three inches of mulch. Mulch shall consist of materials such as yard waste, sawdust, and/or manure that is fully composted.

(12) Required street landscaping may be placed within Port Orchard street rights-of-way subject to the Port Orchard road design standards and with the permission of the city engineer.

16.50.050 Alternative landscape options.

The following alternative landscape options may be permitted only if they accomplish equal or better levels of screening and are subject to the review and approval of the planning director:

- (1) Total required landscape and tree retention area will not exceed 15 percent of site area.
- (2) The width of the perimeter buffer landscape strip may be reduced up to 25 percent along any portion where berms at least three feet in height or architectural barriers at least six feet in height are incorporated into the landscape design, or the landscape materials are incorporated elsewhere on-site.
- (3) Perimeter landscaping may be reduced up to 25 percent when a development retains an additional 10 percent of the existing significant trees or 10 significant trees per acre on-site (above the requirements for tree retention defined within this chapter), whichever is greater.
- (4) The landscaping requirement may be modified when existing conditions on or adjacent to the site, such as significant topographic differences, vegetation, structures or utilities would render application of this chapter ineffective or result in scenic view obstruction.
- (5) Within the mixed use district (Mxd) areas subject to a requirement for an urban streetscape/pedestrian boardwalk design, roadway corridor buffering is waived provided the applicant complies with the requirements for street trees, pedestrian pavings, furnishings, and other amenities.
- (6) When an existing structure precludes installation of the total amount of required site perimeter landscaping, such landscaping material shall be incorporated on another portion of the site.
- (7) Creative designs using groupings of trees may be utilized.

16.50.060 Irrigation.

- (1) Except for areas of undisturbed existing vegetation or low areas with existing high soil moisture conditions, landscape areas shall have temporary irrigation

systems. Such systems may be removed after 24 months or two growing seasons, whichever occurs first; provided, that the plantings are established.

(2) Areas of undisturbed existing vegetation, or areas where existing site conditions assure adequate soil moisture for growth within the required landscape area, shall have temporary irrigation systems only as required to sustain new plantings and shall be determined on a case-by-case basis by the planning director.

(3) Areas of undisturbed existing vegetation, low areas with existing high soil moisture conditions, or landscape areas consisting of drought-tolerant vegetation may not require permanent irrigation systems. Permanent irrigation systems may be permitted within all other required landscape areas, provided such systems shall be designed with:

(a) Moisture or precipitation sensors;

(b) Automatic timers set for operation during periods of minimum evaporation and that assure adequate moisture levels;

(c) Head-to-head spacing, if sprinkler heads are proposed;

(d) Backflow prevention devices; and

(e) Separate irrigation zones for turf and planting beds, and other nondrought-tolerant species.

16.50.070 Landscape installation – Timing.

Landscaping shall be installed no later than five months after issuance of a temporary certificate of occupancy for the project or project phase. The time limit for compliance may be extended to allow landscape installation during the next appropriate planting season.

16.50.080 Urban streetscape/pedestrian boardwalk corridors.

(1) Urban streetscape and pedestrian boardwalk corridors are the public right-of-way spaces to be improved for pedestrian walking, shopping, eating, and similar activities in front of retail stores and mixed use structures. The urban

streetscape/pedestrian boardwalk corridors shall be as defined in the design overlay districts in this code.

- (2) Urban streetscape/pedestrian boardwalk areas shall be landscaped to provide and maintain a design theme that may emphasize a selection of street trees, lighting standards, directional signage, furnishings, pavings, landscape materials, or other major components to be specified within the design overlay districts.

16.50.090 Roadway corridors and street frontages.

Roadway corridors and street frontages shall be landscaped based on the different pedestrian and/or vehicle emphasis to be provided in accordance with the following categories of design and functional treatment. These zones and corridors shall be planted with street trees suitable for a mixed motor vehicle, bicycle, and pedestrian environment.

(1) Commercial Street Corridors. These corridors are the public rights-of-way and the setbacks required within and around roadways and parking lots in the commercial (Co), mixed use (Mxd), employment (Eo), and community facilities (Cf) zones. The setback from the street right-of-way shall be landscaped to provide “see-through vegetation” that functions as a partial visual separator to soften the appearance of parking areas and building elevations.

(2) Residential Street Corridors. These corridors are the public rights-of-way and the setbacks required within and around collector and arterial roadways and parking lots in all residential zones (R4.5 through R20). These zones shall be landscaped to provide a “filtered screen vegetation” that functions as a visual separator between the street, parking areas, and residential activities.

(3) Parkway Road Corridors. These corridors are the public rights-of-way and the setbacks required along major roadway entries into the community as defined on comprehensive plan maps. These parkway road corridors shall be landscaped to provide a “filtered to view blocking vegetation” using natural materials that provide continuity with adjacent greenway landscapes.

(4) Sight Distance. All physical obstructions, except utility poles and traffic control signs, shall be maintained in a manner that provides for adequate sight distances at street intersections as described below:

(a) A sight distance triangle area as described in subsection (4)(b) of this section shall not contain fencing, berms, vegetation, on-site vehicle parking areas, signs and other physical obstructions between 36 inches and eight feet above the existing street grade.

(b) The sight distance triangle at:

(i) A street intersection shall be determined by measuring 15 feet along both the right-of-way property lines beginning at their point of intersection. The third side of the triangle shall be a line connecting the endpoints of the first two sides of the triangle; or

(ii) A site access point shall be determined by measuring 15 feet along the street lines and 15 feet along the edges of the driveway beginning at the respective points of intersection. The third side of each triangle shall be a line connecting the endpoints of the first two sides of each triangle; and

(iii) Any intersection where the posted speed limit exceeds 25 miles per hour, the site distance triangle shall be determined by the table below or the city engineer.

Posted Speed Limit	Design Speed	Minimum Distance for Sight from Center of Intersection
25	30	200 feet
30	35	250 feet
35	40	325 feet
40	45	400 feet
45	50	475 feet
50	55	550 feet
55	60	650 feet

The city engineer may require further restrictions.

(c) If a property owner receives written notice from the city that there is a violation of the above requirements and does not comply to the written notice

within the specified time, then such property owner shall be guilty of a civil penalty. In addition to this, the city engineer or his/her designee may prune the trees or take other appropriate action, charge the owner for the cost of the work, record the charges as a lien against the property and collect this amount in a civil action against the property owner. The city shall be entitled to recover its costs and attorney's fees in such action.

16.50.100 Buffers and urban buffers.

(1) Perimeter landscaping along interior lot lines and between zones shall be as provided within Table 16.50.296, Landscape Design Requirements. Perimeter landscaping may be modified where appropriate by the planning director to account for aboveground subregional utility developments and distribution or transmission corridors or other utilities and infrastructure.

(2) Urban buffers shall be landscaped based on the extent to which the activity is to be screened from adjacent uses in accordance with the categories identified below. However, common standards applied to all buffer areas include:

(a) Within the landscape buffer areas about the property, particularly along secondary access roads and around parking lots that do not abut the public pedestrian walkway or trail corridors, site plantings should be grouped to simulate natural stands and should not be planted symmetrically or of even spacing.

(b) Landscape designs should reflect natural planting materials and settings that are representative of the local and regional landscape.

(c) Where practical and feasible, buffer areas should retain existing larger trees and vegetation to maintain continuity with adjacent greenways and natural areas.

(d) Within higher density residential developments, buffers or open spaces may be grouped into common open space areas that define building placements, provide visual accents, preserve landscape or landform features, or house common activity areas.

(3) Urban Buffers with Filtered Screening. Urban buffers to be filter screened are the perimeter landscape areas provided between nonresidential land uses within

the commercial (Co), mixed use (Mxd), employment (Eo), and community facilities (Cf) zones. These buffers shall function as a visual separator between uses within these zones. The plant materials and design may mix evergreen and deciduous trees and shrubs to create a filtered screen effect.

(4) Urban Buffers with Full Screening. Urban buffers to be fully screened are the perimeter landscape areas provided between residential and nonresidential zones. These buffers shall function as a visual barrier to obscure views of incompatible activities and improvements. The plant materials and design may include a mix of primarily evergreen trees and shrubs to form an effective full screen effect.

16.50.110 Walkway and trail corridors.

Landscaping along the public walkway or trail corridor may utilize the street trees and plant materials palette selected for the public walkway or trail corridor. Improvements within the adjoining private spaces, such as outdoor eating areas, plazas, and the like, should incorporate or continue the same plantings in order to enhance the definition of the corridor.

16.50.120 Greenways.

Greenways shall be maintained, enhanced, and replanted, where appropriate, based on the type of habitat to be conserved in accordance with the following categories:

(1) Greenways of Upland Habitat.

(a) Upland greenways are the sensitive environmental areas located on steep, eroding, or geologically hazardous slopes as defined within this code and within the comprehensive plan.

(b) The landscape within this zone shall be maintained or enhanced with native materials that provide habitat and cover for upland wildlife species.

(2) Greenways of Wetland and Stream Habitat.

(a) Wetland greenways are the sensitive environmental areas located on impermeable or slowly draining soils, wetlands and other freshwater bodies, and the required buffer areas adjacent to wetlands and streams as defined within this code and within the comprehensive plan.

(b) The landscape within this zone shall be maintained or enhanced with native materials that provide habitat and cover for wetland wildlife species.

(3) Shorelines.

(a) Shorelines are the sensitive environmental areas and buffer zones located along the fresh and saltwater shores and banks as defined within this code and within the comprehensive plan.

(b) The landscape within this zone shall be maintained or enhanced with native materials that provide habitat for marine and estuarine wildlife species.

16.50.130 Street trees.

(1) Street trees shall be planted along roadways and street frontages as indicated within the accompanying Table 16.50.296 on landscape design requirements. Tree spacing shall consider the mature height and spread of the tree species.

(2) Street tree species, where not designated in accordance with a design overlay district's requirements, may be selected from the suggested landscape materials list, Table 16.50.297, and shall be subject to the review and approval of the planning director.

(3) The trees may be located within the street right-of-way subject to the review and approval of the city engineer and accounting for any possible future street widening or improvements.

(4) Street trees within the public right-of-way shall be maintained according to the standards established by the planning director.

(5) Street trees may be spaced at irregular intervals where necessary to accommodate sight distance requirements for driveways, intersections, street lights, and signage.

16.50.140 Buildings and yards.

(1) The landscape design should highlight and focus views of the building frontages and entries, particularly retail window displays, pedestrian areas, and

amenities. The design should create a special or individual character of the private portions of each property and building.

(2) Vines may be planted on buildings, fences, walls and other blank surfaces, particularly structures faced with brick and masonry or that are enhanced with trellis overhangs.

(3) Moveable planters with seasonal plantings should be placed at building entries, particularly within alcoves and inner courtyards.

(4) All plantings, particularly ornamentals, should be provided irrigation or other watering methods to ensure plant survival.

16.50.150 Screening.

Landscape, fence or other improvements should be erected to visually screen refuse, storage, loading docks, and other areas that are not to be accessible or viewed from public walkways, corridors, and roadways. Latches and other devices should be used to secure refuse and storage areas from animals and children.

16.50.160 Parking lots.

(1) Landscaping within parking lots that are shared or used in common by residential developments, and within all nonresidential parking areas and lots, shall be as provided within the accompanying Table 16.50.296, Landscape Design Requirements.

(2) The maximum distance between any parking stall and required parking area landscaping shall be no more than every 13 stalls.

(3) Permanent curbs or structural barriers shall be provided to protect the plantings from vehicle overhang.

(4) Urban parking areas shall be landscaped to provide shade and visual relief while maintaining clear sight lines within parking and access areas. Shrubs will not exceed a height of three feet around parking lot entries, access aisles, and other vehicle maneuvering areas in order not to visually block views among vehicles and pedestrians.

(5) The plant materials and landscape design may mix evergreen and deciduous trees to create a continuous canopy.

(6) Plantings may be contained in planting islands or strips having an area of at least 75 square feet with a narrow dimension of not less than four feet that is unobstructed by vehicle overhang.

(7) Shade trees and ground covers should be installed in parking medians and/or landscape set-asides in parking areas and lots to soften the visual impact, reduce glare, and provide visual interest.

16.50.180 Significant tree retention.

Significant trees should be retained in all zones as follows:

(1) Removal of any significant tree with a DBH (diameter at breast height) of 36 inches or greater shall require city council approval upon the following standards:

(a) The proposed use cannot reasonably accommodate the retention of the significant tree.

(b) The significant tree shall be replaced in accordance with POMC 16.50.220.

(c) All significant trees located within any required buffer area or required landscape planting area should be retained to the extent practical and feasible.

(d) Tree retention adjacent to critical areas is desirable.

(e) Utility developments including roadways may be exempt from the significant tree retention requirements of this chapter.

(f) If significant trees were previously located in a closed, forested situation, an adequate buffer of smaller trees shall be retained or replaced on the fringe of such significant trees.

(g) A grouping of three or more existing healthy trees with canopies that touch or overlap may be substituted for each required significant tree, provided each

tree has a diameter of at least three inches when measured four feet above grade.

(2) Except as provided in subsection (3) of this section, significant trees to be retained shall not include significant trees that are identified by a licensed arborist as damaged or diseased or a safety hazard due to potential root, trunk or primary limb failure, or exposure of mature trees which have grown in a closed, forested situation.

(3) At the discretion of the planning director, damaged or diseased or standing dead trees may be retained and counted toward the significant tree requirement if demonstrated that such a tree will provide important wildlife habitat and is not classified as a danger tree.

16.50.190 Significant tree retention plan.

The applicant shall submit a tree retention plan concurrent with a land disturbing activity permit, building permit or preliminary subdivision application, whichever is reviewed and approved first. The tree retention plan shall consist of:

(1) Tree survey that identifies the location, size, and species of individual significant trees or the perimeter of stands of trees on a site. For forested sites, the tree survey may use a standard timber cruising method to reflect general locations, numbers, and groupings of significant trees. For detailed site plans and land disturbing activity applications, the tree survey may be conducted by a method that locates individual significant trees near edges of tree protection areas.

2) The tree retention plan identifying the significant trees that are proposed to be retained should show the locations of tree protection fence that protects the critical root zones of the trees.

16.50.200 Incentives for retaining significant trees.

Each significant tree that is located outside of the area for perimeter buffer landscaping and is retained may be credited in a ratio up to two trees for complying with the retention requirements of this chapter.

16.50.210 Protecting significant trees.

To provide the best protection for significant trees:

- (1) No clearing shall be allowed on a site until approval of tree retention and landscape plans.
- (2) The root protection zone is equal to one foot radius for every one inch of tree DBH unless individual tree evaluation by a certified arborist recommends modification to the guidelines. It shall be identified prior to construction with a temporary five-foot-high chain-link or orange mesh fence.
- (3) No impervious surfaces, fill, excavation, or storage of construction materials shall be permitted within the root protection zone.
- (4) Alternative protection methods may be used if determined by the planning director to provide equal or greater tree protection.

16.50.220 Replacement of significant trees.

When the required number of significant trees cannot be retained, significant trees that are removed shall be replaced with:

- (1) New trees measuring 2.5-inch caliper and six feet in height, at a replacement rate of three trees for each significant tree removed.
- (2) If the site does not allow for planting all replacement trees, trees can be planted on another site approved by the planning director.

16.50.230 Tremont Street corridor overlay district landscape standards (TRMT).

The general landscape standards set forth in this chapter shall apply unless a more restrictive provision is set forth in the TRMT specific landscape standards set forth in POMC 16.50.231 through 16.50.239.

16.50.231 TRMT landscape standards – Generally.

The following guidelines are to be addressed in all landscape plans in the Tremont overlay:

(1) Significant trees shall be preserved where possible (some may be moved and transplanted). Removal of any significant tree requires pre-approval from the planning director.

(2) Emphasize use of varieties which require low maintenance and drought-tolerant species in public and commercial areas and in large landscape areas.

(3) A minimum of 25 percent of the site shall be landscaped. Required landscaping within parking areas may not be counted as contributing to this requirement. However, landscaping for and within setback areas may be counted toward meeting the 25 percent requirement. A minimum five-foot landscaped area shall be installed around all parking lots.

16.50.232 TRMT landscape as buffering.

Buffering between noncompatible land uses is considered critical in maintaining the existing character of Tremont Street. The following standards are to be used in designing a landscape buffer:

(1) Landscape buffers, in conjunction with decorative fencing, is the preferred method to screen adjacent land uses.

(2) Evergreen trees having minimum size of 15 gallons shall be planted and staked at least 20 feet on center, depending upon the species, or clustered in equal amounts to screen parking or architecture.

3) A six-foot-high wall may be placed on or just inside the property line. A ten-foot landscape strip area will be provided on the inside of the wall. The wall should be lowered to three feet within the front setback area.

16.50.234 TRMT landscape area ratio.

A minimum of one 15-gallon size tree (25 feet or higher at maturity) for every 625 square feet of landscaping, and one shrub or vine for every 50 square feet of landscaping are required; at least 25 percent of shrubs shall be of a flowering variety.

16.50.236 TRMT landscape irrigation.

Automatic sprinkler or drip irrigation systems for all commercial or multifamily projects shall be provided.

16.50.237 TRMT landscape maintenance.

All plantings shall be kept healthy and growing with all planting areas free of weeds and debris. Each project will have a bond recorded insuring planting materials will be well maintained; such bond shall remain in place for one year after project completion.

16.50.238 TRMT landscape sizes.

(1) Trees shall be a minimum of one gallon size and be at least eight feet at time of planting. Shrubs shall be a minimum of one gallon size at time of planting. All deciduous trees shall be double staked and properly fertilized upon planting. Give consideration for rapidly growing trees.

(2) The ground cover shall be healthy, densely foliated, and consist of one-gallon container plants. Herbaceous and flat ground covers shall be planted no more than 12 inches on center. Woody shrub ground cover shall be planted no more than four feet on center (e.g., evergreens, junipers).

16.50.239 TRMT landscape spacing.

Spacing of trees and shrubs shall be appropriate for each individual species and growing characteristics. Plant materials shall conform to the following spacing standards:

(1) A minimum of 25 feet from the property corner at a street intersection to the center of the first tree or large shrubs. Shrubs less than three feet in height are allowed within this clear sight triangle.

(2) A minimum of 15 feet between center of trees or large shrubs and fire hydrants.

(3) A minimum of 10 feet between center of trees or large shrubs and edge of driveway.

16.50.240 Downtown overlay district landscape standards (DOD).

The general landscape standards set forth in this chapter shall apply to all development in the DOD unless a more restrictive provision is set forth in this section, and then this section shall control.

(1) New development and existing uses along both sides of Bay Street between Bank Street and Seattle Avenue shall be exempt from the landscaping requirements of the zoning ordinance and these regulations.

(2) New development that is adjacent to the water shall provide landscaping on the waterside facade as well as on the street frontage.

(3) New development on waterfront lots that abut the north side of Bay Street between Bank Street and Seattle Avenue shall provide landscaping on the waterside facade only.

(4) For buildings which include residential uses on the upper floors, up to 25 percent of the landscaping requirements may be fulfilled by providing rooftop gardens and upper floor terraces and decks. Rooftop gardens, terraces, and decks shall not count against the 75 percent gross floor area limitation described in POMC 16.20.219.

16.50.290 Maintenance.

(1) All landscape materials and significant trees, in all zones and/or overlay districts, except within critical areas or buffers, shall be maintained in a healthy growing condition.

(2) With the exception of dead, diseased or damaged trees specifically retained to provide wildlife habitat; other dead, diseased, damaged or stolen plantings shall be replaced on a one-for-one basis within five months or during the next planting season if the loss does not occur in a planting season.

(3) Landscape areas shall be kept free of trash.

16.50.295 Bonds and security.

Performance bonds or other appropriate security (including letters of credit and set aside letters) equal to 125 percent of the estimated value of the plants and installation costs shall be required for a period of two years after the planting or

transplanting of vegetation to insure proper installation, establishment, and maintenance.

16.50.296 Landscape design requirements.

See Table 16.50.297 for alternatives.

