



PLANNING COMMISSION

AGENDA

June 28, 2016

**CITY OF OAK HARBOR
PLANNING COMMISSION
REGULAR MEETING
CITY HALL**

**AGENDA
June 28, 2016
7:30 P.M.**

1. **ROLL CALL:** **WASINGER**_____ **FREEMAN**_____
- PETERSON**_____ **PIERCE** _____
- WALKER-WYSE**_____ **HOVEY**_____
- MERRIMAN**_____

2. **Approval of Minutes – May 24, 2016**

3. **Public Comment** – Planning Commission will accept public comment for items not otherwise on the agenda for the first 15 minutes of the Planning Commission meeting.

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4. **IMPACT FEE DEFERRAL CODE AMENDMENT – Public Hearing**
The Planning Commission will conduct a public hearing on amendments to Oak Harbor Municipal Code (OHMC) Chapter 3.63, Impact Fees, to establish a deferral program and to the Master Fee Schedule to include an administrative fee for this program. The Planning Commission may forward a recommendation to the City Council at the conclusion of the hearing.

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5. **MARIJUANA RELATED USES CODE AMENDMENT – Public Hearing**
The implementation of SB 5052 (Cannabis Patient Protection Act) by the Washington Department of Health and Washington Liquor and Cannabis Board necessitates expansion of OHMC Chapter 19.22 to include medical marijuana producers, processors, retailers, and cooperatives. Staff will present draft code amendments to OHMC Chapter 19.22. The Planning Commission may forward a recommendation to the City Council at the conclusion of the hearing.

MINUTES

May 24, 2016

**Oak Harbor Planning Commission
Regular Meeting Minutes
May 25, 2016**

1. Call to Order

2. Roll Call

Present:

Greg Wasinger
Sandi Peterson
Bruce Freeman
Hal Hovey
Jess Walker-Wyse

Staff Present:

Steve Powers, Development Services
Director
Cac Kamak, Senior Planner
Dennis Lefevre, Senior Planner
Ray Lindenburg, Associate Planner

3. Approval of Minutes – May 10, 2016

Motion: Hal Hovey moved to approve the May 10, 2016 minutes as presented. Motion seconded by Sandi Peterson, unanimously approved.

4. Public Comment

None

5. 2017 – 2022 CAPITAL IMPROVEMENT PLAN (CIP) – Public Hearing

Steve Powers displayed a PowerPoint presentation (Attachment 1) and reported that the CIP is tracking with the Comprehensive Plan process and the CIP will be folded into the same Comprehensive Plan agenda item for the City Council. For the purposes of the Planning Commission the CIP and Comprehensive Plan are separate due to the timing. Mr. Powers reviewed the background of the CIP, where projects come from, plans that provide projects for the CIP, reviewed the revised tables and explained the review process. Mr. Powers recommended that the Planning Commission conduct the public hearing and recommend approval of the draft 2017-2022 Capital Improvements Plan.

Planning Commission Discussion

Planning Commissioners noted a correction to Table 4.3 Streets for the NE 7th Avenues project cost should be \$4,700. Mr. Powers acknowledged that the agenda packet has an earlier version of the table but that the PowerPoint presentation has the correct information.

Mr. Freeman asked about the transportation projects that citizens weighed in on during the Transportation Plan open house. Mr. Powers stated that the detailed project list is in the Transportation Plan and the CIP shows only the projects that we can afford to do in the next six years.

Mr. Wasinger opened the public hearing at 7:44 p.m. Seeing none the public hearing was closed.

Motion: Sandi Peterson moved to forwarding a recommendation to the City Council to approve the draft 2017 - 2011 Capital Improvements Plan. Motion seconded by Jes Walker-Wyse, unanimously approved.

6. 2016 COMPREHENSIVE PLAN UPDATE – Public Hearing

Mr. Kamak reported that the document is still undergoing minor changes. Changes that have occurred after the agenda packet was distributed to the Planning Commission include Chapter 14 Community Coordination on page 195 which is a culmination of existing goals and policies directly related to community support of NAS Whidbey, School District information has been updated on page 183, minor revisions have been made to table numbers and the Establishment of Districts table has been updated. Mr. Kamak distributed copies of the Establishment of Districts table (Attachment 2). Mr. Kamak recommend taking public testimony, closing the public hearing and making a recommendation to the City Council.