Table 16.50.296 – Landscape Design Requirements

	Urban Streetscapes/ Pedestrian Boardwalks	Roadway Corridors – Commercial Development	Roadway Corridors – Residential Development	Roadway Corridors – Parkways	Urban Buffers – Urban Parking Lots	Urban Buffers – Filtered Screening	Urban Buffers – Full Screening	Greenways – Uplands	Greenways – Wetlands	Shorelines
Planting materials										
Large deciduous trees		X			X			X	X	X
Medium deciduous trees	X	X	X		X			X	X	X
Small deciduous trees	X		X			X		X	X	X
Conifers/broadleaf trees			X	X	X	X	X	X	X	X
Deciduous shrubs	X	X	X		X	X		X	X	X
Evergreen shrubs	X	X	X	X	X	X	X	X	X	X
Ground covers	X	X	X	X	X	X	X	X	X	X
Planting mix – Approximate										
Percent in deciduous trees	100%	100%	50%	30%	70%	50%	30%	30%	70%	70%
Percent in evergreen trees	0%	0%	50%	70%	30%	50%	70%	70%	30%	30%
Plant spacing – Feet on center										
Trees	25	40	40	30	30	30	15	30	30	40
Shrubs					5	5	4	4	4	4
Plant scale at time of planting										
Trees – minimum height in feet	10	10	8	8	10	8	8	8	8	8
Trees – minimum	3.0	3.0	2.5	2.5	3.0	2.5	2.5	2.5	2.5	2.5

	Urban Streetscapes/ Pedestrian Boardwalks	Roadway Corridors – Commercial Development	Roadway Corridors – Residential Development	Roadway Corridors – Parkways	Urban Buffers – Urban Parking Lots	Urban Buffers – Filtered Screening	Urban Buffers – Full Screening	Greenways – Uplands	Greenways – Wetlands	Shorelines
caliper in inches										
Shrubs – minimum height in inches	18	18	18	18	18	18	18	18	18	18
Ground cover – years to full coverage	2	2	3	3	2	3	3	3	3	3
Buffer – Depth in feet (subordinate to building setbacks)										
Street frontage		10	10	20				25	25	25
Interior lot line					5	5	10	25	25	25
Parking lot – sf landscape area/stall										
Residential shared parking					20					
Commercial/employment zone lots:										
0 – 30 stalls					20					
30+ stalls					25					
Parking lot – Stalls/tree spacing										
Residential shared parking					8					
Commercial/employment zone lots					4					
Species suggestions – Percent of mix										
Native ground cover and shrubs	75%	75%	75%	75%	75%	75%	75%	100%	100%	100%

	Urban Streetscapes/ Pedestrian Boardwalks	Roadway Corridors – Commercial Development	Roadway Corridors – Residential Development	Roadway Corridors – Parkways	Urban Buffers – Urban Parking Lots	Urban Buffers – Filtered Screening	Urban Buffers – Full Screening	Greenways – Uplands	Greenways – Wetlands	Shorelines
Native trees	50%	50%	50%	50%	50%	50%	50%	100%	100%	100%
Drought-tolerant	60%	60%	60%	60%	60%	60%	60%	100%	100%	100%

16.50.297 Suggested landscape materials.

Table 16.50.297 – Suggested Landscape Materials

		Urban Streetscapes/ Pedestrian Boardwalks	Roadway Corridors/ Street Frontage	Parking Lot Trees	Urban Buffer Areas	Greenways – Uplands	Greenways – Wetlands/ Streams	Shorelines	Native Materials	Drought-Tolerant
Large deciduous trees										
Acer macrophyllum	Bigleaf Maple					X	X		X	
Acer rubrum species	Red Maple variety	X	X	X	X			X		
Acer saccharum	Sugar Maple			X	X					
Acer truncatum X platanoide	Pacific Sunset Maple	X	X							
Acer platanoides species	Norway Maple variety	X	X	X	X			X		
Alnus rebra	Red Alder					X	X		X	X
Carpinus	Columnar	X	X							

		Urban Streetscapes/ Pedestrian Boardwalks	Roadway Corridors/ Street Frontage	Parking Lot Trees	Urban Buffer Areas	Greenways – Uplands	Greenways – Wetlands/ Streams	Shorelines	Native Materials	Drought-Tolerant
betulus 'Fastigiata'	European Hornbeam									
Fagus sylvatica	European Beech				X			X		X
Fraxinus latifolia	Oregon Ash					X	X		X	
Fraxinus oxycarpa 'Raywood'	Raywood Ash	X	X							
Gingko bilboa 'Sentry'	Columnar Maidenhair				X					X
Liquidambar styraciflua	American Sweetgum	X	X	X	X			X		X
Liriodendron tulipifera	Tulip tree				X					
Magnolia grandiflora 'St. Mary'	Evergreen Magnolia	X	X							
Platanus x acerifolia	London Plane				X					
Quercus species	Oak variety	X	X	X	X					X
Quercus robur 'Fastigiata'	Upright English Oak			X	X			X		X
Quercus rubra	Northern Red Oak	X	X	X	X					X
Salix species	Willow variety						X	X	X	

		Urban Streetscapes/ Pedestrian Boardwalks	Roadway Corridors/ Street Frontage	Parking Lot Trees	Urban Buffer Areas	Greenways – Uplands	Greenways – Wetlands/ Streams	Shorelines	Native Materials	Drought-Tolerant
Tillia americana 'Redmond'	Redmond Linden	X	X							
Tillia cordata	Littleleaf Linden	X	X	X	X			X		
Tillia cordata 'Greenspire'	Greenspire Linden	X	X							
Medium deciduous trees										
Acer campestre	Hedge Maple			X						X
Betula species	Birch variety				X					
Carpinus betulus	European Hornbeam	X	X	X	X			X		X
Cercidiphyllum japonicum	Katsura Tree				X					
Cornus nuttallii	Pacific Dogwood					X			X	X
Crataegus laevigata	English Hawthorn	X	X							
Crataegus lavalleyi	Lavalle Hawthorn	X	X							
Fraxinus pennsylvanica	Marshall's Seedless Ash	X	X	X	X					X
Populus tremuloides	Quaking Aspen						X		X	

		Urban Streetscapes/ Pedestrian Boardwalks	Roadway Corridors/ Street Frontage	Parking Lot Trees	Urban Buffer Areas	Greenways – Uplands	Greenways – Wetlands/ Streams	Shorelines	Native Materials	Drought-Tolerant
Prunus species	Flowering Cherry variety	X	X	X	X			X		
Prunus sargentii	Sargent Flowering Cherry	X	X							
Prunus sargentii ‘Columnaris’	Columnar Sargent Flowering Cherry	X	X							
Prunus serrulata ‘Kwanzan’	Kwanzan Flowering Cherry	X	X							
Pyrus calleryana species	Flowering Pear variety	X	X	X	X					X
Zelkova serrata ‘Village Green’	Sawleaf Zelkova	X	X	X	X					
Small deciduous trees										
Acer circinatum	Vine Maple				X	X	X		X	
Acer davidii	David Maple				X					
Acer ginnala	Amur Maple			X	X			X		
Acer palmatum	Japanese Maple				X					
Amelanchie	Serviceberr				X	X	X		X	

		Urban Streetscapes/ Pedestrian Boardwalks	Roadway Corridors/ Street Frontage	Parking Lot Trees	Urban Buffer Areas	Greenways – Uplands	Greenways – Wetlands/ Streams	Shorelines	Native Materials	Drought-Tolerant
Species	Variety									
Carpinus species	Hornbeam variety	X	X	X	X			X		X
Cornus florida	Flowering Dogwood				X					
Cornus kousa	Kousa Dogwood			X	X					
Corylus cornuta californica	Western Hazelnut				X	X			X	X
Crataegus species	Hawthorn variety				X	X		X	X	X
Magnolia species	Magnolia variety	X	X	X	X			X		
Malus species	Flowering Crabapple				X					
Prunus species	Flowering Cherry/Plum	X	X		X			X		X
Styrax japonica	Japanese Snowball				X					
Conifers/broadleaf evergreen trees										
Abies grandis	Grand Fir				X	X			X	
Abrutus unedo	Strawberry Tree				X			X		X
Cedrus deodara	Deodar Cedar				X			X		X
Chamaecyp	Port Orford				X	X		X	X	X

		Urban Streetscapes/ Pedestrian Boardwalks	Roadway Corridors/ Street Frontage	Parking Lot Trees	Urban Buffer Areas	Greenways – Uplands	Greenways – Wetlands/ Streams	Shorelines	Native Materials	Drought-Tolerant
arisaema lawsoniana	Cedar									
Chamaecyparis nootkatensis	Alaska Cedar				X	X		X	X	X
Colodectrus decurrens	Incense Cedar				X					
Photinia serrulata	Chinise Photinia				X			X		X
Picea sitchensis	Sitka Spruce				X		X	X	X	
Pinus contorta	Shore Pine			X	X	X		X	X	X
Pinus contorta latifolia	Lodgepole Pine				X			X		X
Pinus densiflora	Japanese Red Pine				X					X
Pinus monticola	Western White Pine				X	X			X	X
Pinus nigra	Austrian Black Pine			X	X			X		X
Pinus ponderosa	Ponderosa Pine				X					X
Pinus sylvestris	Scotch Pine			X	X			X		X
Pinus thunbergii	Japanese Black Pine				X			X		X
Pseudotsuga	Douglas				X	X		X	X	X

		Urban Streetscapes/ Pedestrian Boardwalks	Roadway Corridors/ Street Frontage	Parking Lot Trees	Urban Buffer Areas	Greenways – Uplands	Greenways – Wetlands/ Streams	Shorelines	Native Materials	Drought-Tolerant
menziesii	Fir									
Sequoiadendron sempervirens	Coastal Sequoia				X			X		
Taxus brevifolia	Western Yew				X		X	X	X	
Thuja plicata	Western Red Cedar				X		X		X	
Tsuga heterophylla	Western Hemlock				X		X		X	X
Tsuga mertensiana	Mountain Hemlock				X					
Umbellularia californica	California Bay Laurel			X	X			X		X
Deciduous shrubs										
Amelanchier alnifolia	Western Serviceberry				X	X	X	X	X	
Berberis species	Barberry variety				X					X
Callicarpa japonica	Japanese Beautyberry				X					
Cornus stolonifera	Red-Osier Dogwood				X	X	X	X	X	
Enkianthus campanulatus	Red-Veined Enkianthus				X					

		Urban Streetscapes/ Pedestrian Boardwalks	Roadway Corridors/ Street Frontage	Parking Lot Trees	Urban Buffer Areas	Greenways – Uplands	Greenways – Wetlands/ Streams	Shorelines	Native Materials	Drought-Tolerant
Elaeagnus species	Elaeagnus variety				X			X	X	X
Euonymus alata 'Compacta'	Winged Eonymus				X			X		
Hamamelis mollis	Chinese Witch Hazel				X					
Holodiscus discolor	Ocean Spray					X	X	X	X	X
Hydrangea lacecap varieties	Lacecap Hydrangea				X					
Potentilla fruticosa	Potentilla				X			X		X
Physocarpus capitatus	Pacific Ninebark						X		X	
Rhamnus purshiana	Cascara Sagrada					X	X		X	
Rhus typhina	Staghorn Sumac				X	X			X	X
Ribes sanguineum	Red-Flowering Currant					X	X		X	
Rosa nutkana	Nootka Rose					X	X	X	X	
Rosa rugosa	Rugosa Rose				X			X		X
Rubus parviflorus	Thimbleberry				X	X	X		X	

		Urban Streetscapes/ Pedestrian Boardwalks	Roadway Corridors/ Street Frontage	Parking Lot Trees	Urban Buffer Areas	Greenways – Uplands	Greenways – Wetlands/ Streams	Shorelines	Native Materials	Drought-Tolerant
Rubus spectabilis	Salmonberry				X	X	X	X	X	
Salix species	Willow variety						X	X	X	
Sambucus racemosa	Red Elderberry					X	X	X	X	
Spiraea species	Spiraea variety						X	X	X	X
Symphoricarpos albus	Snowberry					X			X	X
Syringa vulgaris cultivars	Lilacs				X			X		
Vaccinium parvifolium	Red Huckelberry						X		X	
Viburnum x burkwoodii	Burkwood Viburnum				X			X		
Evergreen shrubs										
Arbutus unedo compacta	Compact Strawberry Tree				X			X		X
Cornus alba ‘Sibirica’	Siberian Dogwood				X					
Cotoneaster species	Cotoneaster variety				X			X		X
Ilex crenata	Japanese Holly				X					
Kalmia	Mountain				X					

		Urban Streetscapes/ Pedestrian Boardwalks	Roadway Corridors/ Street Frontage	Parking Lot Trees	Urban Buffer Areas	Greenways – Uplands	Greenways – Wetlands/ Streams	Shorelines	Native Materials	Drought-Tolerant
latifolia	Laurel									
Ligustrum japonicum	Japanese Privet				X					
Myrica californica	Pacific Wax Myrtle				X	X	X	X	X	X
Osmarea x burkwoodii	Burkwood Osmarea				X					X
Osmanthus delavayi	Delavay Osmanthus				X			X		X
Photinia frazeri	Japanese Photinia				X			X		X
Pieris floribunda	Mountain Pieris				X			X		
Pieris japonica	Japanese Pieris				X			X		
Prunus lusitanica	Portugese Laurel				X					X
Pinus Mugo	Mugho Pine				X			X		X
Rhododendron species	Rhododendron and Azaleas				X	X		X	X	
Vaccinium ovatum	Evergreen Huckleberry				X	X	X	X	X	
Ground covers										
Arctostaphylos uva-ursi	Kinnikinnick				X	X		X	X	X

		Urban Streetscapes/ Pedestrian Boardwalks	Roadway Corridors/ Street Frontage	Parking Lot Trees	Urban Buffer Areas	Greenways – Uplands	Greenways – Wetlands/ Streams	Shorelines	Native Materials	Drought-Tolerant
Berberis nervosa	Cascade Mahonia				X	X			X	X
Calluna vulgaris	Scotch Heather				X			X		
Caenothus gloriosus	Point Reyes Ceanothus				X			X		X
Cotoneaster microphyllus	Rockspray Cotoneaster				X			X		X
Erica carnea	Winter Heath				X			X		
Erica x darleyensis	Mediterranean Heather				X					
Euonymus fortunei	Winter Creeper Euonymus				X			X		
Gaultheria shallon	Salal				X	X	X	X	X	X
Hypericum calycinum	St. Johnswort				X			X		
Ilex crenata varieties and cultivars	Japanese Holly				X					
Mahonia species	Mahonia variety				X			X		
Pachysandra terminalis	Japanese Spurge				X					X
Sarcococca	Sarcococca				X					

		Urban Streetscapes/ Pedestrian Boardwalks	Roadway Corridors/ Street Frontage	Parking Lot Trees	Urban Buffer Areas	Greenways – Uplands	Greenways – Wetlands/ Streams	Shorelines	Native Materials	Drought-Tolerant
hookerana										
Vinca minor	Periwinkle				X			X		X

Note: Medium street trees are recommended for planted medians only without tree grates.
Source: Hough, Beck & Baird as modified by Galen Wright, Washington Forestry Consultants, Inc.

SECTION 26. Chapter 16.80 of the Port Orchard Municipal Code is hereby repealed.

SECTION 27. Savings. The enactment of this ordinance shall not affect any application, case, proceeding, appeal, or other matter currently pending administratively or judicially in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this ordinance.

SECTION 28. 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 29. 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/clerk errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

SECTION 30. Effective Date; Publication. This ordinance shall be published in the official newspaper of the city and shall take full force and effect as of 11:59 pm on December 31, 2016. 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 13th of December 2016.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, CMC, City Clerk

APPROVED AS TO FORM:

Sponsored by:

Sharon Cates, City Attorney

Bek Ashby, Councilmember

PUBLISHED:

EFFECTIVE DATE:

Chapter 20.122

COMMON DEVELOPMENT STANDARDS—DENSITY AND DIMENSIONS

- 20.122.010 ~~Purpose. Common development standards.~~
- 20.122.020 Interpretation of table.
- 20.122.025 Densities and dimensions.
- 20.122.030 Measurement methods.
- 20.122.040 Calculations – Net useable site area.
- 20.122.050 Calculations – Allowable dwelling units.
- 20.122.060 Density credits.
- 20.122.070 Lot area – Reduction prohibited.
- 20.122.080 Setbacks – Modifications.
- 20.122.090 Setbacks – Regional utility corridors.
- 20.122.100 Setbacks – Alleys.
- 20.122.110 Setbacks – Adjoining half-street rights-of-way.
- 20.122.120 Setbacks – Projections allowed.
- 20.122.130 Heights – Exceptions to limits.

20.122.010 ~~Purpose. Common development standards.~~

The purpose of this chapter is to establish ~~basic dimensional standards requirements~~ for development in relation to residential density ~~and basic dimensional standards~~, as well as specific rules for general application. These standards and rules are established to provide flexibility in project design, provide solar access, and maintain privacy between adjacent uses.

20.122.020 Interpretation of table.

(1) ~~The table in POMC 20.122.025 The density and dimension tables are contains general density and dimension standards for the various zones within the City, as well as limitations specific to a particular zone(s). Additional rules, exceptions, and methodologies relating to density and dimension are set forth in POMC 20.122.XXX through 20.122.XXX.~~

(2) ~~The densities and dimensions table in POMC 20.122.025 is~~ arranged in a matrix format ~~in a separate table~~. Development standards are listed down the left side of the table, and the zones are listed at the top. The matrix cells contain the minimum dimensional requirements of the zone. The parenthetical numbers in the matrix identify specific requirements applicable to a specific use or zone. A blank box indicates that the standard does not apply in that situation. If more than one standard appears in a cell, each standard will be subject to any applicable parenthetical footnote following the standard. See Table 20.122.025, Densities and Dimensions.

~~(2) Minimum lot sizes must be met as defined in the densities and dimensions table unless otherwise approved by the city council within a planned residential development (PRD).~~

20.122.025 Densities and dimensions.

Table 20.122.025 – Densities and Dimensions

ZONES										
P = Permitted C = Conditional	Greenbelt including Conservation and Open Space	Residential – 4.5 Units/Net Useable Acre	Residential – 8.0 Units/Net Useable Acre	Residential – 12.0 Units/Net Useable Acre	Residential – 20.0 Units/Net Useable Acre	Commercial Retail and Office	Business Professional	Mixed Use District	Employment Industrial and Office	Community Facilities
STANDARDS-	Gb	R4.5	R8	R12	R20	Co	BP	Mxd	Eo	Cf
Density (dwelling units/gross useable acres)										
Maximum density (22)	0.5	4.5	8.0	12.0	20.0		12.0	30.0 (22)		
Minimum lot size (10) (13)(14)		6,000	5,445	3,630	2,178		3,630			
Minimum setback in feet										
Street right-of-way (1)(11)	30	15	15	15	15	10	10	10	30 (12)	15
Side yard	5	5	5	5	5		5			
Rear yard (9)	10	10	10	10	10		5			
Corner lot rear yard	5	5	5	5	5		5			
From adjacent residential zoning (2)						5	5	5	20	20
From adjacent nonresidential zoning (2)(3)						5	5	5	5	5
Maximum site coverage in percent of net useable acres										
Maximum covered surface impervious surface (4)	15%	45%	75%	85%	85%	85%	95%	95%	85%	95%
Landscaped area – Softscape (5)	85%	55%	25%	15%	15%	15%	5%	5%	15%	5%
Landscaped area – Hardscape (6)						15%	5%	5%	15%	5%
Maximum building height in feet										
Standard maximum allowed (7)	33	33	33	33	33	33	33	33	33	33
Within view protection district (8)(15)	15	15	15	15	15	27	27	27	27	27
Downtown overlay district – North side of Bay	27	27	27	27	27	27	27	27	27	27

Street (16)(18)(21)										
Downtown overlay district – South side of Bay Street (17)(18)(21)	39	39	39	39	39	39	39	39	39	39
Downtown overlay district gateways – Bethel Avenue (19)(21)	39	39	39	39	39	39	39	39	39	39
Downtown overlay district gateways – North side of Bay Street (16)(18)(21)	27	27	27	27	27	27	27	27	27	27
Downtown overlay district gateways – South side of Bay Street (17)(18)(21)	39	39	39	39	39	39	39	39	39	39
Downtown overlay district (20)(21)	27	27	27	27	27	27	27	27	27	27

1. Measured from the existing edge of a street right-of-way. Applies to front yards, corner lots, and through lots.

2. From side or rear site or property boundary line. May be zero feet minimum within the mixed use district in the downtown area as allowed by the International Building Code (IBC).

3. May be zero lot line if structures meet IBC fire code and emergency access.

4. Useable acreage covered by buildings, roads, parking lots, and other built improvements. Mixed use developments within the downtown district may achieve 95 percent site coverage. Mixed use outside of downtown shall be no more than 85 percent site coverage.

5. Softscape may include perimeter buffers, parking lot plantings, and other landscape with soil or other natural surfaces.

6. Hardscape may include patios, plazas, entryways, and other paved or hard surfaced pedestrian/landscaped areas in lieu of softscape. Unless hardscape surfaces are constructed with permeable materials pursuant to POMC XX.XX.XXX, the hardscape surface area shall be included in calculating the maximum impervious surface percentage.

7. Building height is measured to the roof drip line at any point around the structure from the lowest point of the finished grade, unless a fire protection plan is approved by both the city development director and the fire authority.

8. View protection districts are established separately by city council resolution. Additional height may be allowed as a conditional use. Refer to POMC 20.122.030 and view protection overlay district standards, POMC 16.20.700 through 16.20.713.

9. Except as defined in POMC 20.122.100.

10. All lot sizes are measured in square feet unless a planned residential development has been approved pursuant to POMC XX.XX.XXX by the city council.

11. If required parking is served by an alley, residential street setbacks may be reduced to 10 feet. Ten-foot front yard setback also applies to residential flag lots measured from the property line closest to the main entrance to the residence.

12. For every 10 feet of building height over 33 feet, an additional 10 feet of street setback shall be provided.

13. Plats recorded prior to 1910 as identified in the appendix are exempt from the minimum required lot size. Instead, minimum lot size shall be 5,000 square feet or any single lot of record in separate ownership on August 28, 1972.

14. See small lot development standards.

15. For purposes of the view protection overlay district, building height shall be measured to the mid-line of the roof from the elevation of the uphill property line.

16. Maximum building height may be increased from 27 feet up to a maximum of 39 feet through conditional use permit approval pursuant to POMC XX.XX.XXX.

17. Maximum building height may be increased from 39 feet up to a maximum of 55 feet through conditional use permit approval pursuant to POMC XX.XX.XXX.

18. For the purposes of those lots abutting Bay Street within the downtown overlay district, building height shall be measured from the existing Bay Street elevation.

19. Maximum building height may be increased from 39 feet up to a maximum of 55 feet through conditional use permit approval. Building height shall be measured from the existing elevation of Bethel Avenue at the parcel's frontage pursuant to POMC XX.XX.XXX.

20. Maximum building height may be increased from 27 feet up to a maximum of 39 feet through conditional use permit approval. Building height shall be measured from the uphill elevation of either the existing or finished grade, whichever is lower, at the foundation or slab. Average uphill elevation shall be used if not level pursuant to POMC XX.XX.XXX.

21. Building height shall be measured to the highest point of the structure or any appurtenance of the structure.

22. The maximum density allowed in the mixed use zone within the central downtown overlay district shall be 48 units per acre.