Mr. Wasinger asked if there was any additional public comment, seeing none the public hearing was closed at 7:49 p.m.

Planning Commission Discussion

Mr. Hovey asked if changes are going to be necessary contingent on what the County does with their Comprehensive Plan? Mr. Kamak said that most of what County is delaying doesn't impact us. Most of the information that they will use that impacts us has already been shared such as the population projections, the buildable lands analysis and the Countywide Planning Policies were included to establish consistency with the County. If there is anything the County does that impacts us, those changes will have to be done during the annual update to the Comprehensive Plan.

Mr. Hovey commented that the Comprehensive Plan and the Transportation Improvement Plan both plan for the next 20 years. Should the Comprehensive Plan list all of the transportation projects for the next 20 years? Mr. Kamak explained the Transportation Plan is a stand-alone document and we are taking just the policy aspects of the Transportation Plan and putting those policies into the Comprehensive Plan along with the six year transportation projects and calling it the Transportation Element which gets updated every 7 to 8 years.

There was further discussion about the relationship between Capital Improvement Plan projects and the Transportation Plan.

Mr. Freeman commented on public participation and the many other considerations that go into evaluating all the projects. Planning Commissioners liked the new formatting and the readability of the new Comprehensive Plan.

Motion: Jes Walker-Wyse moved to forward the 2016 Comprehensive Plan Major Update to the City Council with a recommendation to adopt the 2016 Comprehensive Plan. Motion seconded by Bruce Freeman, unanimously approved.

7. WINDJAMMER PARK INTEGRATION PLAN (WPIP) – Public Meeting

Steve Powers displayed a PowerPoint presentation (Attachment 3) and reported on the feedback from the March open house and what came out of the 5th Community Advisory Group (CAG) meeting at the beginning of this month. Mr. Powers reviewed the draft plan feedback,

reviewed the concepts & evolution of family-friendly elements, shoreline enhancements & trail, wetlands, open space & gardens and some of the changes to those elements.

Planning Commission Discussion

Ms. Peterson asked what features were being depicted in the WPIP. Mr. Powers explained that the features were only representative features at this point and as we move into each phase there will be additional public engagement on deciding what actual features go into those locations.

Mr. Wasinger asked about the wetland and whether mitigation would be required. Mr. Powers said that the wetland is narrow there and there will be a narrow enhancement.

Mr. Hovey asked about the parking area south of Clean Water Facility and whether that would be for employee parking? Mr. Powers said it was not parking for employees but that employee parking is inside the facility compound.

Mr. Hovey comment that early in the process there was discussion about site line down City Beach street view corridor for Mt. Rainer and that it would be kept open but the WPIP doesn't seem to indicate that will happen. Mr. Powers made note of that and will make sure that comment is carried forward as we look at that phase of the planning.

Mr. Powers reviewed costs of other parks, phasing, funding sources and the next steps. Mr. Powers said there would be a City Council workshop on May 25, 2016 and possible City Council action on the WPIP at the June 7, 2016 City Council meeting.

Planning Commissioners had questions about restrooms, maintenance of the Park, and how inclusive the estimated was for the cost of the Park. Mr. Powers explained that the estimate is a planning level estimate on the high side with a 30% contingency and was just to give us a benchmark. Mr. Powers said that as we plan each phase it is with maintenance in mind. Mr. Powers indicated that there has been some interest at the Council level about the Portland Loo which are self-contained and practically indestructible.

Ms. Peterson asked if the Portland Loo will be less costly than the original estimate of \$750,000 and whether they will be more accessible. Mr. Powers said it will save money but it will still be a large number depending on how many are purchased and they will be strategically located within the Park.

Mr. Freeman asked if Bayshore Drive was completely off the Plan. Mr. Powers said it was no longer part of the plan.