20.122.030 Measurement methods.

The following provisions shall be used to determine compliance with this ~~chapter~~title:

- (1) Street setbacks shall be measured from the existing edge of public rights-of-way, improved or unimproved.
- (2) Structure height shall be measured from the uphill elevation of the finished grade at the slab or foundation, whichever is lower, to the highest point on the structure roof. If the uphill elevation is not level, then the average uphill elevation shall be the measurement basis.
- (3) Lot area shall be the total horizontal land area contained within the boundaries of a lot.
- (4) Impervious surface calculations shall not include areas of turf, softscape landscaping, natural vegetation, or surface water retention/detention facilities.

20.122.035 Calculations—Minimum and maximum density.

- (1) The minimum density shall be calculated by multiplying the development’s subject site net useable site area, as calculated pursuant to POMC 20.122.040, by the minimum number of dwelling units required in the applicable zoning district.
- (2) The maximum density shall be calculated by multiplying the development’s subject site net useable site area, as calculated pursuant to POMC 20.122.040, by the maximum number of dwelling units allowed in the applicable zoning district.
- (3) The units associated with assisted living, congregate care, nursing home, residential care facilities and the like, that rely on shared cooking/dining facilities, will not be counted for purposes of the minimum/maximum density calculation. Independent dwelling units (i.e., containing a bed, bathroom, and a kitchen with a sink, stove, and refrigerator) in such group living residential uses, however, shall be counted as individual dwelling units in the density calculation. The density for non-independent dwelling units shall not be transferred to another portion of the development.

20.122.040 Calculations – Net useable site area.

The net useable site area is the development subject site’s total (gross) site area minus areas for public rights-of-way, private road easements, designated critical areas and buffer protection, and stormwater management facilities; but not including parks and public or private recreation facilities dedicated or created as an integral part of the development. The area of a lot which may be used in the calculation of allowed dwelling units shall be the total site area less sensitive environmental features (equal to gross useable site area) and dedications as these areas are defined elsewhere in this code.

20.122.050 Calculations – Allowable dwelling units.

Permitted number of units shall be determined as follows:

(1) The maximum allowed number of dwelling units shall be computed by multiplying the net useable site area by the applicable residential density.

(2) When calculations result in a fraction, the fraction shall be rounded to the nearest whole number as follows:

(a) Fractions of 0.50 or above shall be rounded up; and

(b) Fractions below 0.50 shall be rounded down.

20.122.060 Density credits.

Critical areas and their buffers may be used in the calculation of allowed residential density whenever two or more residential lots or two or more multifamily dwelling units are created subject to the following limitations:

(1) Full density credit shall be allowed for erosion and seismic hazard areas. Flood hazard areas outside of streams, wetlands, or associated buffers shall be counted for full density credit.

(2) No density credit shall be allowed for streams, lakes, ponds, and other bodies of water.

(3) Partial to full density credit shall be allowed for steep slopes, landslide hazard areas, wetlands, and required buffers for any critical area according to the following table:

Percent of Site in Buffers and/or Critical Areas (percent)	Density Credit (percent)
1 – 10	100
11 – 20	90
21 – 30	80
31 – 40	70
41 – 50	60
51 – 60	50
61 – 70	40
71 – 80	30
81 – 90	20
91 – 99	10

(4) Allowed density on sites containing critical areas shall be calculated as follows:

(a) Determine the percentage of site area in critical areas and buffers by dividing the total area in required critical areas and buffers by the total site area.

(b) Multiply the density credit percentage set forth in subsection (1) of this section by the site area in critical areas and buffers to determine the effective critical area.

(c) Add the effective critical area to the site area not in critical areas or buffers. The resulting acres shall be considered the effective site area for purposes of determining the allowable dwelling units pursuant to the zoning regulations.

(d) By way of example, the density credit provisions apply as follows for a 10-acre site under the R8 zone:

(i) The square feet in the site is 435,600 of which ponds include 45,000 square feet, steep slopes include 82,000 square feet, and required wetland buffers include 60,000 square feet.

(ii) Divide the total amount of critical areas and buffers (187,000 square feet) by the total site (435,600 square feet) equal to 42.9 percent.

(iii) Apply the density credit from the chart (equal to a 60 percent density credit where the amount of site in a critical area is between 41 and 50 percent).

(iv) Multiply the steep slopes and required buffers only (142,000 square feet since no credit is received for ponds) by the density credit of 60 percent equal to 85,200 square feet.

(v) Add the unconstrained site area (248,600 square feet) plus the critical area density credit (85,200 square feet) to create the effective site area for density calculations (333,800 square feet).

(vi) Divide the total effective site area by 43,560 square feet to determine acreage (333,800 square feet/43,560 square feet/acre equals 7.6 acres) and multiply by the density allowed in the R8 zone (7.6 acres multiplied by eight dwelling units/acre) equals 60.8 which is rounded up to 61 dwelling units maximum (note that the maximum density may be reduced by other provisions of this code).

(5) The density transfer can be utilized only within the development proposal site. The applicant may cluster and configure the site's development to accommodate the transfer of density but cannot change the type of uses or housing products allowed within the zone proper.

20.122.070 Lot area – Reduction prohibited.

Any portion of a lot that was required to calculate and ensure compliance with the standards and regulations of this [chapter title](#) shall not be subsequently subdivided or segregated from such lot. (Ord. 046-07 § 2 (Exh. A)).

20.122.080 Setbacks – Modifications.

The following setback modifications are permitted:

(1) When the common property line of two lots is covered by a building(s), the setbacks required by this chapter shall not apply along the common property lines.

(2) When a lot is located between lots with structures having nonconforming street setbacks, the required street setback for such middle lot may be the average of the two nonconforming setbacks or 60 percent of the required street setback, whichever results in the greater street setback.

20.122.090 Setbacks – Regional utility corridors.

(1) In subdivisions and short subdivisions, areas used as regional utility corridors as identified in this code shall be contained in separate tracts.

(2) In other types of land development permits, easements shall be used to delineate such corridors.

(3) All buildings shall maintain a minimum distance of five feet from property or easement lines delineating the boundary of regional utility corridors, except for utility structures necessary to the operation of the utility corridor and/or as required by the Department of Health. (Ord. 046-07 § 2 (Exh. A)).

20.122.100 Setbacks – Alleys.

(1) Structures may be built no closer than 15 feet from the center line of an abutting alley.

(2) Vehicle access points from garages, carports or fenced parking areas shall be set back a minimum of 10 feet from the alley property line to provide a driving surface.

20.122.110 Setbacks – Adjoining half-street rights-of-way.

In addition to providing the standard street setback, a lot adjoining a half-street right-of-way or designated arterial shall provide an additional width of street setback sufficient to accommodate construction of the future planned right-of-way.

20.122.120 Setbacks – Projections allowed.

Projections complying with the adopted International Building Code may extend into the required setbacks as follows:

(1) On ground and upper floor uses in all districts and on upper floor uses only in the mixed use district (Mxd) in the downtown area – fireplace structures, bay or garden windows, enclosed stair landings, closets, or similar structures may project into any setback, provided such projections are:

(a) Limited to two per facade;

(b) Not wider than seven feet; and

(c) Not more than 24 inches into an interior setback or 24 inches into a street setback.

(2) Uncovered porches and decks which exceed 18 inches above the finished grade may project:

(a) Twenty-four inches into interior setbacks; and

(b) Six feet into the street setback except where the allowable setback is zero feet as in the mixed use district within the downtown area.

(3) Uncovered porches and decks not exceeding 18 inches above the finished grade may project to the property line.

(4) Roof eaves, including any part of a roof structure whether unsupported or supported by diagonal bracing to the building, must be more than seven feet above finished grade and may not project more than:

(a) Twenty-four inches into an interior setback including within a zero lot line development; or

(b) Twenty-four inches into a street setback except where the allowable setback is zero feet as in the mixed use district within the downtown area.

(5) Fences with a height of six feet or less may project into any setback; provided, that the sight distance requirements are maintained along street corridors.

20.122.130 Heights – Exceptions to limits.

The following structures may be erected above the height limits:

(1) Roof structures housing or screening the following: elevators, fire access stairways, tanks, ventilating fans, fire or parapet walls, skylights, or similar equipment required for building operation and maintenance; and

(2) Flagpoles, chimneys, smokestacks, church steeples, clock towers, communication transmission structures, utility line towers and poles, and similar structures.

Chapter 20.124

DEVELOPMENT STANDARDS—PARKING AND CIRCULATION STANDARDS

20.124.100 Off-street parking design standards.

(1) The most distant parking space shall not be located more than 500 feet away from the nearest building entrance it is required to serve. Where the off-street parking areas do not abut the buildings they serve, the required maximum distance shall be measured from the nearest building entrance that the parking area serves:

(a) For all nonresidential uses permitted in residential zones, the parking spaces shall be located on the same lot they are required to serve and at least a portion of parking areas shall be located within 150 feet from the nearest building entrance they are required to serve.

(b) For all uses permitted within downtown mixed use district (Mxd), the parking spaces may be located on consolidated off-site parking lots distributed at accessible locations about the downtown district.

(2) Minimum parking space and aisle dimensions shall be determined by the planning director. Regardless of the parking angle, one-way aisles shall be at least 10 feet wide, and two-way aisles shall be at least 20 feet wide. Parking plans for angle parking shall use space widths no less than eight feet, six inches for a standard parking space design and eight feet for a compact car parking space design.

(3) Any parking spaces abutting a landscaped area on the driver or passenger side of the vehicle shall provide an additional 18 inches above the minimum space width requirement to provide a place to step other than in the landscaped area. The additional width shall be separated from the adjacent parking space by a parking space division stripe. The parking space depth may be reduced when vehicles overhang a walkway under the following conditions:

(a) Wheelstops or curbs are installed.

(b) The remaining walkway provides a minimum of 60 inches of unimpeded passageway for pedestrians.

(4) The amount of space depth reduction is limited to a maximum of 18 inches.

(5) Ingress and egress between off-street parking areas and abutting streets shall be designed, located, and constructed in accordance with Port Orchard street standards.

(6) Lighting of off-street parking areas shall be provided for safety of traffic and pedestrian circulation on the site, as specified in the International Building Code. Lighting shall be designed to minimize direct illumination of abutting properties and adjacent streets. The planning director shall have the authority to waive the requirement to provide lighting.

(7) Tandem or end-to-end parking is allowed in single-family detached residential developments. Driveways crossing required setback areas may be used for parking when serving single-family detached dwellings but shall not be considered for purposes of calculating required parking. Attached single-

family and multifamily developments may have tandem parking areas for each dwelling unit but shall not combine parking for separate dwelling units in tandem parking areas.

(8) All required vehicle parking must be on a paved surface.

(9) LID best management practices (BMPs) shall be used for all parking lot design and construction, unless site and soil conditions make LID infeasible as determined by the City. LID BMPs for parking lot design and construction include, but are not limited to:

a. Pervious surfacing;

b. Integrating stormwater management facilities, such as bioretention swales, with required parking lot landscaping; and

c. Using native species in the landscape design.

d. LID BMPs shall be designed and constructed in accordance with the LID Technical Guidance Manual for Puget Sound (current edition).

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Chapter 20.128

DEVELOPMENT STANDARDS—LANDSCAPING STANDARDS

- 20.128.010 ~~Purpose. Landscape standards.~~
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20.128.010 Purpose. Landscape standards.

(1) The purpose of this chapter is to preserve the aesthetic character of the community, improve the aesthetic quality of the built environment, promote retention and protection of existing native vegetation, reduce the impacts of development on storm drainage systems and natural habitats, and increase privacy for residential zones.

(2) These goals are established through standards ~~which that provide~~

(a) Provide visual relief from large expanses of parking areas and reduce perceived building scale; ~~provide~~

(b) Provide physical separation between residential and nonresidential areas; ~~provide~~

(c) Provide visual screens and barriers as a transition between differing land uses;

(d) Retain existing vegetation and significant trees by incorporating them into the site design;

(e) Promote the use of native and drought-tolerant plant materials; and

(f) Provide areas of permeable surface to allow for infiltration of surface water into groundwater resources, ~~reduction in~~ the quantity of stormwater discharge, and ~~improvement in~~ the quality of stormwater discharge.

20.128.020 Applicability.

(1) All development shall be subject to the landscaping provisions and requirements of this chapter; provided, that specific landscaping and tree retention provisions for uses established through a subdivision, short subdivisions, binding site plan, or conditional use permit application shall be determined during the application review process.

(2) Landscaping standards referenced in POMC 20.128.XXX through 20.128.XXX shall be applicable within the Tremont Street corridor overlay district (TRMT).

(3) Landscaping standards referenced in POMC 20.128.XXX through 20.128.XXX shall be applicable within the Downtown overlay district (DOD).

~~All new development including subdivisions and commercial, except single structure residential lot developments or short plats, shall be subject to the landscaping and significant tree retention provisions of this chapter; provided, that specific landscaping and tree retention provisions for uses established through a conditional use permit shall be determined during the applicable review process. For the purpose of this chapter, a new development is one that requires a substantial improvement as defined in this code.~~

20.128.030 Exempt areas.

Development along both sides of Bay Street from the crosswalk at Harrison Avenue to Orchard Avenue is exempt from the landscaping requirements of this chapter.

20.128.032 Landscape materials.

Recommended species/variations of suitable landscape plants are shown in Table 20.128.297, Suggested Landscape Materials. An applicant may select from the suggested list or propose other alternative planting materials based on the objectives for the landscape zones outlined in this chapter. All proposed landscape plantings within these zones shall be reviewed and approved by the ~~planning~~ director or his or her designee.

20.128.035 Integration with LID stormwater management facilities.

The required landscape design requirements in this chapter may be integrated with LID stormwater management facilities and BMPs unless site and soil conditions make LID infeasible, subject to the approval of the Director and Public Works Department. LID facilities shall not compromise the purpose or intent of required landscaping and landscaping shall not result in the disruption of the LID facilities' functions. LID facilities shall be designed and constructed in accordance POMC XX.XX.XXX and the LID Technical Guidance Manual for Puget Sound (current edition).

20.128.040 General landscape requirements.

Landscape designs shall conform to the following provisions:

- (1) New landscaping materials shall include native or ornamental species that have adapted to the climatic conditions of the coastal region of the Pacific Northwest. Required minimums are indicated in Table 20.128.296, Landscape Design Requirements.
- (2) New landscape materials shall include drought-tolerant species, except where site conditions within the required landscape areas assure adequate moisture for growth.
- (3) Existing vegetation may be used to augment new plantings to meet the standards of this chapter.
- (4) Trees shall have a caliper of the dimensions shown in Table 20.128.296, Landscape Design Requirements, measured four feet above ground level at the time of planting. The caliper may be averaged, but no individual tree shall have a caliper of less than 75 percent of the requirement.
- (5) When the width of any landscape strip is 20 feet or greater, the required trees shall be staggered in two or more rows.
- (6) Shrubs shall be at least one gallon in size and of the minimum inches in height at the time of planting shown in Table 20.128.296, Landscape Design Requirements.
- (7) Ground covers shall be planted and spaced to result in total coverage of the required landscape area within the number of years indicated in Table 20.128.296, by using four-inch pots at 18 inches on center, or one gallon or greater sized containers at 30 inches on center.
- (8) Grass may be used as a ground cover only in urban buffer parking lots or filtered areas; provided, that the grass area constitutes no more than 30 percent of such landscape areas.
- (9) Grass and ground cover areas shall contain at least two inches of composted organic material at finish grade. Existing soils shall be augmented with a two-inch layer of fully composted organic material rototilled a minimum of six inches in depth.
- (10) Berms should not exceed a slope of two horizontal feet to one vertical foot (2:1), unless there are extenuating circumstances.

(11) Landscape areas shall be covered with two to three inches of mulch. Mulch shall consist of materials such as yard waste, sawdust, and/or manure that is fully composted.

(12) Required street landscaping may be placed within Port Orchard street rights-of-way subject to the Port Orchard road design standards [set forth in POMC XX.XX.XXX](#) and with the permission of the city engineer.

20.128.050 Alternative landscape options.

The following alternative landscape options may be permitted only if they accomplish equal or better levels of screening and are subject to the review and approval of the planning director:

- (1) Total required landscape and tree retention area will not exceed 15 percent of site area.
- (2) The width of the perimeter buffer landscape strip may be reduced up to 25 percent along any portion where berms at least three feet in height or architectural barriers at least six feet in height are incorporated into the landscape design, or the landscape materials are incorporated elsewhere on-site.
- (3) Perimeter landscaping may be reduced up to 25 percent when a development retains an additional 10 percent of the existing significant trees or 10 significant trees per acre on-site (above the requirements for tree retention defined within this chapter), whichever is greater.
- (4) The landscaping requirement may be modified when existing conditions on or adjacent to the site, such as significant topographic differences, vegetation, structures or utilities would render application of this chapter ineffective or result in scenic view obstruction.
- (5) Within the mixed use district (Mxd) areas subject to a requirement for an urban streetscape/pedestrian boardwalk design, roadway corridor buffering is waived provided the applicant complies with the requirements for street trees, pedestrian pavings, furnishings, and other amenities.
- (6) When an existing structure precludes installation of the total amount of required site perimeter landscaping, such landscaping material shall be incorporated on another portion of the site.
- (7) Creative designs using groupings of trees may be utilized.

20.128.060 Irrigation.

- (1) Except for areas of undisturbed existing vegetation or low areas with existing high soil moisture conditions, landscape areas shall have temporary irrigation systems. Such systems may be removed after 24 months or two growing seasons, whichever occurs first; provided, that the plantings are established.
- (2) Areas of undisturbed existing vegetation, or areas where existing site conditions assure adequate soil moisture for growth within the required landscape area, shall have temporary irrigation systems only as required to sustain new plantings and shall be determined on a case-by-case basis by the planning director.

(3) Areas of undisturbed existing vegetation, low areas with existing high soil moisture conditions, or landscape areas consisting of drought-tolerant vegetation may not require permanent irrigation systems. Permanent irrigation systems may be permitted within all other required landscape areas, provided such systems shall be designed with:

- (a) Moisture or precipitation sensors;
- (b) Automatic timers set for operation during periods of minimum evaporation and that assure adequate moisture levels;
- (c) Head-to-head spacing, if sprinkler heads are proposed;
- (d) Backflow prevention devices; and
- (e) Separate irrigation zones for turf and planting beds, and other nondrought-tolerant species.

20.128.070 Landscape installation – Timing.

Landscaping shall be installed no later than five months after issuance of a temporary certificate of occupancy for the project or project phase. The time limit for compliance may be extended to allow landscape installation during the next appropriate planting season.

20.128.080 Urban streetscape/pedestrian boardwalk corridors.

(1) Urban streetscape and pedestrian boardwalk corridors are the public right-of-way spaces to be improved for pedestrian walking, shopping, eating, and similar activities in front of retail stores and mixed use structures. The urban streetscape/pedestrian boardwalk corridors shall be as defined in the design overlay districts in this code.

(2) Urban streetscape/pedestrian boardwalk areas shall be landscaped to provide and maintain a design theme that may emphasize a selection of street trees, lighting standards, directional signage, furnishings, pavings, landscape materials, or other major components to be specified within the design overlay districts.

20.128.090 Roadway corridors and street frontages.

Roadway corridors and street frontages shall be landscaped based on the different pedestrian and/or vehicle emphasis to be provided in accordance with the following categories of design and functional treatment. These zones and corridors shall be planted with street trees suitable for a mixed motor vehicle, bicycle, and pedestrian environment.

(1) Commercial Street Corridors. These corridors are the public rights-of-way and the setbacks required within and around roadways and parking lots in the commercial (Co), mixed use (Mxd), employment (Eo), and community facilities (Cf) zones. The setback from the street right-of-way shall be landscaped to provide “see-through vegetation” that functions as a partial visual separator to soften the appearance of parking areas and building elevations.

(2) Residential Street Corridors. These corridors are the public rights-of-way and the setbacks required within and around collector and arterial roadways and parking lots in all residential zones (R4.5 through R20). These zones shall be landscaped to provide a “filtered screen vegetation” that functions as a visual separator between the street, parking areas, and residential activities.

(3) Parkway Road Corridors. These corridors are the public rights-of-way and the setbacks required along major roadway entries into the community as defined on comprehensive plan maps. These parkway road corridors shall be landscaped to provide a “filtered to view blocking vegetation” using natural materials that provide continuity with adjacent greenway landscapes.

(4) Sight Distance. All physical obstructions, except utility poles and traffic control signs, shall be maintained in a manner that provides for adequate sight distances at street intersections as described below:

(a) A sight distance triangle area as described in subsection (4)(b) of this section shall not contain fencing, berms, vegetation, on-site vehicle parking areas, signs and other physical obstructions between 36 inches and eight feet above the existing street grade.

(b) The sight distance triangle at:

(i) A street intersection shall be determined by measuring 15 feet along both the right-of-way property lines beginning at their point of intersection. The third side of the triangle shall be a line connecting the endpoints of the first two sides of the triangle; or

(ii) A site access point shall be determined by measuring 15 feet along the street lines and 15 feet along the edges of the driveway beginning at the respective points of intersection. The third side of each triangle shall be a line connecting the endpoints of the first two sides of each triangle; and

(iii) Any intersection where the posted speed limit exceeds 25 miles per hour, the site distance triangle shall be determined by the table below or the city engineer.

Posted Speed Limit	Design Speed	Minimum Distance for Sight from Center of Intersection
25	30	200 feet
30	35	250 feet
35	40	325 feet
40	45	400 feet
45	50	475 feet
50	55	550 feet
55	60	650 feet

The city engineer may require further

restrictions.

(c) If a property owner receives written notice from the city that there is a violation of the above requirements and does not comply to the written notice within the specified time, then such property owner shall be guilty of a civil penalty. In addition to this, the city engineer or his/her designee may prune the trees or take other appropriate action, charge the owner for the cost of the work, record the charges as a lien against the property and collect this amount in a civil action against the property owner. The city shall be entitled to recover its costs and attorney's fees in such action.

20.128.100 Buffers and urban buffers.

(1) Perimeter landscaping along interior lot lines and between zones shall be as provided within Table 20.128.296, Landscape Design Requirements. Perimeter landscaping may be modified where appropriate by the planning director to account for aboveground subregional utility developments and distribution or transmission corridors or other utilities and infrastructure.

(2) Urban buffers shall be landscaped based on the extent to which the activity is to be screened from adjacent uses in accordance with the categories identified below. However, common standards applied to all buffer areas include:

(a) Within the landscape buffer areas about the property, particularly along secondary access roads and around parking lots that do not abut the public pedestrian walkway or trail corridors, site plantings should be grouped to simulate natural stands and should not be planted symmetrically or of even spacing.

(b) Landscape designs should reflect natural planting materials and settings that are representative of the local and regional landscape.

(c) Where practical and feasible, buffer areas should retain existing larger trees and vegetation to maintain continuity with adjacent greenways and natural areas.

(d) Within higher density residential developments, buffers or open spaces may be grouped into common open space areas that define building placements, provide visual accents, preserve landscape or landform features, or house common activity areas.

(3) Urban Buffers with Filtered Screening. Urban buffers to be filter screened are the perimeter landscape areas provided between nonresidential land uses within the commercial (Co), mixed use (Mxd), employment (Eo), and community facilities (Cf) zones. These buffers shall function as a visual separator between uses within these zones. The plant materials and design may mix evergreen and deciduous trees and shrubs to create a filtered screen effect.

(4) Urban Buffers with Full Screening. Urban buffers to be fully screened are the perimeter landscape areas provided between residential and nonresidential zones. These buffers shall function as a visual barrier to obscure views of incompatible activities and improvements. The plant materials and design may include a mix of primarily evergreen trees and shrubs to form an effective full screen effect.

20.128.110 Walkway and trail corridors.

Landscaping along the public walkway or trail corridor may utilize the street trees and plant materials palette selected for the public walkway or trail corridor. Improvements within the adjoining private spaces, such as outdoor eating areas, plazas, and the like, should incorporate or continue the same plantings in order to enhance the definition of the corridor.

20.128.120 Greenways.

Greenways shall be maintained, enhanced, and replanted, where appropriate, based on the type of habitat to be conserved in accordance with the following categories:

(1) Greenways of Upland Habitat.

(a) Upland greenways are the sensitive environmental areas located on steep, eroding, or geologically hazardous slopes as defined within this code and within the comprehensive plan.

(b) The landscape within this zone shall be maintained or enhanced with native materials that provide habitat and cover for upland wildlife species.

(2) Greenways of Wetland and Stream Habitat.

(a) Wetland greenways are the sensitive environmental areas located on impermeable or slowly draining soils, wetlands and other freshwater bodies, and the required buffer areas adjacent to wetlands and streams as defined within this code and within the comprehensive plan.

(b) The landscape within this zone shall be maintained or enhanced with native materials that provide habitat and cover for wetland wildlife species.

(3) Shorelines.

(a) Shorelines are the sensitive environmental areas and buffer zones located along the fresh and saltwater shores and banks as defined within this code and within the comprehensive plan.

(b) The landscape within this zone shall be maintained or enhanced with native materials that provide habitat for marine and estuarine wildlife species.

20.128.130 Street trees.

(1) Street trees shall be planted along roadways and street frontages as indicated within the accompanying Table 20.128.296 on landscape design requirements. Tree spacing shall consider the mature height and spread of the tree species.

(2) Street tree species, where not designated in accordance with a design overlay district's requirements, may be selected from the suggested landscape materials list, Table 20.128.297, and shall be subject to the review and approval of the planning director.

(3) The trees may be located within the street right-of-way subject to the review and approval of the city engineer and accounting for any possible future street widening or improvements.

(4) Street trees within the public right-of-way shall be maintained according to the standards established by the planning director.

(5) Street trees may be spaced at irregular intervals where necessary to accommodate sight distance requirements for driveways, intersections, street lights, and signage.

20.128.140 Buildings and yards.

(1) The landscape design should highlight and focus views of the building frontages and entries, particularly retail window displays, pedestrian areas, and amenities. The design should create a special or individual character of the private portions of each property and building.

(2) Vines may be planted on buildings, fences, walls and other blank surfaces, particularly structures faced with brick and masonry or that are enhanced with trellis overhangs.

(3) Moveable planters with seasonal plantings should be placed at building entries, particularly within alcoves and inner courtyards.

(4) All plantings, particularly ornamentals, should be provided irrigation or other watering methods to ensure plant survival.

20.128.150 Screening.

Landscape, fence or other improvements should be erected to visually screen refuse, storage, loading docks, and other areas that are not to be accessible or viewed from public walkways, corridors, and roadways. Latches and other devices should be used to secure refuse and storage areas from animals and children.

20.128.160 Parking lots.

(1) Landscaping within parking lots that are shared or used in common by residential developments, and within all nonresidential parking areas and lots, shall be as provided within the accompanying Table 20.128.296, Landscape Design Requirements.

(2) The maximum distance between any parking stall and required parking area landscaping shall be no more than every 13 stalls.

(3) Permanent curbs or structural barriers shall be provided to protect the plantings from vehicle overhang.

(4) Urban parking areas shall be landscaped to provide shade and visual relief while maintaining clear sight lines within parking and access areas. Shrubs will not exceed a height of three feet around parking lot entries, access aisles, and other vehicle maneuvering areas in order not to visually block views among vehicles and pedestrians.

(5) The plant materials and landscape design may mix evergreen and deciduous trees to create a continuous canopy.

(6) Plantings may be contained in planting islands or strips having an area of at least 75 square feet with a narrow dimension of not less than four feet that is unobstructed by vehicle overhang.

(7) Shade trees and ground covers should be installed in parking medians and/or landscape set-asides in parking areas and lots to soften the visual impact, reduce glare, and provide visual interest.

20.128.180 Significant tree retention.

Significant trees should be retained in all zones as follows:

(1) Removal of any significant tree with a DBH (diameter at breast height) of 36 inches or greater shall require city council approval upon the following standards:

(a) The proposed use cannot reasonably accommodate the retention of the significant tree.

(b) The significant tree shall be replaced in accordance with POMC 20.128.220.

(c) All significant trees located within any required buffer area or required landscape planting area should be retained to the extent practical and feasible.

(d) Tree retention adjacent to critical areas is desirable.

(e) Utility developments including roadways may be exempt from the significant tree retention requirements of this chapter.

(f) If significant trees were previously located in a closed, forested situation, an adequate buffer of smaller trees shall be retained or replaced on the fringe of such significant trees.

(g) A grouping of three or more existing healthy trees with canopies that touch or overlap may be substituted for each required significant tree, provided each tree has a diameter of at least three inches when measured four feet above grade.

(2) Except as provided in subsection (3) of this section, significant trees to be retained shall not include significant trees that are identified by a licensed arborist as damaged or diseased or a safety hazard due to potential root, trunk or primary limb failure, or exposure of mature trees which have grown in a closed, forested situation.

(3) At the discretion of the planning director, damaged or diseased or standing dead trees may be retained and counted toward the significant tree requirement if demonstrated that such a tree will provide important wildlife habitat and is not classified as a danger tree.

20.128.190 Significant tree retention plan.

The applicant shall submit a tree retention plan concurrent with a grading permit, building permit or preliminary subdivision application, whichever is reviewed and approved first. The tree retention plan shall consist of:

(1) Tree survey that identifies the location, size, and species of individual significant trees or the perimeter of stands of trees on a site. For forested sites, the tree survey may use a standard timber cruising method to reflect general locations, numbers, and groupings of significant trees. For detailed site plans and grading applications, the tree survey may be conducted by a method that locates individual significant trees near edges of tree protection areas.

(2) The tree retention plan identifying the significant trees that are proposed to be retained should show the locations of tree protection fence that protects the critical root zones of the trees.

20.128.200 Incentives for retaining significant trees.

Each significant tree that is located outside of the area for perimeter buffer landscaping and is retained may be credited in a ratio up to two trees for complying with the retention requirements of this chapter.

20.128.210 Protecting significant trees.

To provide the best protection for significant trees:

(1) No clearing shall be allowed on a site until approval of tree retention and landscape plans.

(2) The root protection zone is equal to one foot radius for every one inch of tree DBH unless individual tree evaluation by a certified arborist recommends modification to the guidelines. It shall be identified prior to construction with a temporary five-foot-high chain-link or orange mesh fence.

(3) No impervious surfaces, fill, excavation, or storage of construction materials shall be permitted within the root protection zone.

(4) Alternative protection methods may be used if determined by the planning director to provide equal or greater tree protection.

20.128.220 Replacement of significant trees.

When the required number of significant trees cannot be retained, significant trees that are removed shall be replaced with:

(1) New trees measuring 2.5-inch caliper and six feet in height, at a replacement rate of three trees for each significant tree removed.

(2) If the site does not allow for planting all replacement trees, trees can be planted on another site approved by the planning director.

20.128.230 Tremont Street corridor overlay district landscape standards (TRMT).

The general landscape standards set forth in this chapter shall apply unless a more restrictive provision is set forth in the TRMT specific landscape standards set forth in POMC 20.128.231 through 20.128.239.

20.128.231 TRMT landscape standards – Generally.

The following guidelines are to be addressed in all landscape plans in the Tremont overlay:

(1) Significant trees shall be preserved where possible (some may be moved and transplanted). Removal of any significant tree requires pre-approval from the planning director.

(2) Emphasize use of varieties which require low maintenance and drought-tolerant species in public and commercial areas and in large landscape areas.

(3) A minimum of 25 percent of the site shall be landscaped. Required landscaping within parking areas may not be counted as contributing to this requirement. However, landscaping for and within setback areas may be counted toward meeting the 25 percent requirement. A minimum five-foot landscaped area shall be installed around all parking lots.

20.128.232 TRMT landscape as buffering.

Buffering between noncompatible land uses is considered critical in maintaining the existing character of Tremont Street. The following standards are to be used in designing a landscape buffer:

(1) Landscape buffers, in conjunction with decorative fencing, is the preferred method to screen adjacent land uses.

(2) Evergreen trees having minimum size of 15 gallons shall be planted and staked at least 20 feet on center, depending upon the species, or clustered in equal amounts to screen parking or architecture.

(3) A six-foot-high wall may be placed on or just inside the property line. A ten-foot landscape strip area will be provided on the inside of the wall. The wall should be lowered to three feet within the front setback area.

20.128.234 TRMT landscape area ratio.

A minimum of one 15-gallon size tree (25 feet or higher at maturity) for every 625 square feet of landscaping, and one shrub or vine for every 50 square feet of landscaping are required; at least 25 percent of shrubs shall be of a flowering variety.

20.128.236 TRMT landscape irrigation.

Automatic sprinkler or drip irrigation systems for all commercial or multifamily projects shall be provided.

20.128.237 TRMT landscape maintenance.

All plantings shall be kept healthy and growing with all planting areas free of weeds and debris. Each project will have a bond recorded insuring planting materials will be well maintained; such bond shall remain in place for one year after project completion.

20.128.238 TRMT landscape sizes.

(1) Trees shall be a minimum of one gallon size and be at least eight feet at time of planting. Shrubs shall be a minimum of one gallon size at time of planting. All deciduous trees shall be double staked and properly fertilized upon planting. Give consideration for rapidly growing trees.

(2) The ground cover shall be healthy, densely foliated, and consist of one-gallon container plants. Herbaceous and flat ground covers shall be planted no more than 12 inches on center. Woody shrub ground cover shall be planted no more than four feet on center (e.g., evergreens, junipers).

20.128.239 TRMT landscape spacing.

Spacing of trees and shrubs shall be appropriate for each individual species and growing characteristics. Plant materials shall conform to the following spacing standards:

(1) A minimum of 25 feet from the property corner at a street intersection to the center of the first tree or large shrubs. Shrubs less than three feet in height are allowed within this clear sight triangle.

(2) A minimum of 15 feet between center of trees or large shrubs and fire hydrants.

(3) A minimum of 10 feet between center of trees or large shrubs and edge of driveway.

20.128.240 Downtown overlay district landscape standards (DOD).

The general landscape standards set forth in this chapter shall apply to all development in the DOD unless a more restrictive provision is set forth in this section, and then this section shall control.

(1) New development and existing uses along both sides of Bay Street between Bank Street and Seattle Avenue shall be exempt from the landscaping requirements of the zoning ordinance and these regulations.

(2) New development that is adjacent to the water shall provide landscaping on the waterside facade as well as on the street frontage.

(3) New development on waterfront lots that abut the north side of Bay Street between Bank Street and Seattle Avenue shall provide landscaping on the waterside facade only.

(4) For buildings which include residential uses on the upper floors, up to 25 percent of the landscaping requirements may be fulfilled by providing rooftop gardens and upper floor terraces and decks. Rooftop gardens, terraces, and decks shall not count against the 75 percent gross floor area limitation described in POMC 16.20.219.

20.128.290 Maintenance.

(1) All landscape materials and significant trees, in all zones and/or overlay districts, except within critical areas or buffers, shall be maintained in a healthy growing condition.

(2) With the exception of dead, diseased or damaged trees specifically retained to provide wildlife habitat; other dead, diseased, damaged or stolen plantings shall be replaced on a one-for-one basis within five months or during the next planting season if the loss does not occur in a planting season.

(3) Landscape areas shall be kept free of trash.

20.128.295 Bonds and security.

Performance bonds or other appropriate security (including letters of credit and set aside letters) equal to 125 percent of the estimated value of the plants and installation costs shall be required for a period of two years after the planting or transplanting of vegetation to insure proper installation, establishment, and maintenance.

20.128.296 Landscape design requirements.

DRAFT

See Table 20.128.297 for alternatives.

Table 20.128.296
Landscape Design Requirements

	Urban Streetscapes/ Pedestrian Boardwalks	Roadway Corridors – Commercial Development	Roadway Corridors – Residential Development	Roadway Corridors – Parkways	Urban Buffers – Urban Parking Lots	Urban Buffers – Filtered Screening	Urban Buffers – Full Screening	Greenways – Uplands	Greenways – Wetlands	Shorelines
Planting materials										
Large deciduous trees		X			X			X	X	X
Medium deciduous trees	X	X	X		X			X	X	X
Small deciduous trees	X		X			X		X	X	X
Conifers/broadleaf trees			X	X	X	X	X	X	X	X
Deciduous shrubs	X	X	X		X	X		X	X	X
Evergreen shrubs	X	X	X	X	X	X	X	X	X	X
Ground covers	X	X	X	X	X	X	X	X	X	X
Planting mix – Approximate										
Percent in deciduous trees	100%	100%	50%	30%	70%	50%	30%	30%	70%	70%
Percent in evergreen trees	0%	0%	50%	70%	30%	50%	70%	70%	30%	30%
Plant spacing – Feet on center										
Trees	25	40	40	30	30	30	15	30	30	40

Shrubs					5	5	4	4	4	4
Plant scale at time of planting										
Trees – minimum height in feet	10	10	8	8	10	8	8	8	8	8
Trees – minimum caliper in inches	3.0	3.0	2.5	2.5	3.0	2.5	2.5	2.5	2.5	2.5
Shrubs – minimum height in inches	18	18	18	18	18	18	18	18	18	18
Ground cover – years to full coverage	2	2	3	3	2	3	3	3	3	3
Buffer – Depth in feet (subordinate to building setbacks)										
Street frontage		10	10	20				25	25	25
Interior lot line					5	5	10	25	25	25
Parking lot – sf landscape area/stall										
Residential shared parking					20					
Commercial/employment zone lots:										
0 – 30 stalls					20					
30+ stalls					25					
Parking lot – Stalls/tree spacing										
Residential shared parking					8					
Commercial/employment zone lots					4					
Species suggestions – Percent of mix										

Native ground cover and shrubs	75%	75%	75%	75%	75%	75%	75%	100%	100%	100%
Native trees	50%	50%	50%	50%	50%	50%	50%	100%	100%	100%
Drought-tolerant	60%	60%	60%	60%	60%	60%	60%	100%	100%	100%

20.128.297 Suggested landscape materials.

Table 20.128.297
Suggested Landscape Materials

		Urban Streetscapes/ Pedestrian Boardwalks	Roadway Corridors/ Street Frontage	Parking Lot Trees	Urban Buffer Areas	Greenways – Uplands	Greenways – Wetlands/ Streams	Shorelines	Native Materials	Drought-Tolerant
Large deciduous trees										
Acer macrophyllum	Bigleaf Maple					X	X		X	
Acer rubrum species	Red Maple variety	X	X	X	X			X		
Acer saccharum	Sugar Maple			X	X					
Acer truncatum X platanoide	Pacific Sunset Maple	X	X							
Acer platanoides species	Norway Maple variety	X	X	X	X			X		

Alnus rebra	Red Alder					X	X		X	X
Carpinus betulus 'Fastigiata'	Columnar European Hornbeam	X	X							
Fagus sylvatica	European Beech				X			X		X
Fraxinus latifolia	Oregon Ash					X	X		X	
Fraxinus oxycarpa 'Raywood'	Raywood Ash	X	X							
Ginkgo bilboa 'Sentry'	Columnar Maidenhair				X					X
Liquidambar styraciflua	American Sweetgum	X	X	X	X			X		X
Liriodendron tulipifera	Tulip tree				X					
Magnolia grandiflora 'St. Mary'	Evergreen Magnolia	X	X							
Platanus x acerifolia	London Plane				X					
Quercus species	Oak variety	X	X	X	X					X
Quercus robur 'Fastigiata'	Upright English Oak			X	X			X		X
Quercus rubra	Northern Red Oak	X	X	X	X					X
Salix species	Willow variety						X	X	X	

Tillia americana 'Redmond'	Redmond Linden	X	X							
Tillia cordata	Littleleaf Linden	X	X	X	X			X		
Tillia cordata 'Greenspire'	Greenspire Linden	X	X							
Medium deciduous trees										
Acer campestre	Hedge Maple			X						X
Betula species	Birch variety				X					
Carpinus betulus	European Hornbeam	X	X	X	X			X		X
Cercidiphyllum japonicum	Katsura Tree				X					
Cornus nuttallii	Pacific Dogwood					X			X	X
Crataegus laevigata	English Hawthorn	X	X							
Crateagus lavallei	Lavalle Hawthorn	X	X							
Fraxinus pennsylvanica	Marshall's Seedless Ash	X	X	X	X					X
Populus tremuloides	Quaking Aspen						X		X	
Prunus species	Flowering Cherry variety	X	X	X	X			X		
Prunus sargentii	Sargent Flowering Cherry	X	X							

Prunus sargentii 'Columnaris'	Columnar Sargent Flowering Cherry	X	X							
Prunus serrulata 'Kwanzan'	Kwanzan Flowering Cherry	X	X							
Pyrus calleryana species	Flowering Pear variety	X	X	X	X					X
Zelkova serrata 'Village Green'	Sawleaf Zelkova	X	X	X	X					
Small deciduous trees										
Acer circinatum	Vine Maple				X	X	X		X	
Acer davidii	David Maple				X					
Acer ginnala	Amur Maple			X	X			X		
Acer palmatum	Japanese Maple				X					
Amelanchier species	Serviceberry variety				X	X	X		X	
Carpinus species	Hornbeam variety	X	X	X	X			X		X
Cornus florida	Flowering Dogwood				X					
Cornus kousa	Kousa Dogwood			X	X					
Corylus cornuta californica	Western Hazelnut				X	X			X	X

Crataegus species	Hawthorn variety				X	X		X	X	X
Magnolia species	Magnolia variety	X	X	X	X			X		
Malus species	Flowering Crabapple				X					
Prunus species	Flowering Cherry/Plum	X	X		X			X		X
Styrax japonica	Japanese Snowball				X					
Conifers/broadleaf evergreen trees										
Abies grandis	Grand Fir				X	X			X	
Abrutus unedo	Strawberry Tree				X			X		X
Cedrus deodara	Deodar Cedar				X			X		X
Chamaecyparis lawsoniana	Port Orford Cedar				X	X		X	X	X
Chamaecyparis nootkatensis	Alaska Cedar				X	X		X	X	X
Colodectrus decurrens	Incense Cedar				X					
Photinia serrulata	Chinses Photinia				X			X		X
Picea sitchensis	Sitka Spruce				X		X	X	X	
Pinus contorta	Shore Pine			X	X	X		X	X	X
Pinus contorta latifolia	Lodgepole Pine				X			X		X

Pinus densiflora	Japanese Red Pine				X					X
Pinus monticola	Western White Pine				X	X			X	X
Pinus nigra	Austrian Black Pine			X	X			X		X
Pinus ponderosa	Ponderosa Pine				X					X
Pinus sylvestris	Scotch Pine			X	X			X		X
Pinus thunbergii	Japanese Black Pine				X			X		X
Pseudotsuga menziesii	Douglas Fir				X	X		X	X	X
Sequoiadendron sempervirens	Coastal Sequoia				X			X		
Taxus brevifolia	Western Yew				X		X	X	X	
Thuja plicata	Western Red Cedar				X		X		X	
Tsuga heterophylla	Western Hemlock				X		X		X	X
Tsuga mertensiana	Mountain Hemlock				X					
Umbellularia californica	California Bay Laurel			X	X			X		X
Deciduous shrubs										
Amelanchier alnifolia	Western Serviceberry				X	X	X	X	X	
Berberis species	Barberry				X					X

	variety									
Callicarpa japonica	Japanese Beautyberry				X					
Cornus stolonifera	Red-Osier Dogwood				X	X	X	X	X	
Enkianthus campanulatus	Red-Veined Enkianthus				X					
Elaeagnus species	Elaeagnus variety				X			X	X	X
Euonymus alata 'Compacta'	Winged Eunyumus				X			X		
Hamamelis mollis	Chinese Witch Hazel				X					
Holodiscus discolor	Ocean Spray					X	X	X	X	X
Hydrangea lacecap varieties	Lacecap Hydrangea				X					
Potentilla fruticosa	Potentilla				X			X		X
Physocarpus capitatus	Pacific Ninebark						X		X	
Rhamnus purshiana	Cascara Sagrada					X	X		X	
Rhus typhina	Staghorn Sumac				X	X			X	X
Ribes sanguineum	Red-Flowering Currant					X	X		X	