8. Adjourn – 8:25 p.m.

Katherine Gifford,
Development Services
Administrative Assistant



DRAFT
2017-2022
CAPITAL IMPROVEMENT
PLAN

CITY OF
Oak Harbor
WHIBBEY ISLAND, WASHINGTON

Planning Commission

5/24/16



CITY OF
Oak Harbor
WHIBBEY ISLAND, WASHINGTON

2017-2022 CIP

Capital Improvement Plan

- Required by Growth Management Act (RCW 36.70A.070)
- Projects (expenditures) and funding sources (revenues)
- Six-year planning period ('window')
- Continually slides forward (always show six years)
- Consistent with and implements Comprehensive Plan
- Implemented through budget



2017-2022 CIP

Source documents

- Transportation Plan
- Parks, Recreation & Open Space Plan
 - Windjammer Park Integration Plan
- Sewer Plan
- Water System Plan
- Storm Water Plan



DRAFT 2017-2022 CIP

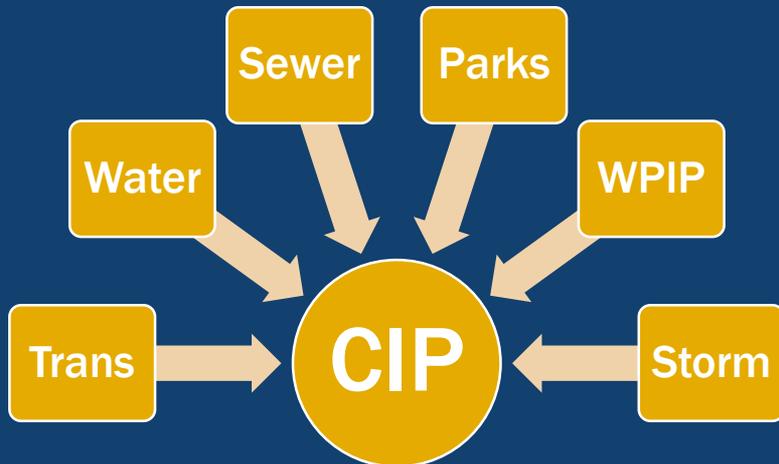




Table 4.3. Streets (Non-Enterprise Funded)

Projects	Total Project Costs	2017	2018	2019	2020	2021	2022
Pavement Maintenance	\$3,200,000	\$500,000	\$500,000	\$550,000	\$550,000	\$550,000	\$550,000
Whidbey Avenue Crosswalk	\$224,500	\$224,500					
NE 7th Avenue	4,700,000	0	4,700,000	0	0	0	0
Capital Project Expenditures	\$8,124,500	\$724,500	\$5,200,000	\$550,000	\$550,000	\$550,000	\$550,000
Revenue Sources	6-Year Total	2017	2018	2019	2020	2021	2022
Contributions from Beginning Fund Balance:							
Streets (Fund 101)	\$1,964,916	\$378,810	\$586,106	\$250,000	\$250,000	\$250,000	\$250,000
Arterials (Fund 104)	300,000	0	0	100,000	100,000	100,000	100,000
Transportation Capital Improvements (Fund 105)	800,000	0	0	200,000	200,000	200,000	200,000
Transportation Impact Fees	221,984	35,190	35,894	36,612	37,344	38,091	38,853
REET 1 (50% of annual)	525,000	87,500	87,500	87,500	87,500	87,500	87,500
REET 2 (50% of annual)	525,000	87,500	87,500	87,500	87,500	87,500	87,500
Motor Vehicle Fuel Tax: Non-operating	150,000	25,000	25,000	25,000	25,000	25,000	25,000
General Fund	0	0	0	0	0	0	0
Grants	4,313,500	224,500	4,089,000	0	0	0	0
Other City Funds	611,000	0	611,000	0	0	0	0
Developer Contributions	0	0	0	0	0	0	0
Total Available Revenue	\$9,411,400	\$838,500	\$5,522,000	\$786,612	\$787,344	\$788,091	\$788,853
Total Revenues less Total Capital Expenditures	\$1,286,900	\$114,000	\$322,000	\$236,612	\$237,344	\$238,091	\$238,853
Notes							
1. Revised project list based on new Transportation Plan							
2. NE 7th Avenue is a grant funded project (87%)							