Rosa nutkana	Nootka Rose					X	X	X	X	
Rosa rugosa	Rugosa Rose				X			X		X
Rubus parviflorus	Thimbelberry				X	X	X		X	
Rubus spectabilis	Salmonberry				X	X	X	X	X	
Salix species	Willow variety						X	X	X	
Sambucus racemosa	Red Elderberry					X	X	X	X	
Spiraea species	Spiraea variety						X	X	X	X
Symphoricarpos albus	Snowberry					X			X	X
Syringa vulgaris cultivars	Lilacs				X			X		
Vaccinium parvifolium	Red Huckelberry						X		X	
Viburnum x burkwoodii	Burkwood Viburnum				X			X		
Evergreen shrubs										
Arbutus unedo compacta	Compact Strawberry Tree				X			X		X
Cornus alba 'Sibirica'	Siberian Dogwood				X					
Cotoneaster species	Cotoneaster variety				X			X		X
Ilex crenata	Japanese Holly				X					

Kalmia latifolia	Mountain Laurel				X					
Ligustrum japonicum	Japanese Privet				X					
Myrica californica	Pacific Wax Myrtle				X	X	X	X	X	X
Osmarea x burkwoodii	Burkwood Osmarea				X					X
Osmanthus delavayi	Delavay Osmanthus				X			X		X
Photinia frazeri	Japanese Photinia				X			X		X
Pieris floribunda	Mountain Pieris				X			X		
Pieris japonica	Japanese Pieris				X			X		
Prunus lusitanica	Portugese Laurel				X					X
Pinus Mugo	Mugho Pine				X			X		X
Rhododendron species	Rhododendron and Azaleas				X	X		X	X	
Vaccinium ovatum	Evergreen Huckleberry				X	X	X	X	X	
Ground covers										
Arctostaphylos uva-ursi	Kinnikinnick				X	X		X	X	X
Berberis nervosa	Cascade Mahonia				X	X			X	X

Calluna vulgaris	Scotch Heather				X			X		
Caenothus gloriosus	Point Reyes Ceanothus				X			X		X
Cotoneaster microphyllus	Rockspray Cotoneaster				X			X		X
Erica carnea	Winter Heath				X			X		
Erica x darleyensis	Mediterranean Heather				X					
Euonymus fortunei	Winter Creeper Euonymus				X			X		
Gaultheria shallon	Salal				X	X	X	X	X	X
Hypericum calycinum	St. Johnswort				X			X		
Ilex crenata varieties and cultivars	Japanese Holly				X					
Mahonia species	Mahonia variety				X			X		
Pachysandra terminalis	Japanese Spurge				X					X
Sarcococca hookerana	Sarcococca				X					
Vinca minor	Periwinkle				X			X		X

Note: Medium street trees are recommended for planted medians only without tree grates. Source: Hough, Beck & Baird as modified by Galen Wright, Washington Forestry Consultants, Inc.

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City of Port Orchard

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Agenda Staff Report

Agenda Item No.: Business Item 7H
Subject: Adoption of a Resolution Update the City's
Fee Resolution

Meeting Date: December 13, 2016
Prepared by: Nicholas Bond, AICP
Development Director
Atty Routing No.: NA
Atty Review Date: NA

Summary: The City regularly reviews its Permit Fee Resolution to ensure that all permit fees are set as prescribed and at levels which are sufficient to cover the cost of administration. The attached fee resolution has been updated to:

- **Adopt a stormwater drainage permit and plan review fee.** City city’s mandated stormwater code updates had the effect of restructuring the city’s stormwater and clearing and grading permit types. The fee schedule has been updated accordingly.
- **Adopt a land disturbing activity permit and plan review fee.** City city’s mandated stormwater code updates had the effect of restructuring the city’s stormwater and clearing and grading permit types. The fee schedule has been updated accordingly.
- **Adopt fees related to South Kitsap Fire District permits and plan review.** The 2017-18 budget includes a new annual payment to SKFD for their assistance in fire code implementation and the fire safety aspects of development review. The Finance Committee recommended that this added cost to the city be passed through to permit applicants. The fees shown in tables 21-25 have the effect of passing through this cost and fully covering the city’s cost.
- **Adopt the most recent August 2016 building valuation table.** The City’s building permit fees are based on project valuation. Project valuation is determined by the ICC building valuation tables which are updated every 6 months. The City is currently relying on the August 2015 building valuation table and proposes to adopt the June 2016 building valuation table.
- **Basic Plan Review:** The City’s existing process has been formally added to the fee resolution.
- **Street Use Permits:** The City adopted Street Use Permits earlier in 2016, but never set a fee for these permit applications. This fee is \$50 (city) + \$50 (SKFD when applicable).

Recommendation: Staff recommends approval of the proposed fee resolution update.

Fiscal Impact: The resolution is expected to generate enough revenue to pay the new \$50,000 per year payment to SKFD to cover the cost of plan review. In addition, the adjustments to the ICC building valuation table are intended to ensure that the city’s permit revenue grows at the rate of inflation.

Alternatives: Do not adjust the city’s fee resolution.

Attachments: Resolution, Exhibit A, Building Valuation Table

RESOLUTION NO. ____

**A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON
REPEALING RESOLUTION NO. 027-16 AND ESTABLISHING FEE
SCHEDULES FOR THE DEPARTMENTS OF COMMUNITY
DEVELOPMENT AND PUBLIC WORKS**

WHEREAS, the City of Port Orchard is responsible for implementing land use regulations, planning and public works requirements, administering the building code, and other administrative duties; and

WHEREAS, there are costs associated with the implementation of city regulations and policies; and

WHEREAS, the City's current Planning and Public Works Department administrative fees were adopted in March 2016 as set forth in Resolution No. 027-16; and

WHEREAS, the City Council deems it in the best interest of the City of Port Orchard to periodically review and update the City's administrative fees; now, therefore,

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

1. Resolution No. 027-16 is hereby repealed in its entirety.
2. The fees that will be charged by the City Community Development and Public Works Departments and Clerk's Office for the specified services and permits are listed in Exhibit "A".
3. Fees not listed in Exhibit "A" will be determined by the City Council.
4. The fees listed in Exhibit "A" shall take effect on January 1, 2017.

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 13th day of December, 2016.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, CMC, City Clerk

Exhibit A to Resolution ____-16

A. General

1. No permit shall be issued, application accepted, service provided, or appeal filed without payment of the applicable fee set forth below.
2. References to the director refer to the director of the Department of Community Development or his/her designee.
3. When an application includes the submittal of special reports and/or plans such as habitat management plans, geotechnical reports, or traffic impact analyses requiring review beyond the capabilities of city staff, the applicant shall be required to pay the actual cost of 3rd party review by qualified consultants under contract with the city. Upon determining that 3rd party review of special reports or plans is required, the city will obtain a fee estimate from its consultant and provide that estimate to the applicant and request payment to the city.
4. Some projects require more than one permit. In some cases a project will require the payment of numerous fees from the tables below.
5. Each building, plumbing, mechanical, planning and land use, and public works permit/department review fee shall be assessed a technology fee surcharge of \$10.00 to cover the cost of the purchase and ongoing maintenance of the City's SMARTGov permitting system which was put into use in November of 2014.
6. No additional inspections, including final inspections, will be scheduled or performed until all outstanding fees are paid.
7. Refunds: The hourly rate used to calculate a deduction to a refund shall be \$75 per hour.
 - a. Building Permit fees:
Refunds shall be issued at an amount equal to the permit fee less actual time and materials spent on the project; provided no refund shall exceed 80% of the initial permit fee for a permit that was issued by the City. If the permit fee was paid and a refund was requested prior to permit issuance, 100% of the permit fee may be refunded.
 - b. Plan Review Fees:
If an application is withdrawn, cancelled or returned prior to issuing a building permit, a refund shall be issued to an amount equal to the plan review fee less actual time and materials spent on the project, provided no refund shall exceed 80% of the plan review fee. Plan review fees are non-refundable once the plan review has been completed or if the permit has been issued.
 - c. Other Permit/Application fees:
Refunds for Land Use permits and other permit application types may be authorized by the director. Refunds shall be issued at an amount equal to the permit fee less actual time and materials spent on the project; provided no refund shall exceed 80% of the initial permit fee.
8. All recording fees for approvals issued by the city shall be paid by the applicant.

B. Building, Plumbing, and Mechanical Fee Policies

1. Failure to pay established fees may result in one or more of the following:
 - Per Section 109.4 of the IBC, any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to an additional fee equal to the required permit cost in addition to the underlying permit costs.

- No temporary or final certificate of occupancy will be approved or issued for a project with any outstanding fees on any permit associated with the project.
2. Some signs require a building permit in addition to a land use (sign) permit. In these instances, the permit fees are additive meaning that an applicant may be required to obtain a sign permit and a building permit.
 3. Minor revisions to plans which were previously reviewed and approved by the city shall be reviewed at a cost of \$75 per hour with a minimum of 1 hour billed.
 4. Valuation for Table 1 shall be determined using the IBC Building Valuation Data Table (BVD) (currently the ~~August 2015~~ June 2016 table as attached hereto) except as noted in the BVD Table and when otherwise noted in Tables 2 and 3.
 5. Per 2015 IBC 109.3, the applicant for a permit shall provide an estimated construction value at the time of application. The amount shall include the fair market value of any donated, contributed or found labor and/or materials.
- 5-6. Single family home builders who wish to reuse a plan set to construct more than one home using the same plan set may do so by utilizing a “basic plan” review process. When an applicant wishes to establish a basic plan set for reuse, the plans shall initially be reviewed upon payment of the city’s standard plan review fee. Once plan review is complete and if the City finds that the plans conform to the requirements of the Building Code, the plans shall be approved as a basic plan set and marked as such for reuse. For each use of the plan, the applicant shall pay a reduced plan review fee as established in Table 3 in lieu of the full plan review fee. The use of an approved basic plan set shall have no effect on the building permit fee (only the building permit plan review fee). Plans may not be reused if the city’s building code has been updated unless the plans have been re-reviewed (upon payment of the full plan review fee) and approved for conformance with the updated building code.

TABLE 1:

Total Valuation	FEES (Permit Fee = 100% Plan Review Fee = 65%)
\$1 to \$500	\$26.00
\$501 to \$2,000	\$26.00 for the first \$500 plus \$3.00 for each additional \$100, or fraction thereof, to and including \$2,000
\$2,001 to \$40,000	\$69.00 for the first \$2,000 plus \$11.00 for each additional \$1,000, or fraction thereof, to and including \$40,000
\$40,001 to \$100,000	\$487.00 for the first \$40,000 plus \$9.00 for each additional \$1,000, or fraction thereof, to and including \$100,000
\$100,001 to \$500,000	\$1,027.00 for the first \$100,000 plus \$7.50 for each additional \$1000, or fraction thereof, to and including \$500,000
\$500,001 to \$1,000,000	\$3,827.00 for the first \$500,000 plus \$5.00 for each additional \$1,000, or fraction thereof, to and including \$1,000,000

\$1,000,001 to \$5,000,000	\$6,327.00 for the first \$1,000,000 plus \$3.00 for each additional \$1,000, or fraction thereof, to and including \$5,000,000
\$5,000,001 and up	\$18,327.00 for the first \$5,000,000 plus \$1.00 for each additional \$1,000, or fraction thereof

TABLE 2:

Residential Single Family		
Building Permit Type	Amount	Unit of Measure
Finish an existing basement	\$82.95	square foot
Conversion of an existing garage to residential space	\$59.79	square foot
New, repair, or alteration or addition to deck, uncovered	\$13.04	square foot
New Foundation only or under existing structure	\$13.04	square foot
New garage, shed, barn, or pole building (attached or detached)	\$38.16	square foot
Covered porch, covered deck; new, alteration, repair, or cover added	\$21.07	square foot
New, remodel, or repairs to freestanding roof structures and carports, other than porch or deck	\$21.07	square foot
Residential Interior Remodel	\$19.67	square foot

TABLE 3:

Miscellaneous:		
Building Permit Code	Amount	Unit of Measure
Shoreline bulkhead walls	\$118	Per Linear Foot
Demolition	\$65	Each
Fences over 6 feet in height	\$11.74	Per Linear Foot
Retaining walls	\$19.67	Per Linear Foot
Re-inspection	\$65	Each
Fire Alarm, new or alterations to existing	Apply Construction Value to Table 1	Construction value (contract or materials x 2)
Fire Sprinkler, new or alterations to existing	Apply Construction Value to Table 1	Construction value (contract or materials x 2)
Fire Suppression System	Apply Construction Value to Table 1	Construction value (contract or materials x 2)
Tank: Underground or Above Ground, Installation or Removal	Apply Construction Value to Table 1	Construction value (contract or materials x 2)
Temporary Tent & Membrane Structures	\$65	Each
Pyrotechnics Special Effects	\$65	Each
Roof : Hot Mop/Cold Mop (flat roof)	\$90	Per 100 SQ FT
Roof: Composition, Metal	\$70	Per 100 SQ FT
Roof: Wood Shake	\$140	Per 100 SQ FT
Roof: Concrete, Tile, Slate	\$140	Per 100 SQ FT
Roof: Torch Down	\$90	Per 100 SQ FT
Residential Misc.	Apply Construction Value to Table 1	Construction value (contract or materials x 2)
Commercial Tenant Improvement and Misc.	Apply Construction Value to Table 1	Construction value (contract or materials x 2)
Certificate of Occupancy for new business only; All other C of O included in building permit fee.	\$65	Each
Manufactured or mobile home placed on lot or first time placement in MH park	\$130	Each

Manufactured or mobile home replacement in MH park	\$65	Each
Permit Renewal	50% of original fee	
Posted Stop Work	\$65	Each occurrence
Sign (when a building permit is required)	Apply Construction Value to Table 1	Construction value (contract or materials x 2)
Carport or Canopy, pre-fab kit installation	\$100	Each
Siding or Re-siding	\$70	per 100 SQ FT
Solar energy/photovoltaic panel system roof mounted install per WAC 51-51-2300 Sec. M2302	\$135	Each
<u>Single Family Residential plan review using a basic plan on a site specific lot</u>	<u>\$225</u>	<u>Each</u>
Windows or Doors	Apply Construction Value to Table 1	Construction value (contract or materials x 2)

Plumbing Permit Fees

Plumbing permit fees shall be calculated using the commercial and residential schedules in Tables 4 and 5 below.

TABLE 4:

Commercial Plumbing Permit Fees			
	Commercial Plumbing Fixtures	Fee	Per
	Base Fee Applied to All Plumbing Permits	\$23.50	Flat Fee
	Backflow protective device 2 inches or less	\$9.80	Each
	Backflow protective device larger than 2 inches	\$15.00	Each
	Clothes Washing Machine	\$9.80	Each
	Dish Washer	\$9.80	Each
	Drainage Pipe or Vent Pipe Repair or Alteration	\$9.80	Each
	Drinking Fountain	\$9.80	Each
	Floor Drain	\$9.80	Each
	Hose Bibbs, each	\$1.00	Each
	Industrial/Sand Oil Interceptor	\$9.80	Each
	Grease Interceptor	\$9.80	Each
	Lawn Sprinkler System with Backflow Device	\$9.80	Each
	Medical Equipment / Kidney Machine	\$9.80	Each
	Medical Gas, each additional outlet in excess of first 5	\$5.00	Each
	Medical gas system up to 5 outlets	\$50.00	Each
	Misc. Plumbing fixtures on one trap	\$9.80	Each
	Roof Drain	\$9.80	Each
	Sink (Lavatory, Kitchen, Mop, or Bar Sink)	\$9.80	Each
	Floor Sink and /or Indirect Waste	\$9.80	Each
	Multi - Compartment Sink	\$9.80	Each
	Shampoo Sink w/interceptor	\$9.80	Each
	Toilet, Water Closet. Bidet, orUrinal	\$9.80	Each
	Tub and/or Shower	\$9.80	Each
	Water Heater	\$9.80	Each
	Water Pipe Repair and/or Alteration	\$9.80	Each

TABLE 5:

Residential Plumbing Permit Fees			
	Residential Plumbing Fixtures	Fee	Per
	Base Fee applied to all Plumbing Permits	\$23.50	Flat Fee
	Clothes Washer	\$7.00	Each
	Dishwasher	\$7.00	Each
	Floor Drain	\$7.00	Each
	Hose Bibb	\$1.00	Each
	Hot Tub	\$14.80	Each
	Lawn Sprinkler with backflow preventer	\$7.00	Each
	Sink (Lavatory, Kitchen, Mop)	\$7.00	Each
	Tub and/or shower	\$7.00	Each
	Toilet, Bidet or Urinal	\$7.00	Each
	Water Heater	\$7.00	Each

Mechanical Permit Fees

Mechanical permit fees shall be calculated using the commercial and residential schedules in Tables 6 and 7 below.

TABLE 6:

Commercial Mechanical Permit Fees			
	Commercial Mechanical Fixtures	Fee	Per
	Mechanical Permit Base Fee	\$23.50	Flat Fee
	Air-Handling Unit < 10,000 CFM	\$14.80	Each
	Air-Handling Unit > 10,000 CFM	\$18.10	Each
	Class 1 Hood & Duct Systems	\$10.65	Each
	Class 2 Hood & Duct Systems	\$10.65	Each
	Clothes Dryer with exhaust	\$10.65	Each
	Compressors	\$14.70	Each
	Cook stove with exhaust	\$10.65	Each
	Ducting Change without New Furnace	\$13.70	Each
	Evaporative Coolers, permanently installed	\$10.65	Each
	Fan for Bath and/or Exhaust Fan	\$7.25	Each
	Commercial Furnace & Ducting < 100,000 btu	\$14.80	Each
	Commercial Furnace & Ducting > 100,000 btu	\$18.20	Each
	Combo Gaspipe / Water Heater / Furnace	\$35.45	Each
	Fuel System Outlets in excess of the first 4	\$2.00	Each
	Fuel Pipe System LPG, Natural Gas, OIL (first 4 outlets)	\$10.65	Each
	Miscellaneous Mechanical Equipment	\$10.65	Each
	Mechanical System Pumps (Misc)	\$10.65	Each
	Radiant Heat Units (wall, ceiling, floor, recessed, etc.)	\$10.65	Each
	Unit Heater Suspended or Floor Mount	\$14.80	Each
	Gas Water Heater Vent & Combustion Air	\$10.65	Each
	Propane tank over 2000 gallons	10.65	Each

TABLE 7:

Residential Mechanical Permit Fees			
	Residential Mechanical Fixtures	Fee	Per
	Base Fee applied to all Mechanical Permits	\$23.50	Flat Fee
	Bath Fan and or Exhaust Fan	\$7.25	Each
	Clothes Dryer w/exhaust	\$10.65	Each
	Cook Stove w/exhaust	\$10.65	Each
	Furnace Electric / Heat Pump/AC +/- ducting	\$14.80	Each
	Fireplace - Gas or Gas log inserts	\$12.00	Each
	Fireplace - Wood or Wood Stove	\$12.00	Each
	Furnace Propane +/-Ducting	\$14.80	Each
	Gas WH Vent and Combustion Air	\$10.65	Each
	Fuel Pipe System LPG, Natural Gas, Oil	\$10.00	Each
	Misc. Mechanical Equipment	\$10.65	Each
	Furnace Natural Gas +/- Ducting	\$14.80	Each
	Propane Furnace +/- Ducting	\$14.80	Each
	Propane Fuel Tank Under 2000 Gallons	\$10.65	Each

C. Planning and Land Use Fees

The planning and land use permit fees listed in the tables below shall be paid at the time an application is submitted to the city unless otherwise specified. Fees are based on an hourly rate of \$75.00.

TABLE 8:

Subdivision POMC Title 26	
Short Subdivision Application	\$1,100
Short Subdivision - Submission of Final Short Subdivision for Review and Approval	\$600
Short Subdivision Amendment	\$500
Final Short Subdivision Alteration	\$500
Preliminary Subdivision Plats 5-20 lots	\$2,000 plus Hearing Examiner Fee
Preliminary Subdivisions Plats 21+ Lots	\$2,000 + \$50 Per Lot plus Hearing Examiner Fee
Planned Residential Development Review per POMC 16.13.190	\$500 plus associated Preliminary Subdivision Plat Fee
Minor Revisions to a Preliminary Plat	\$500
Boundary Line Adjustment	\$200
Final Plat	\$1,000 + 50 Per Lot
Preliminary Binding Site Plan	\$1,100
Binding Site Plan Alteration	\$500
Final Binding Site Plan	\$600
Vacation and Alteration of Final Plats and Final Binding Site Plans	\$2,000 plus Hearing Examiner Fee

TABLE 9:

SEPA	
Project Checklist Review and Threshold Determination	\$300
Non-Project Checklist Review and Threshold Determination	\$300
Environmental Impact Statement Preparation	Actual Cost, See SEPA Ord.
Environmental Impact Statement Review	Actual Cost, See SEPA Ord.
SEPA Appeal Fee*	\$450

TABLE 10:

Shoreline Permits	
Administrative Shoreline Substantial Development Permit	\$600
Shoreline Substantial Development Permit	\$900 plus Hearing Examiner Fee
Shoreline Exemption (Letter)	\$150
Shoreline Conditional Use Permit	\$1,275 plus Hearing Examiner Fee
Administrative Shoreline Conditional Use Permit	\$600
Shoreline Variance	\$1,275 plus Hearing Examiner Fee
Administrative Shoreline Variance	\$600

TABLE 11:

Land Use Permits	
Administrative Conditional Use Permit	\$600
Conditional Use Permit	\$1,275 plus Hearing Examiner Fee
Temporary Use Permit	\$150
Temporary Use Permit Extension	\$150
Variance Administrative	\$600
Variance	\$1,275 plus Hearing Examiner Fee
Variance, View Protection Overlay District	\$1,275 plus Hearing Examiner fee
View Protection Overlay District Exemption	\$100
Rezone (without Comp Plan Amendment)	\$1,275 plus Hearing Examiner fee

TABLE 12:

Other Review	
Request for a statement of restrictions per RCW 35.21.475	\$75
Administrative Interpretation (POMC 23.40.030)	\$75 minimum, an additional deposit may be required if city attorney review is required, any city attorney expenses related to an application for an administrative application shall be paid by the applicant prior to issuance of a decision
Pre-Application Meeting	\$150 (100% is credited to a land use application if filed within 12 months)
Development Agreements	\$1,000 Deposit, which will be applied to the city's costs including city attorney fees regardless of whether a development agreement is approved
Comp Plan Amendment (Text)	\$500
Comp Plan Amendment (Map)	\$1,875
Forest Practices Application (Local Approval)	\$300
Landscape Plan Review Minor	\$225
Landscape Plan Review Major (Subdivisions with more than 20 lots, Developments larger than 20,000 square feet in area)	\$600
Other Appeal Fee*	\$450

* Any appeal statement must be filed on the deadline established in the City's code relating to the specific appeal, together with a certified check in the amount of the appeal fee (which shall include the fee set forth in the fee Resolution, plus the hearing examiner's fees charged to the City on the appeal), which appeal fee shall be returned to the appellant if the decision of the City is not sustained by the hearing examiner. If the hearing examiner sustains the decision, the appeal fee will be applied to any fees charged by the hearing examiner on the decision or appeal. If the City Council is the decision-maker on the appeal, only the appeal fee shall be charged. If any appellant believes that the payment of the appeal fee creates a financial hardship, it shall submit a request for an appeal waiver with the appeal statement on or before the deadline established in the City's code relating to the specific appeal. This request for an appeal waiver shall describe the appellant's financial situation and why payment of the appeal fee creates a financial hardship. As an example, the appellant may provide evidence that the appellant resides in a low-income household, which would include a single person, family or unrelated persons living together, whose adjusted income is less than eighty percent of the median family income, adjusted for household size, for Kitsap County.

Signs Permits

Signs may also require a building permit. See B.4 and Table 3.

TABLE 13:

Sign Permits	
A-Board Sign	\$25
Permanent Sign	\$50
Comprehensive Sign Plan (Sign Program)	\$500
Placement of WSDOT directional sign	\$75

Books/Maps/Optical Discs/Other**TABLE 14:**

Books/Maps/Optical Discs/Other	
Copies of Codes and Standards on Disc	\$5
Photocopies 11x17 and smaller (in house copying); Refer to POMC 1.18.070 for public records requests	\$0.15 per page black and white or \$1 per page color
Map Scanning if above 11x17	\$3
Print Jobs on Plotter	\$3 per linear foot or portion thereof (36" width)
In house binding of documents (plastic spine) (which are also printed in house)	\$15
In house binding of documents (3 ring binder) (which are also printed in house)	\$10
GIS Data and Custom Maps	\$75 per hour to produce, minimum 1 hour
Public Notice signs	Actual cost + 25%

D. Public Works Department Fees

The Public Works Department permit fees listed in the tables below shall be paid at the time an application is submitted to the city unless otherwise specified.

TABLE 15:

Public Works Department Permits and Fees		
Public Works	Cost	Note
<u>Land Disturbing Activity Permit Plan Review</u>	<u>\$100 for the first acre of disturbance + \$50 for each additional acre of Disturbance above 1 acre</u>	<u>(Paid at the time of application submittal – covers plan review costs)</u>
<u>Land Disturbing Activity Permit</u>	<u>\$100 for the first acre of disturbance + \$50 for each additional acre of Disturbance above 1 acre</u>	<u>(Paid at time of permit issuance – covers inspection costs)</u>
<u>Stormwater Drainage Permit Plan Review</u>	<u>\$100 for the first 3,000 square feet of hard surface to be constructed + \$100</u>	<u>(Paid at the time of application submittal – covers plan review</u>

	<u>for each additional 3,000 square feet of hard surface to be constructed</u>	<u>costs)</u>
Stormwater Management Permit, Major (SDAP) Stormwater Drainage Permit	\$100 for the first 3,000 square feet of hard surface to be constructed + \$100 for each additional 3,000 square feet of hard surface to be constructed	In addition to other applicable charges Stormwater Drainage Permit (Paid at time of permit issuance – covers inspection costs)
Stormwater Management Permit, Minor	\$75	In addition to other applicable charges
Stormwater Review Major (Subdivisions and Short Plats)	\$1,000 plus \$50 per lot	
Stormwater Review Major, All other new permits	\$1,000	
Stormwater Review Minor, New Permit	\$250	
Street Use Permit Application Fee	\$50	
Street Signs (provided by the city)	Actual Cost +25%	
Plan Revision Review to Approved Permit Drawings	\$100	<u>Per hour of required plan review.</u>
Latecomer Agreement Review Fee	\$500 Deposit	The applicant shall pay the actual fee, including city attorney costs, for preparing the latecomer agreement
ROW Permit, first 100 Linear Feet	\$50	
ROW Permit, every 300 Feet thereafter	\$10	
Work without a Permit - Penalty	Permit fee is doubled	Violator must obtain the required permit and pay twice the normal permit fee

TABLE 16:

Stormwater Management Permits for Grading (under POMC 15.32.060)	Cost
Review Fees	
50 cubic yards or less	No Fee
51 to 100 cubic yards	\$23.50
101 to 500 cubic yards (SEPA required beyond this point)	\$37.00
501 to 1,000 cubic yards	\$43.00
1,001 to 10,000 cubic yards	\$49.25

10,001 to 100,000 cubic yards	\$49.25 for the first 10,000 cubic yards, plus \$24.50 for each additional 10,000 cubic yards or fraction thereof
100,001 to 200,000 cubic yards	\$269.75 for the first 10,000 cubic yards, plus \$13.25 for each additional 10,000 cubic yards or fraction thereof
200,001 cubic yards or more	\$402.25 for the first 200,000 cubic yards, plus \$7.25 for each additional 10,000 cubic yards or fraction thereof
Permit Fees	
50 cubic yards or less	\$0
51 to 100 cubic yards	\$37.00
101 to 500 cubic yards (SEPA required beyond this point)	\$37.00 for the first 100 cubic yards, plus \$17.50 for each additional 100 cubic yards or fraction thereof
501 to 1,000 cubic yards	\$107.00 for the first 100 cubic yards, plus \$17.50 for each additional 100 cubic yards or fraction thereof
1,001 to 10,000 cubic yards	\$194.50 for the first 1,000 cubic yards, plus \$14.50 for each additional 1,000 cubic yards or fraction thereof
10,001 to 100,000 cubic yards	\$325.00 for the first 10,000 cubic yards, plus \$66.00 for each additional 10,000 cubic yards or fraction thereof
100,001 cubic yards or more	\$919.00 for the first 100,000 cubic yards, plus \$36.50 for each additional 10,000 cubic yards or fraction thereof

TABLE 17:

Street Vacations	
Street Vacation Petition Fee	\$120
Street Vacation Appraisal Fee (Refundable Deposit)	\$500 Deposit, Petitioner shall pay the actual cost of the appraisal.

TABLE 18:

Impact Fee Deferrals (POMC 16.70.110 D)	
Application for Impact Fee Deferral	\$300

TABLE 19:

Residential Parking Permits	
Residential Parking Permit	\$10
Replacement Parking Permit	\$5
Temporary Residential Parking Permit	\$10
Bed and Breakfast Parking Permit	\$10

Table 20: Concurrency Review (POMC 16.71)

1. Concurrency (Capacity Reservation Certificate) applications fees shall be based on the following table. Each type of application (Transportation, Water, or Sewer) shall include payment of an application fee (A) plus any consultant fees charged to the city (B or C) for concurrency review as applicable.

Type of Review	A Application Fee (also the total review fee for applications reviewed in house by the City)	B Review Performed by Consultant – Application submitted after a scope and fee has been obtained	C Review Performed by Consultant – Application submitted prior to obtaining scope and fee (Deposit)
Transportation	\$150	The applicant shall pay the amount shown in the scope and fee provided by the City’s Consultant.	\$1000 Deposit, the actual fee for concurrency review to be paid by the applicant
Water	\$150	The applicant shall pay the amount shown in the scope and fee provided by the City’s Consultant.	\$1000 Deposit, the actual fee for concurrency review to be paid by the applicant
Sewer	\$150	The applicant shall pay the amount shown in the scope and fee provided by the City’s Consultant.	\$1000 Deposit, the actual fee for concurrency review to be paid by the applicant

2. The Director of Public Works shall make all determinations as to whether an application be reviewed by the city or be sent to the consultant for review.

3. When a deposit is required pursuant to the above table, the deposit shall be applied to the actual fee incurred by the city. Any balance owed shall be paid prior to the issuance of a concurrency certificate.

E. Fire District Review and Inspection Fees.

A surcharge on the permit types identified in Tables 21 – 25 shall be collected if Fire District review and/or inspections take place. The minimum fee shall be \$100 except where specified in the tables. The fee shall be paid at the time the permit is issued unless otherwise specified.

TABLE 21:

<u>BUILDING PERMITS</u>	
<u>Type</u>	<u>Amount</u>
<u>Commercial Addition</u>	<u>\$150</u>
<u>New Commercial Building</u>	<u>\$400</u>
<u>Tenant Certificate of Occupancy</u>	<u>\$75</u>

<u>New Cell Tower</u>	<u>\$150</u>
<u>Commercial or Government Miscellaneous</u>	<u>\$150</u>
<u>Tenant Improvement</u>	<u>\$250</u>
<u>Demolition</u>	<u>\$75</u>
<u>Commercial Waterfront</u>	<u>\$150</u>
<u>New Residential: Single family, ADU, Duplex</u>	<u>\$100</u>
<u>New Multi-family: Triplex and above</u>	<u>\$250</u>
<u>Residential Certificate of Occupancy</u>	<u>\$75</u>
<u>Other Permit Types with Flat Fees</u>	<u>\$100</u>

TABLE 22:

<u>FIRE CODE PERMITS</u>	
<u>Type</u>	<u>Amount</u>
<u>Fire Alarm</u>	<u>\$400</u>
<u>Fire Sprinkler</u>	<u>\$400</u>
<u>Fire Suppression System</u>	<u>\$400</u>
<u>Temporary Tent or Membrane Structure</u>	<u>\$400</u>
<u>Tank Install</u>	<u>\$400</u>
<u>Tank Decommission</u>	<u>\$400</u>
<u>High Pile Storage</u>	<u>\$400</u>
<u>Fire Code permit projects which are identified as highly complex shall be reviewed by a consultant under contract services. In addition to the fee listed above, the consultant fee shall be paid by the applicant and is due when the permit is issued.</u>	

TABLE 23:

<u>LAND USE PERMITS</u>	
<u>Type</u>	<u>Amount</u>
<u>Boundary Line Adjustment</u>	<u>\$250</u>
<u>Conditional Use Permit</u>	<u>\$250</u>
<u>Preliminary Plat or alteration of</u>	<u>\$250</u>
<u>Final Plat or alteration of</u>	<u>\$250</u>
<u>Final Binding Site Plan or alteration of</u>	<u>\$250</u>
<u>Shoreline: Substantial Development, Conditional Use, Variance</u>	<u>\$250</u>

<u>LAND USE PERMITS</u>	
<u>Type</u>	<u>Amount</u>
<u>Short Plat: Preliminary or Final</u>	<u>\$250</u>
<u>Variance</u>	<u>\$250</u>
<u>Comprehensive Plan Amendment</u>	<u>\$250</u>
<u>Zone Reclassification (Rezone)</u>	<u>\$250</u>

TABLE 24:

<u>PUBLIC WORKS PERMITS</u>	
<u>Type</u>	<u>Amount</u>
<u>Land Disturbance Activity Permit and/or Stormwater Drainage Permit (This fee shall not be charged more than once per project if the permits are issued simultaneously)</u>	<u>\$250</u>
<u>Right-of-Way</u>	<u>\$75</u>
<u>Other Permit Types with flat fees</u>	<u>\$100</u>

TABLE 25:

<u>OTHER</u>	
<u>Type</u>	<u>Amount</u>
<u>Formal Pre-Application Conference (not credited towards a future application fee)</u>	<u>\$150</u>
<u>Cabaret License</u>	<u>\$100</u>
<u>Carnival License</u>	<u>\$100</u>
<u>Event Permit</u>	<u>\$100</u>
<u>Liquor or Marijuana License</u>	<u>\$100</u>
<u>Pawn Broker</u>	<u>\$100</u>
<u>Street Use Permit Application fee</u>	<u>\$50</u>

Building Valuation Data – June 2016

The International Code Council is pleased to provide the following Building Valuation Data (BVD) for its members. Please be advised that the BVD is normally updated at six-month intervals, but the BVD normally provided in February was delayed. The next BVD will be issued in August, per our normal schedule. ICC strongly recommends that all jurisdictions and other interested parties actively evaluate and assess the impact of this BVD table before utilizing it in their current code enforcement related activities.

The BVD table provides the “average” construction costs per square foot, which can be used in determining permit fees for a jurisdiction. Permit fee schedules are addressed in Section 109.2 of the 2015 *International Building Code* (IBC) whereas Section 109.3 addresses building permit valuations. The permit fees can be established by using the BVD table and a Permit Fee Multiplier, which is based on the total construction value within the jurisdiction for the past year. The Square Foot Construction Cost table presents factors that reflect relative value of one construction classification/occupancy group to another so that more expensive construction is assessed greater permit fees than less expensive construction.

ICC has developed this data to aid jurisdictions in determining permit fees. It is important to note that while this BVD table does determine an estimated value of a building (i.e., Gross Area x Square Foot Construction Cost), this data is only intended to assist jurisdictions in determining their permit fees. This data table is not intended to be used as an estimating guide because the data only reflects average costs and is not representative of specific construction.

This degree of precision is sufficient for the intended purpose, which is to help establish permit fees so as to fund code compliance activities. This BVD table provides jurisdictions with a simplified way to determine the estimated value of a building that does not rely on the permit applicant to determine the cost of construction. Therefore, the bidding process for a particular job and other associated factors do not affect the value of a building for determining the permit fee. Whether a specific project is bid at a cost above or below the computed value of construction does not affect the permit fee because the cost of related code enforcement activities is not directly affected by the bid process and results.

Building Valuation

The following building valuation data represents average valuations for most buildings. In conjunction with IBC Section 109.3, this data is offered as an aid for the building official to determine if the permit valuation is underestimated. Again it should be noted that, when using this data, these are “average” costs based on typical construction methods for

each occupancy group and type of construction. The average costs include foundation work, structural and nonstructural building components, electrical, plumbing, mechanical and interior finish material. The data is a national average and does not take into account any regional cost differences. As such, the use of Regional Cost Modifiers is subject to the authority having jurisdiction.

Permit Fee Multiplier

Determine the Permit Fee Multiplier:

1. Based on historical records, determine the total annual construction value which has occurred within the jurisdiction for the past year.
2. Determine the percentage (%) of the building department budget expected to be provided by building permit revenue.
- 3.

$$\text{Permit Fee Multiplier} = \frac{\text{Bldg. Dept. Budget} \times (\%)}{\text{Total Annual Construction Value}}$$

Example

The building department operates on a \$300,000 budget, and it expects to cover 75 percent of that from building permit fees. The total annual construction value which occurred within the jurisdiction in the previous year is \$30,000,000.

$$\text{Permit Fee Multiplier} = \frac{\$300,000 \times 75\%}{\$30,000,000} = 0.0075$$

Permit Fee

The permit fee is determined using the building gross area, the Square Foot Construction Cost and the Permit Fee Multiplier.

$$\text{Permit Fee} = \text{Gross Area} \times \text{Square Foot Construction Cost} \times \text{Permit Fee Multiplier}$$

Example

Type of Construction: IIB

Area: 1st story = 8,000 sq. ft.

2nd story = 8,000 sq. ft.

Height: 2 stories

Permit Fee Multiplier = 0.0075

Use Group: B

1. Gross area:
Business = 2 stories x 8,000 sq. ft. = 16,000 sq. ft.
2. Square Foot Construction Cost:
B/IIB = \$160.26/sq. ft. Permit Fee:
Business = 16,000 sq. ft. x \$160.26/sq. ft x 0.0075
= \$19,231

Important Points

- The BVD is not intended to apply to alterations or repairs to existing buildings. Because the scope of alterations or repairs to an existing building varies so greatly, the Square Foot Construction Costs table does not reflect accurate values for that purpose. However, the Square Foot Construction Costs table can be used to determine the cost of an addition that is basically a stand-alone building which happens to be attached to an existing building. In the case of such additions, the only alterations to the existing building would involve the attachment of the addition to the existing building and the openings between the addition and the existing building.
- For purposes of establishing the Permit Fee Multiplier, the estimated total annual construction value for a given time period (1 year) is the sum of each building's value (Gross Area x Square Foot Construction Cost) for that time period (e.g., 1 year).
- The Square Foot Construction Cost does not include the price of the land on which the building is built. The Square Foot Construction Cost takes into account everything from foundation work to the roof structure and coverings but does not include the price of the land. The cost of the land does not affect the cost of related code enforcement activities and is not included in the Square Foot Construction Cost.

Square Foot Construction Costs^{a, b, c, d}

Group (2015 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
A-1 Assembly, theaters, with stage	226.92	219.10	213.80	205.04	192.95	187.36	198.56	176.18	169.73
A-1 Assembly, theaters, without stage	207.97	200.15	194.85	186.09	174.15	168.55	179.61	157.38	150.92
A-2 Assembly, nightclubs	177.89	172.85	168.07	161.49	151.98	147.78	155.80	137.68	132.99
A-2 Assembly, restaurants, bars, banquet halls	176.89	171.85	166.07	160.49	149.98	146.78	154.80	135.68	131.99
A-3 Assembly, churches	209.94	202.13	196.83	188.07	176.32	170.72	181.59	159.54	153.09
A-3 Assembly, general, community halls, libraries, museums	175.12	167.31	161.01	153.25	140.50	135.90	146.77	123.72	118.27
A-4 Assembly, arenas	206.97	199.15	192.85	185.09	172.15	167.55	178.61	155.38	149.92
B Business	181.12	174.43	168.67	160.26	146.18	140.70	153.97	128.34	122.72
E Educational	192.29	185.47	180.15	172.12	160.72	152.55	166.18	140.46	136.18
F-1 Factory and industrial, moderate hazard	108.98	103.99	97.83	94.17	84.37	80.56	90.16	69.50	65.44
F-2 Factory and industrial, low hazard	107.98	102.99	97.83	93.17	84.37	79.56	89.16	69.50	64.44
H-1 High Hazard, explosives	102.01	97.02	91.86	87.20	78.60	73.79	83.19	63.73	N.P.
H234 High Hazard	102.01	97.02	91.86	87.20	78.60	73.79	83.19	63.73	58.67
H-5 HPM	181.12	174.43	168.67	160.26	146.18	140.70	153.97	128.34	122.72
I-1 Institutional, supervised environment	180.72	174.14	169.28	161.12	149.06	145.04	161.12	133.69	129.43
I-2 Institutional, hospitals	304.80	298.11	292.36	283.95	268.92	N.P.	277.65	251.09	N.P.
I-2 Institutional, nursing homes	211.20	204.51	198.75	190.34	177.26	N.P.	184.05	159.42	N.P.
I-3 Institutional, restrained	206.08	199.38	193.63	185.22	172.62	166.14	178.93	154.78	147.16
I-4 Institutional, day care facilities	180.72	174.14	169.28	161.12	149.06	145.04	161.12	133.69	129.43
M Mercantile	132.61	127.57	121.79	116.21	106.35	103.15	110.52	92.05	88.36
R-1 Residential, hotels	182.28	175.70	170.83	162.68	150.87	146.84	162.68	135.49	131.23
R-2 Residential, multiple family	152.86	146.27	141.41	133.25	122.04	118.01	133.25	106.66	102.41
R-3 Residential, one- and two-family	143.93	139.97	136.51	132.83	127.95	124.61	130.57	119.73	112.65
R-4 Residential, care/assisted living facilities	180.72	174.14	169.28	161.12	149.06	145.04	161.12	133.69	129.43
S-1 Storage, moderate hazard	101.01	96.02	89.86	86.20	76.60	72.79	82.19	61.73	57.67
S-2 Storage, low hazard	100.01	95.02	89.86	85.20	76.60	71.79	81.19	61.73	56.67
U Utility, miscellaneous	77.82	73.48	69.04	65.52	59.23	55.31	62.58	46.83	44.63

- Private Garages use Utility, miscellaneous
- Unfinished basements (all use group) = \$15.00 per sq. ft.
- For shell only buildings deduct 20 percent
- N.P. = not permitted

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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 7I</u>	Meeting Date:	<u>December 13, 2016</u>
Subject:	<u>Adoption of a Resolution Repealing</u>	Prepared by:	<u>Deborah Howard</u>
	<u>Resolution No. 039-16 and Establishing</u>		<u>HR Coordinator</u>
	<u>Certain Employee Benefits for Non</u>	Atty Routing No.:	<u>NA</u>
	<u>Union Represented Employees</u>	Atty Review Date:	<u>NA</u>
	<u>Classified as FLSA Non Exempt</u>		

Summary: Employee Wage Pay Rates are addressed on a yearly basis for non-union represented employees requested by the Finance Committee. The following is a change that is recommended by the Finance Committee to match the Union Contracts:

1. The non-union represented salary step schedule covered by this Resolution shall be adjusted in accordance with the City's biennial budget.
 - 1.1 Effective January 1, 2017 the rates of pay set forth in the adopted 2016 salary study survey shall be increased by two percent (2%).

Recommendation: Staff recommends adoption of a Resolution repealing Resolution No. 039-16 approving the Employee Benefits Policy authorizing a rate of pay increase of a 2% COLA on the non-union represented Non- Exempt Salary Step Schedule, effective January 1, 2017.

Motion for Consideration: I move to adopt a Resolution repealing Resolution No. 039-16 and approving the Employee Benefits Policy to reflect a rate of pay increase of a 2% COLA on the non-union represented Non- Exempt Salary Step Schedule, effective January 1, 2017.

Fiscal Impact: The fiscal impact is consistent with the 2017-2018 biennial budget.

Alternatives: Not approve this request

Attachment: Resolution

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RESOLUTION NO. ____

**A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON,
REPEALING RESOLUTION NO. 039-16, BY ESTABLISHING A COLA
INCREASE EFFECTIVE JANUARY 1, 2017, ON THE NON-UNION
REPRESENTED NON EXEMPT SALARY STEP SCHEDULE**

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 benefits., and, in so doing, has determined it is appropriate to adjust the rates of pay on the non-union represented salary step schedule as adopted by the 2016 Salary Study Survey by providing a cost of living adjustment; now, therefore,

**THE CITY COUNCIL OF THE CITY OF PORT ORCHARD DOES HEREBY RESOLVE AS
FOLLOWS:**

SECTION 1. Section 4 of Resolution No. 039-16, of the City of Port Orchard is hereby repealed and will now read as follows:

SECTION 4. WAGES AND LONGEVITY PAY

1. The non-union represented salary step schedule covered by this Resolution shall be adjusted in accordance with the City's biennial budget.

1.1 Effective January 1, 2017 the rates of pay set forth in the adopted 2016 salary study survey shall be increased by two percent (2%).

SECTION 2. This Resolution shall not change or limit other benefits not listed that covered employees currently have though their employment with the City.

SECTION 3. If any section, subsection, paragraph, sentence, clause, or phase 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 City Clerk in authentication of such passage this 13 day of December 2016.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, CMC, 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 7J</u>	Meeting Date:	<u>December 13, 2016</u>
Subject:	<u>Adoption of a Resolution Repealing</u>	Prepared by:	<u>Deborah Howard</u>
	<u>Resolution No. 040-16 and Establishing</u>		<u>HR Coordinator</u>
	<u>Certain Employee Benefits for Non-</u>	Atty Routing No.:	<u>NA</u>
	<u>Union Represented Employees</u>	Atty Review Date:	<u>NA</u>
	<u>Classified as FLSA Executive Exempt</u>		

Summary: Employee Wage Pay Rates are addressed on a yearly basis for non-union represented employees requested by the Finance Committee. The following is a change that is recommended by the Finance Committee to match the Union Contracts:

1. The non-union represented salary step schedule covered by this Resolution shall be adjusted in accordance with the City's biennial budget.
 - 1.1 Effective January 1, 2017 the rates of pay set forth in the adopted 2016 salary study survey shall be increased by two percent (2%).

Recommendation: Staff recommends adoption of a Resolution repealing Resolution No. 040-16 approving the Employee Benefits Policy authorizing a rate of pay increase of 2% COLA on the non-union represented Executive Exempt Salary Step Schedule, effective January 1,2017.

Motion for consideration: I move to adopt a Resolution repealing Resolution No. 040-16 and approving the Employee Benefits Policy to reflect a rate of pay increase of 2% COLA on the non-union represented Executive Exempt Salary Step Schedule, effective January 1,2017.

Fiscal Impact: The fiscal impact is consistent with the 2017-2018 biennial budget.

Alternatives: Not approve this request.

Attachment: Resolution

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RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON,
REPEALING RESOLUTION NO. 040-16, BY ESTABLISHING A COLA
INCREASE EFFECTIVE JANUARY 1, 2017, ON THE NON-UNION
REPRESENTED EXECUTIVE EXEMPT SALARY STEP SCHEDULE**

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 benefits., and, in so doing, has determined it is appropriate to adjust the rates of pay on the non-union represented salary step schedule as adopted by the 2016 Salary Study Survey by providing a cost of living adjustment; now, therefore,

THE COUNCIL OF THE CITY OF PORT ORCHARD DOES HEREBY RESOLVE:

SECTION 1. Section 4 of Resolution No. 040-16, of the City of Port Orchard is hereby repealed and will now read as follows:

SECTION 4. WAGES AND LONGEVITY PAY

1. The non-union represented salary step schedule covered by this Resolution shall be adjusted in accordance with the City's biennial budget.

1.1 Effective January 1, 2017 the rates of pay set forth in the adopted 2016 salary study survey shall be increased by two percent (2%).

SECTION 2. This Resolution shall not change or limit other benefits not listed that covered employees currently have though their employment with the City.

SECTION 3. If any section, subsection, paragraph, sentence, clause, or phase 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 City Clerk in authentication of such passage this 13 day of December 2016.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, CMC, 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.: Business Item 7K
Subject: Adoption of a Resolution for Authorization
to Legally Bind the City for Federal Grant
Reimbursement Purposes

Meeting Date: December 13, 2016
Prepared by: Allan Martin
City Treasurer
Atty Routing No.: NA
Atty Review Date: NA

Summary: Federal grant requirements nationwide have been consolidated and detailed in 2 CFR 200 ‘Super Circular.’ Part of the changes included in the CFR directly effects the signature authority on reimbursement requests.

2 CFR 200.415(a) – *To assure that expenditures are proper and in accordance with the terms and condition of the Federal award and approved project budgets, the annual and final fiscal report or vouchers requesting payment under the agreements must include a certification, **signed by an official who is authorized to legally bind the non-Federal entity**, which reads as follows:*

- “By **signing this report**, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements, and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal ward, I am aware that any false, fictitious, or fraudulent information or the omission of any material fact, **may subject me to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise.** (US Code Title 18, Section 1001 and Title 31. Sections 3729-3730 and 3801-3812).”

Implementation of “an official who is authorized to legally bind the non-Federal entity” requires passage of a Resolution by the City Council delegating the authority to an individual or individuals within the entity.

Authorized Signatories for the purposes described above:

- Mayor
- City Treasurer
- Public Works Director
- Chief of Police

Information regarding this new requirement is included in the October 2016, WSDOT Local Agency Guidelines (LAG) updates.

Recommendation: Passage of a Resolution authorizing an official who is authorized to legally bind the Non-Federal entity.

Motion for Consideration: I move to adopt a Resolution authorizing an official who is authorized to legally bind the Non-Federal entity.

Alternatives: Not adopt the Resolution.

Fiscal Impact: Allow Reimbursements from Federal grant awards.

Attachments: Resolution

REVISED

RESOLUTION NO. ____

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, DELEGATING AUTHORITY TO LEGALLY BIND THE CITY OF PORT ORCHARD FOR THE SOLE PURPOSE OF REQUESTING FEDERAL GRANT REIMBURSEMENT

WHEREAS, the City Council desires timely reimbursement of allowable expenditures related to Federally funded grant projects, and new rules mandate the delegation of authority to legally bind the city for the sole purpose of Federal grant reimbursement; and

WHEREAS, the Mayor, City Treasurer, Public Works Director, and Chief of Police are responsible for the proper administration of their official responsibilities, that include project, grant, and management accountability, and whose position requires oversight of budgeted expenditures subject to Federal grant reimbursement, and

WHEREAS, the City requires Surety Bonds for the faithful execution for the employees and officers of the City of Port Orchard in a fixed amount for the City Treasurer at \$50,000 and the Chief of Police at \$10,000, attesting to the responsibilities of those officers in the execution of their duties, and

WHEREAS, The Federal Highway Administration, through State authorizes federal transportation funding to the City of Port Orchard, Washington for transportation projects; and

WHEREAS, the Code of Federal Regulations, 2 CFR 200.415(a) has been revised to ensure that final fiscal reports or vouchers requesting payment under Federal agreements must include a certification, signed by an official who is authorized to legally bind the non-Federal Agency; and

WHEREAS, in order to seek timely reimbursement for proper expenditures related to Federally funded grant projects, the City Council of the City of Port Orchard, Washington, delegates to the person elected Mayor, and appointed as the City Treasurer, Public Works Director, and Chief of Police the authority to legally bind the City of Port Orchard, Washington solely for the purpose of requesting Federal Grant reimbursement; now, therefore;

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

THAT: Resolution No. ** delegating authority to legally bind the City of Port Orchard for the Sole purpose of Requesting Federal Grant Reimbursement is hereby approved.

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 13th day of December 2016.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, CMC, City Clerk

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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 7L</u>	Meeting Date:	<u>December 13, 2016</u>
Subject:	<u>Approval of a Contract with the</u>	Prepared by:	<u>Mark Dorsey, P.E.</u>
	<u>Transportation Improvement Board for the</u>		<u>Public Works Director</u>
	<u>Fuel Tax Grant for the Tremont Street</u>	Atty Routing No.:	<u>NA</u>
	<u>Widening Project Construction</u>	Atty Review Date:	<u>NA</u>

Summary: Pursuant to the terms contained within the City of Port Orchard’s Grant Application, supporting documentation and Chapter 47.26 RCW, Title 479 WAC, and the terms and conditions listed within the Transportation Improvement Board (TIB) Fuel Tax Grant Agreement, the City of Port Orchard has been awarded \$8,000,000 for the Tremont Street Widening Project – Construction Phase. This grant funding award will be added to the PSRC/KRCC Grant Award of \$1,680,447 and the City’s contribution of \$8,319,553 for a Construction Phase total of \$18,000,000 (Construction, Construction Administration/ Construction Management and the City’s 40% share of the Schedule 74.)

Recommendation: Staff recommends that the City Council authorize the Mayor to execute the Fuel Tax Grant Agreement with the Transportation Improvement Board (TIB) in the amount of \$8,000,000 for the Tremont Street Widening Project – Construction Phase.

Motion for Consideration: I move to authorize the Mayor to execute the Fuel Tax Grant Agreement with the Transportation Improvement Board (TIB) in the amount of \$8,000,000 for the Tremont Street Widening Project – Construction Phase.

Fiscal Impact: Project funding will be allocated within the 2017-2018 Biennial Budget.

Alternatives: Do not accept Award

Attachments: Agreement

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City of Port Orchard
8-2-153(002)-1
Tremont Street
SR 16 to Port Orchard Blvd

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

THIS GRANT AGREEMENT (hereinafter "Agreement") for the Tremont Street, SR 16 to Port Orchard Blvd (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

TIB hereby grants funds in the amount of \$8,000,000 for the project specified above, 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 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 costs incurred in excess of the grant amount. 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 original ratio between TIB funds and total project costs.



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

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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 7M</u>	Meeting Date:	<u>December 13, 2016</u>
Subject:	<u>Approval of a New Interlocal Agreement</u>	Prepared by:	<u>Sharon Cates</u>
	<u>with Kitsap County Fire Protection</u>		<u>City Attorney</u>
	<u>District No. 7 for Fire Prevention</u>	Atty Routing No.:	<u>009-16</u>
	<u>Services</u>	Atty Review Date:	<u>11/29/2016</u>

Summary: After the City of Port Orchard annexed to the Kitsap County Fire Protection District No. 7 in 2001, the two entities entered into an Interlocal Agreement and have worked together on fire prevention activities and plan reviews related to international fire code pursuant to the terms of that Agreement. That Agreement, dated May 29, 2002, clearly delineated the responsibilities of each party with regard to these activities. This year, the parties determined that the 2002 Agreement was in need of updating due to substantial changes in the levels of service required to be provided by the District caused by growth in the City. The proposed new Interlocal Agreement revises the duties of the District and provides compensation from the City for these duties, clarifies the responsibilities of each party, establishes indemnification provisions related to each party responsibilities, and sets forth parameters for the use of certain property, including Fire Station 31 on Tremont Avenue and the site of the future McCormick Park Fire Station.

Recommendation: Staff recommends approval of the proposed 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.

Motion for consideration: I move to approve the 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 as presented.

Fiscal Impact: The City is obligated under this Agreement to compensate the District for the agreed services at a yearly rate of \$50,000, with regular, equal payments to be made on a monthly basis. The parties have agreed that this compensation amount will be reviewed annually to reflect cost of living changes and increases in the jurisdictional boundaries of the City. In a separate action, the Council will be asked to enact pass through fees to cover this activity.

Alternative: Do not approve the agreement and provide direction to staff to hire an in-house Fire Marshall to administer the International Fire Code.

Attachment: Interlocal Agreement, Exhibit A

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**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**

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

WHEREAS, since the time of the annexation, the City and the District have worked together pursuant to the terms of an interlocal agreement, dated May 29, 2002, under which the responsibilities of the parties for fire prevention activities was clearly delineated (“2002 Interlocal Agreement”); and

WHEREAS, the 2002 Interlocal Agreement between the parties is in need of updating due to substantial changes in the levels of service required to be provided by the District as well as substantial boundary changes that have increased the service areas of the parties, and the parties have had ongoing discussions concerning their responsibilities for fire prevention activities; and

WHEREAS, the District currently employs personnel dedicated to meeting the City’s obligations for fire prevention services; and

WHEREAS, the City has code enforcement authority pursuant to RCW 19.27.050 and fire investigation authority under RCW 43.44.050; and

WHEREAS, the District has resources to conduct fire code safety inspections and conduct fire investigations to determine the origin and cause of fires within the City pursuant to RCW 52.12.031(7) and RCW 43.44.050; and

WHEREAS, 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 their respective fire prevention duties and responsibilities.

2. As of January 1, 2017, the 2002 Interlocal Agreement, and any other agreement(s) purporting to apply to the performance of fire protection and prevention services for the City by the District, are terminated and shall have no further force or effect.

3. **Fire Prevention Duties and Responsibilities.** The parties agree that the City and the District will be responsible for providing the services listed below in the manner indicated.

3.1. Fire Personnel.

3.1.1. The District will provide personnel to give technical and operational comment, enforcement recommendations, and guidance for building systems, review of fire code, access/egress, or International Fire Code (IFC) related to fire and life safety issues.

3.1.2. The District agrees to maintain personnel assigned to the duties under this agreement, at the appropriate level of industry certification, who are capable of reading, understanding, applying and communicating relevant Fire code. This shall include providing alternative staff during absences and support staff for inspections and testing if additional assistance is required.

3.2. The District will provide accurate review, inspection and testing in compliance with IFC, applicable standards, city and state code.

3.3. Plan Review of permit applications for which the District performs application review and issues a recommendation to the City. The District will perform plan reviews in accordance with the currently adopted edition of the International Fire Code (unless the applicant is vested to a previous edition) when requested by the City as plans are submitted to the City as follows:

3.3.1. License Application Review: The District will review applications for city licenses for compliance with Fire Codes and to ensure health, safety, and the general welfare of the residents of Port Orchard, and will provide recommendations to approve, approve with conditions or deny license applications. Such licenses could be a business license, liquor license, or other license required by the City. When conditions for approval or denial are recommended, the District shall provide written findings in support of that recommendation or code citations to support the imposition of the condition.

3.3.2. Site Development Plan Review: The District will review applications for site development permits for compliance with Fire Codes and to ensure health, safety, and the general welfare of the residents of Port Orchard, and will provide recommendations to approve, approve with conditions or deny permit applications. When conditions for approval or denial are

recommended, the District shall provide written findings in support of that recommendation or code citations to support the imposition of the condition.

3.3.3. **Land Use Permit Application Review:** The District will review applications for land use permits for compliance with Fire Codes and to ensure health, safety, and the general welfare of the residents of Port Orchard, and will provide recommendations to approve, approve with conditions or deny permit applications. When conditions for approval or denial are recommended, the District shall provide written findings in support of that recommendation or code citations to support the imposition of the condition.

3.3.4. **Construction Permit Application Review:** The District will review applications for construction permits for compliance with Fire Codes and to ensure health, safety, and the general welfare of the residents of Port Orchard, and will provide recommendations to approve, approve with conditions or deny permit applications. When conditions for approval or denial are recommended, the District shall provide written findings in support of that recommendation or code citations to support the imposition of the condition.

3.3.5. **Occupancy Permit Application Review:** The District will review applications for occupancy permits for compliance with Fire Codes and to ensure health, safety, and the general welfare of the residents of Port Orchard and will provide recommendations to approve, approve with conditions or deny permit applications. When conditions for approval or denial are recommended, the District shall provide written findings in support of that recommendation or code citations to support the imposition of the condition.

3.4. **Fire Code Permits for permit applications that the city processes but that the District provides all review, approval/denial, inspection, testing, and closing of the permit upon completion of work. The District will review and issue decisions on Fire Code Permits as follows:**

3.4.1. The District will perform Fire Code Permit Plan Review (Permits for which the Fire District reviews, approves (or denies), inspects, and closes) on all projects other than buildings exceeding 10,000 square feet and/or project which require a fire pump or multiple sprinkler risers. An exception to the above mentioned square footage limitations will be granted for multi-family residential with 13R systems for low rise residential units.

3.4.1.1. The District will issue permits for outdoor burning and fireworks related activities per their adopted procedures and rules governing these activities. Possible fees for this service will be determined and collected by the District based on the complexity of the application and

inspection process. The District will provide findings of fact and citations of code requirements for any decision to condition or deny a fire code permit.

3.4.1.2. Fire Code Inspections and Testing (on site services). Once notified by the city or contractor, the District will normally complete inspection requests within 2 days of the request.

3.4.1.3. Final Inspection: The District agrees to sign off on all permits when work is complete and all conditions of permit issuance have been satisfied, including submittal of any required as-builts, reports, certification letters, etc.

3.5. Plan Review Timelines. In addition to the timelines set forth below, the District shall abide by all applicable timelines required under State law.

3.5.1. **Plan Review.** The District shall complete plan review as described under section 3.3 within 30 days of receiving application materials from the City. In the event of an incomplete application or an application that is missing required information, the District shall notify the City of an incomplete application or deficient application within fourteen (14) days of the date that the application was submitted to the City.

3.5.2. **Fire Code Permits.** The District shall issue a decision on fire code permits as described under section 3.4 within 30 days of receiving application materials from the City. In the event of an incomplete application or an application that is missing required information, the District shall notify the applicant of an incomplete application or deficient application within fourteen (14) days of the date that the application was submitted to the District.

3.5.3. **City Transmission of materials:** The City will transmit all Fire Code Plan Review requests and Fire Code Permit applications within three (3) days of receipt.

3.6. New Construction Fire Inspections, not previously mentioned when required by the Fire Code(s), Municipal Code, or other applicable law.

3.6.1. Inspections shall be scheduled through the City Department of Community Development.

3.6.2. The District and the City will strive to coordinate the fire inspections with the schedule of the building inspector.

3.6.3. Fire Inspections requests shall be requested two (2) days in advance.

3.6.4. The District shall identify a backup inspector during absences of the primary inspector.

3.6.5. The District shall follow the checklist for Fire Code Compliance as provided by the City.

- 3.6.6. The District shall coordinate with the City that all other related Fire Code permits are closed prior to Certificate of Occupancy.
- 3.7. **Meeting and Hearing Attendance. The District shall send a representative to the following meetings and hearings when requested at least five (5) days in advance:**
- 3.7.1. Pre-application Meetings.
 - 3.7.2. Land Use Hearings.
 - 3.7.3. Pre-Construction Meetings.
- 3.8. **Site Visits.** The District shall provide a representative for on project site visits when requested at least 5 days in advance.
- 3.9. **Annual Fire Safety Inspections (District):** The parties agree that fire safety inspections will be conducted at the minimum of annually, on all commercial occupancies within the city and will use the IFC as the guideline for regulations.
- 3.10. **Fire Safety Re-Inspections (District):** The parties agree that fire safety re-inspections will be conducted as needed and will use the IFC as the guideline for regulations.
- 3.11. **Fire Code Enforcement (District and City):** The District will notify in writing the City of Fire Code violations requiring enforcement within three (3) business days of non-compliance. Once notified by the District, the City is responsible for Fire Code enforcement within the code enforcement area to correct violations through the use of appropriate City code sections.
- 3.12. **Certificate of Occupancy Permits and Temporary Certificate of Occupancy Permits (District and City):** The City is responsible for issuing all Certificate of Occupancy permits and Temporary Certificate of Occupancy Permits. The District will inspect, in conjunction with the City, all buildings and approve or deny the fire safety compliance of the permitting process.
- 3.13. **Pre-Fire Plans (District):** The District will maintain a Pre-Fire Plan database to be used for emergency response personnel.
- 3.14. **Operational and Technical Review - Construction/Development (District and City):** Both parties will provide personnel to attend meetings and give fire and life safety comments to operational review.
- 3.15. **Special Burn Permits (District):** The District will issue special burn permits and keep a record of all permits issued within the City boundaries.
- 3.16. **Fire Investigation (District):** The District will be responsible for all fire investigations and reporting of investigations to the National Fire Incident Reporting System (NFIRS). The District will be authorized to use the Kitsap County Fire Marshal's Office to conduct investigations. In the event that outside resources are needed (e.g. ATF, FBI, KCSO, etc.) the District will be the point of contact in these circumstances.

- 3.17. **Public Fire Safety Education (District):** The District will be responsible for all fire related public safety campaigns, messages, and programs. These will include, but not be limited to: juvenile fire setters, fire safety education in public and private schools, public appearances, public CPR training, and smoke detector programs.
- 3.18. **Fire Flow Testing (City):** The City will conduct all fire flow testing within the City boundaries.
- 3.19. **Seasonal Fire Hydrant Maintenance (District):** The City's Public Works Department will provide annual training to District staff on proper hydrant maintenance and the District agrees to participate in this training with the personnel assigned this detail.
- 3.20. **Public Assistance Requests - Explaining fire codes and application of rules (District):** The District will provide personnel to assist the City with fire code questions from the public relating to fire code and enforcement.
- 3.21. **Provide input to the City on fire codes, policy, procedure, rules, and regulations as needed (District):** The District will provide input to the City on all items related to the IFC.
- 3.22. **Adopt codes and ordinances related to fire safety (City):** The City will consider the input from the District outlined in Section 3.21 when adopting City codes and ordinances related to fire safety.
- 3.23. **Maintain records of fire and life safety activities and data (District and City):** The District will maintain records pertaining to fire and life safety inspections. The City will maintain records of building permits, plan reviews, and drawings. All records shall be maintained per records retention rules as issued by the Washington State Archives Office.
- 3.24. **Duties:** The duties above establish the parties' mutual understanding of their respective fire prevention duties and responsibilities. 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.

4. **Duration of Agreement.** This Agreement shall take effect January 1, 2017 following signature by both parties, and shall continue in full force and effect thereafter for five (5) years, unless or until terminated as provided in Section 5.

5. **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 6 and 8 shall survive the termination of this Agreement.

6. **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.

7. **Payment.** This Agreement is intended to reflect the parties' mutual understanding of their respective duties and responsibilities for fire prevention services. Due to the District agreeing to provide services not required of them under RCW, the City will compensate the District for these services at a yearly rate of \$50,000, with regular, equal payments to be made on a monthly basis. Compensation amounts will be reviewed annually to reflect cost of living changes and increases in the jurisdictional boundaries of the City.

8. **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 not 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.

9. **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 parcel for a fire station, or if the City ceases to use the parcel prior to the parcel being used as a fire station, the City's obligations to indemnify the District under this section will cease.

10. **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.

11. **Administration.** This Agreement shall be administered by the City's Mayor and the District's Fire Chief. This Agreement shall be effective when posted on the website of the District or the City in accordance with RCW 39.34. Alternatively, pursuant to RCW 39.34.040, as interlocal agreements may be recorded with the county Auditor in the county where the public agencies entering into the agreement are located, this Agreement may be recorded with the Kitsap County Auditor as soon as reasonably possible after its execution by the District and the City.

12. **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

To the District: Chief Steven Wright
Kitsap County Fire Protection District No. 7 (SKFR)

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.

13. **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.

14. **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.

15. **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.

16. **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.

17. **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.

18. **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

Chairman Miche Eslava

Date: _____

Date: _____

ATTEST/AUTHENTICATED:

APPROVED AS TO FORM:

Brandy Rinearson, CMC, City Clerk

Attorney for the District

APPROVED AS TO FORM:

Sharon Cates, City Attorney

EXHIBIT A

FIRE STATION NO 1
352401-3-079-2006
200 TREMONT ST
1.27 ACRES

SECTION 35 TOWNSHIP 24 RANGE 1E

PARCEL I: RESULTANT PARCEL OF BOUNDARY LINE AGREEMENT RECORDED UNDER AUDITOR'S FILE NO. 9402180255; LOT 4 CITY OF PORT ORCHARD SHORT PLAT (PO-37) RECORDED UNDER AUDITOR'S FILE NO. 8410050134, BEING A PORTION OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, SECTION 35, TOWNSHIP 24 NORTH, RANGE 1 EAST, W.M., KITSAP COUNTY, WASHINGTON, EXCEPT THAT PORTION OF SAID LOT 4 LYING SOUTH OF THE FOLLOWING DESCRIBED LINE: THAT PORTION OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 24 NORTH, RANGE 1 EAST, W.M., KITSAP COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, WHICH BEARS N1*02'17"E 1333.54 FEET AND N87*47'52"W 1312.79 FEET FROM THE SOUTH ONE-QUARTER CORNER OF SAID SECTION 35; THENCE N0*54'39"E, ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, 473.29 FEET; THENCE S88*00'45"E 186.00 FEET; THENCE S0*54'39"W, PARALLEL WITH SAID WEST LINE OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, 18.35 FEET TO A 1/2" IRON PIPE WITH YELLOW PLASTIC PLUG IMPRINTED (MULLER-L.S. 4217) AND THE TRUE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED AGREEMENT LINE; THENCE S89*05'21"E 208.60 FEET, TO A 4" DIAMETER TERRA-COTTA TILE CONCRETE FILLED WITH 3/4" IRON PIPE WITH YELLOW PLASTIC PLUG IMPRINTED (MULLER-L.S. 4217) CENTER POINT, AND THE END OF SAID AGREEMENT LINE. TOGETHER WITH A 20 FOOT FOR INGRESS, EGRESS AND UTILITIES AS DESCRIBED IN AUDITOR'S FILE NO. 8410050134. PARCEL II: THAT PART OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, SECTION 35, TOWNSHIP 24 NORTH, RANGE 1 EAST, W.M., DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE NORTH 654 FEET, MORE OR LESS, TO THE SOUTH LINE OF TREMONT STREET, AS CONVEYED TO KITSAP COUNTY BY DEED DATED APRIL 12, 1947, RECORDED UNDER AUDITOR'S FILE NO. 447698; THENCE EAST ALONG SAID SOUTH LINE OF TREMONT STREET, 312.4 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING EAST ALONG SAID SOUTH LINE 145 FEET; THENCE SOUTH 120 FEET; THENCE WEST 145 FEET; THENCE NORTH 120 FEET TO THE TRUE POINT OF BEGINNING. EXCEPT THAT PORTION TAKEN FOR RIGHT-OF-WAY FOR PORT ORCHARD BYPASS AS SHOWN ON SHEET 2 OF 3 OF PLAN APPROVED 8/82.



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PORT ORCHARD CITY OF AGMT \$60.00 Kitsap Co. WA



**City of Port Orchard
Council Meeting Minutes
Work Study Session Meeting of November 15, 2016**

CALL TO ORDER AND ROLL CALL

Mayor Robert Putaansuu called the meeting to order at 6:03 p.m.

Roll call was taken by the City Clerk as follows:

Councilmember Chang	Present
Councilmember Clauson	Present
Councilmember Cucciardi	Present
Councilmember Ashby	Present
Councilmember Lucarelli	Present
Councilmember Diener	Present (late arrival)
Councilmember Donlin	Absent
Mayor Putaansuu	Present

Staff present: City Clerk Rinearson, Public Works Director Dorsey, Development Director Bond, City Treasurer Martin, Human Resource Coordinator Howard, Office Assistant II Whisenant, and City Attorney Cates were also present.

Pledge of Allegiance

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

1. City Hall Space Needs

Mayor Putaansuu introduced Steve Rice, of Rice Fergus Miller, to talk about the options for expanding City Hall.

Mr. Rice presented the cost estimates for three options:

- Build an addition; accommodating needs for future growth.
- Relocate 2 departments; separate location in Port Orchard.
- Modest addition; as first step and then follow through with phases.

Mr. Rice explained the cost estimates broken down and the construction volume in the Seattle area and its impact regionally. Provided material on the three options and went over the details.

Option 1 – Take the identified need in the space analysis and apply to the site as a form of an addition to the existing City Hall.

Option 2 – Tremont Location for Court and Police Department relocation.

Option 3 – Option 1 with only the necessary expansion for Police and parking.

Mr. Rice, Council, Staff and Mayor discussed cost comparison, with deciding that options one or three would be more likely, not option two. And these options should meet staff needs for up to fifteen years, with assumed growth rate through census data.

Council Direction: Not in the current Biennial Budget, for planning purposes only, more discussion to be had in 2017 for next Biennial Budget process.

Separate discussion was held by City Foreman Hunter, who received the preliminary permit to drill both Well 12 and Well 13 Projects in the works, two of the largest wells in Kitsap County.

2. Water-Sewer Capital Facility Charges

Public Works Director Dorsey introduced presenter Katy Isaksen, with Katy Isaksen & Associates.

Ms. Isaksen discussed the recommended alternative Capital Facilities Charges and Sewer, which was the final task associated with the Water-Sewer Gap Analysis as first initiated in 2014, and the need for code changes.

Council, Staff and Ms. Isaksen discussed; it is realistic to complete these projects in six years with the collected changed rates and the growth in the population is leading the growth in the infrastructure.

Council Direction: Staff to bring to Council in December or January.

3. Mid Block Crosswalk Policy

Public Works Director Dorsey introduced presenters Kendra and Carmen, from Fehr & Peers.

Carmen went over; the project scope, the suggested evaluation process, and the recommended crossing treatments based on the location characteristics.

Council Direction: No direction was given.

4. ADA Transition Plan

Public Works Director Dorsey introduced presenter Victor Salemann and briefed the Council on the self evaluation of the ADA Transition Plan for the City's public right of way and facilities.

Mr. Salemann discussed the City's need to adopt an ADA Transition Plan, with the high emphasis on alterations to right-of-way and expressed that the plan needs to be in place for favorable review through the grant application process. Mr. Salemann suggested the City focus on crossing guidelines at heavily trafficked ADA areas; hospitals, retirement homes, schools, and transit stops. He also encouraged the City to have an open house meeting to get community involvement on ADA location needs.

Council, Staff and presenter discussed a method to prioritize, grievances procedure, and consideration of a corridor route.

Council Direction: Bring to Council for adoption in January.

5. Pavement Management System

Public Works Director Dorsey introduced presenter Steven Smith, from Infrastructure Management Services, who summarized the result of the Pavement Management System Consult.

Mr. Smith explained that need for pavement management, the maintenance, and its perpetual lifecycle. IMS measured the quality of the roads through objectively rating and scaling each road. Then he provided the breakdown of the surveyed areas into pavement conditions and budgeting costs for the next five to ten years. Currently the City's average network PCI is 71, with a backlog of reconstruction of 6%. He recommended the City focus on the arterials roads as priority and not worst-first.

Public Works Director Dorsey asked that IMS remove the State roads and recalculate the PCI rate.

Council Direction: No direction was given.

6. 2017/2018 Biennial Budget

Treasurer Martin discussed the Biennial Budget as compiled through the efforts of the Finance Committee, Department Directors, and full Council participation during the October 31, 2016, Council Finance Committee Meeting. Treasurer Martin directed the decisions made to be presented by Finance Committee Chair Clauson, then for the Mayor to speak towards important issues, and then following up with Human Resources Coordinator Howard speaking on the Salary Survey.

Councilmember Clauson highlighted additions made to the budget; bring on two additional seasonal employees for the parks, Bethel corridor study, LTAC adjustments, Wellness Committee programs, improvements for the 720 Prospect building, and ILA with Fire Department.

Mayor, Council and Staff discussed adoption of budget with adjustment of; property tax, budget amendments, ballot measure, Tremont funding solution, McCormick Village Park, collection of impact fees, restricted funds, raise PSE franchise fee, Police Department to add two radars and replace cars, Seitel consulting services, and implementing the Salary Survey.

Human Resources Coordinator Howard spoke on the Salary Survey findings. Employees were provided opportunity to revise or rewrite current job functions. The consultant interviewed all 27 non-represented employees and then scheduled onsite meetings with other jurisdictions for salary comparisons.

Council Direction: Salary Survey findings to go before Finance Committee for further discussion.

At 9:00 p.m., Mayor Putaansuu recessed the meeting for a 10-minute executive session in accordance with RCW 42.30.110(1)(b) regarding real estate. City Attorney Cates was invited to attend and the Mayor announced that no action would be taken.

ADJOURNMENT

The meeting adjourned at 9:10 p.m. No other action was taken. Audio/Visual was successful.

Brandy Rinearson, CMC, City Clerk

Robert Putaansuu, Mayor



**City of Port Orchard
Council Meeting Minutes
Regular Meeting of November 22, 2016**

1. CALL TO ORDER AND ROLL CALL

Mayor Putaansuu called the meeting to order at 7:00 p.m.

Roll call was taken by the City Clerk as follows:

Councilmember Ashby	Present
Councilmember Chang	Present
Councilmember Cucciardi	Present
Councilmember Diener	Present
Councilmember Donlin	Absent
Councilmember Lucarelli	Present
Mayor Pro-Tem Clauson	Present
Mayor Putaansuu	Present

Staff present: Public Works Director Dorsey, Community Development Director Bond, City Attorney Cates, City Treasurer Martin, City Clerk Rinearson, and Office Assistant II Whisenant were also present.

A. Pledge of Allegiance

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

2. APPROVAL OF AGENDA

MOTION: By Councilmember Clauson, seconded by Councilmember Ashby, to add a discussion item on Salary Survey and Organizational Chart to Business Items.

The motion carried.

MOTION: By Councilmember Ashby, seconded by Councilmember Clauson, to add the excusal of Councilmembers Donlin to the Consent Agenda.

The motion carried.

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

The motion carried.

3. CITIZENS COMMENTS

There were no citizen comments.

4. CONSENT AGENDA

- A.** Approval of Check Nos. 67888 through 67952 totaling \$151,217.31; and Bi-Weekly Payroll including Check Nos. 147284 through 147309 totaling \$387,074.24.
- B.** Approval of the October 31, 2016, Special Council Meeting Minutes
- C.** Excusal of Councilmember Donlin

MOTION: By Councilmember Clauson, seconded by Councilmember Lucarelli, to approve the consent agenda as modified.

The motion carried.

5. PRESENTATION

A. SKWRF 2017-2018 Budget

Michael Wilson and Randy Screws presented the South Kitsap Water Reclamation Facilities (SKWRF) Budget for 2017-2018.

6. PUBLIC HEARING

A. Public Hearing on an Animal (Cat) Variance for 534 Melcher Street

Mayor Putaansuu opened the Public Hearing at 7:40 p.m.

Karen Stabelfeldt, pet owner, explained they just moved into the area and is asking for a variance so they don't have to give a pet away. She added, one of the licensed pet is 14 years old so it's just a matter of time before they will be down to three pets and abiding by the code.

Nick Whittleton testified that he applauds those who register their cats and wishes more people would do the same.

There being no further testimony, Mayor Putaansuu closed the public hearing at 7:41 p.m.

B. Public Hearing on Adoption of a Resolution Allowing the City to Sole Source Potable Water Treatment with ATEC Systems, Inc.

Mayor Putaansuu opened the Public Hearing at 7:42 p.m.

Nick Whittleton stated that he thought that Sole Source Contracting is a good idea, as long as the contractor uses off the shelf parts rather than proprietary equipment.

There being no further testimony, Mayor Putaansuu closed the public hearing at 7:43 p.m.

7. BUSINESS ITEMS

A. Approval of an Animal (Cat) Variance for 534 Melcher Street

MOTION: By Councilmember Lucarelli, seconded by Councilmember Clauson, moved to authorize the City Clerk to issue an approval letter and a pet license for the 4th animal (cat) to Mr. & Mrs. Stabelfeldt and for them to comply with all other regulations and licensing requirements of Port Orchard Municipal Code Title 7.

The motion carried.

Councilmember Ashby noted that in the application there was mention of a rat issue and wanted to address the statement. Public Works Director Dorsey stated that would be a Health Department and/or Animal Control function and should be brought to their attention.

B. Adoption of a Resolution Allowing the City to Sole Source Potable Water Treatment with ATEC Systems, Inc.

MOTION: By Councilmember Ashby, seconded by Councilmember Diener, moved to authorize the Mayor to adopt Resolution No. 075-16, thereby allowing the City of Port Orchard Public Works Department to 'sole source' their potable water treatment of Manganese with ATEC Systems, Inc.

Public Works Director Dorsey discussed the evaluation and choice of ATEC Systems, and elaborated on the recent training and certification of a Public Works Crewmember to be able to run the future system.

**The motion carried.
(Resolution No. 075-16)**

C. First Reading of an Ordinance Amending the 2016 Budget

MOTION: By Councilmember Clauson, seconded by Councilmember Diener, moved to accept the first reading of an Ordinance amending the 2016 Budget for the City of Port Orchard and to direct staff to place an Ordinance on the December 13, 2016, agenda for second reading and final adoption.

The motion carried.

D. Adoption of an Ordinance Creating a New Chapter Port Orchard Municipal Code 5.94 Special Events

MAIN MOTION: By Councilmember Cucciardi, seconded by Councilmember Ashby, to adopt an Ordinance creating a new chapter 5.94 Special Events in the Port Orchard Municipal Code, as presented.

Councilmembers, Staff, and Mayor discussed process of the means of a Public Notice and the determination of City Departments and other City Services involvement, and application submission.

AMENDED MOTION: By Councilmember Diener, seconded by Councilmember Ashby, to replace the word “expressing” with “demonstrating” on page 5 of the draft ordinance.

The amended motion carried.

Councilmember Chang spoke to the parking displacement and the loss of revenue to the City, asking City Clerk Rinearson to track the next year’s amounts.

**The main motion passed. Councilmember Clauson voted no.
(Ordinance No. 041-16)**

E. Adoption of a Resolution Setting the Amount of Property Taxes to be Levied for Year 2017 Pursuant to RCW 84.55.120

MOTION: By Councilmember Diener, seconded by Councilmember Cucciardi, to adopt a Resolution, setting the 2017 property tax levy and the amount of property taxes to be raised for the budget year of 2017 and subsequent adoption of a Resolution declaring a substantial need.

**The motion carried.
(Resolution No. 076-16 and 078-16)**

F. Adoption of a Resolution Approving the Final Plat For Horstman Heights Phase 2

MOTION: By Councilmember Diener, seconded by Councilmember Lucarelli, to move to adopt a Resolution granting final plat approval for Horstman Heights Phase 2, as presented.

Mayor, Councilmembers, and Staff spoke to challenges of the advancement of this project.

**The motion carried.
(Resolution No. 077-16)**

G. Approval of November 8, 2016, Council Meeting Minutes

MOTION: By Councilmember Ashby, seconded by Councilmember Clauson, to approve November 8, 2016, Council meeting minutes.

The motion passed. Councilmembers Chang and Cucciardi abstained.

H. Discussion: Trademark City Wayfinding Logo

Mayor, Councilmembers, and staff discussed their support, along with the Economic Development/Tourism Committee, to trademark the City's Wayfinding Logo. Council directed staff to work with the ED/Tourism Committee on a "For Use" policy and bring to the full Council for consideration by the end of the first quarter in 2017.

I. Discussion: Salary Survey and Organizational Chart

Councilmember Clauson stated that the Finance Committee reviewed the information received by the Salary Consultant and is favorable of option 3 for salary survey implementation. The option is to phase in the implementation of the survey, but stay within the budgeted amount as purposed originally during the Budget meetings.

Treasurer Martin explained that the Salary Survey was for review of the 27 non-represented employees. Human Resources Coordinator Howard and the hired consultant worked with the employees, and other comparable cities, to identify like job categories with corresponding salaries. In the preliminary budget \$193,000 is included to adjust salaries, which would be phased in with increases through anniversary dates.

Mayor Putansuu broke down the strategy for increases with the current budgeted amount, and explained that the remaining increases would be budgeted in the 2019-2020 Biennial Budget. In

addition, explained there were differences in annual increases among positions, and now all positions will now have consistent increase between each step of a rate of 2.5%.

Councilmembers and Mayor discussed the need for competitive salaries to retain employees.

Lastly, there were discussion on the need to the change the Public Works Department Organizational Chart, shifting positions and incorporating a new full-time position.

8. REPORTS OF COUNCIL COMMITTEES

Councilmember Clauson reported on the November 22nd Finance Committee meeting.

Councilmember Ashby reported on the November 14th Economic Development and Tourism Committee meeting. Mayor Putaansuu requested that the Planning Commission be invited to 2017 Work Study.

Councilmember Lucarelli reported on the November 21st Utilities Committee, November 21st Chimes and Lights Committee, November 16th Sewer Advisory Committee, and informed of the next meetings are as scheduled; Sewer Advisory Committee on February 15, 2017 and Utilities Committee on December 19, 2016. Council and Mayor were invited to attend Festival of Chimes and Lights event being held on December 3rd.

Councilmember Diener reported the November 16th Land Use Committee meeting was canceled and informed the next meeting is scheduled for December 21st at 7:30am.

Councilmember Chang reported on the November 21st Lodging Tax Committee meeting.

9. REPORT OF MAYOR

Mayor Putaansuu reported on the following:

- Holiday Good neighbor tour;
- Holiday food drive, bins located at City Hall;
- December 5th Budget Hearing and Low Impact Development Standards;
- Homelessness Committee, next meeting in January 2017;
- 720 prospect out to bid, working toward January occupancy;
- Retreat ideas; timeframe and priorities; and
- Tremont Awarded \$8 million.

10. REPORT OF DEPARTMENT HEADS

Public Works Director Dorsey reported on the remaining projects for ending 2016 and starting 2017.

Community Development Director Bond reported on code updates with Public Hearings and special meetings scheduled out for the end of 2016.

City Attorney Cates, Mayor spoke to working with the Fire Department on an ILA.

11. CITIZENS COMMENTS

Bobbie Stewart invited the Council to the Pancake Breakfast in front of the Public Market, put on by the Lion's, at 9:30am on November 27, 2016.

Nick Whittleton spoke to the rats and pet licensing.

Gerry Harmon spoke to the rats in her neighborhood.

12. EXECUTIVE SESSION

At 9:21 Mayor Putaansuu recessed the meeting for a 5 minute executive session in accordance with RCW 40.30.110 regarding real estate. Community Development Director Bond, City Treasurer Martin, and City Attorney Cates were invited to attend and the Mayor announced no action would be taken.

At 9:26 p.m., Mayor Putaansuu reconvened Council back into regular session.

13. ADJOURNMENT

The meeting adjourned at 9:26 p.m. No other action was taken. Audio/Visual was successful.

Brandy Rinearson, CMC, City Clerk

Robert Putaansuu, Mayor

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