2017-2022
CIP



Table 4.4 Parks and Recreation (Non-Enterprise Funded)

Projects	Total Project Costs	2017	2018	2019	2020	2021	2022
		Windjammer Park					
Windjammer Park Integration Plan Phase 1B	2,149,000		2,149,000				0
Includes splash park							0
Windjammer Park Integration Plan Phase 2	2,167,000				2,167,000		0
Land Acquisition	0	0	0	0	0	0	0
Open Space Land Acquisition Near Ft. Nugent Park	250,000	250,000	0	0	0	0	0
Future Park	250,000	250,000	0	0	0	0	0
Future Park	1,500,000	0	1,500,000	0	0	0	0
Total Capital Expenditures	\$6,316,000	\$500,000	\$3,649,000	\$0	\$2,167,000	\$0	\$0
Revenue Sources	6-Year Total	2017	2018	2019	2020	2021	2022
Contributions from Beginning Fund Balance							
Neigh. Parks (Fund 125)	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Comm. Parks (Fund 126)	50,000	0	50,000	0	0	0	0
Combined Parks (Fund 127)	0	0	0	0	0	0	0
Park Impact Fees	395,710	62,730	63,985	65,265	66,570	67,901	69,259
(Park Impact Fees: to be combined with above)	320,986		320,986				
REET 1 (50% of annual)	437,500	87,500	87,500	87,500	87,500	87,500	87,500
REET 2 (50% of annual)	525,000	87,500	87,500	87,500	87,500	87,500	87,500
Paths and Trails	13,535	2,601	2,653	2,706	2,760	2,815	2,872
General Fund	895,000	500,000	200,000	120,000	75,000	0	0
(General Fund: to be combined with above)	1,434,046		1,086,376		347,670		
Grants	3,250,000	0	1,750,000	0	1,500,000	0	0
Developer Contributions	0	0	0	0	0	0	0
Total Available Revenue	\$7,321,777	\$740,331	\$3,649,000	\$362,971	\$2,167,000	\$245,716	\$247,131
Total Revenues less Total Capital Expenditures	\$1,005,777	\$240,331	\$0	\$362,971	\$0	\$245,716	\$247,131

Notes:
 Revised project list based in part on WPIP
 \$1,500,000 future park funded by grant
 \$250,000 splash park funded by general fund

2017-2022
CIP



Table 4.5 Wastewater System (Enterprise Funded)

Table 4.3. Streets (Non-Enterprise Funded)	Total Project Costs	2017	2018	2019	2020	2021	2022
		Wastewater Treatment Plant	\$74,000,000	\$64,000,000	\$10,000,000	\$0	\$0
Wastewater Treatment Plant - Outfall	0	0	0	0	0	0	0
Biosolids Removal (Lagoon Treatment Facility)	587,000	0	587,000	0	0	0	0
Sewer Line Replacements	700,000	170,000	170,000	180,000	180,000	0	0
SW 6th Ave & Erie St Line Replacement	150,000	0	150,000	0	0	0	0
Ely St Line Replacement	0	0	0	0	0	0	0
NE 9th to Taftson Line Installation	250,000	0	250,000	0	0	0	0
Downtown Area Restrooms	750,000	0	250,000	250,000	250,000	0	0
Capital Project Expenditures	\$76,437,000	\$64,170,000	\$11,407,000	\$430,000	\$430,000	\$0	\$0
Revenue Sources	6-Year Total	2017	2018	2019	2020	2021	2022
Contribution from Beginning Fund Balance							
Sewer (Fund 402)	\$1,313,059	\$0	\$715,793	\$136,369	\$460,897	\$0	
Cumulative Reserve (Fund 412)	0	0	0	0	0	0	0
System Development Charges	643,428	102,000	104,040	106,121	108,243	110,408	112,616
Trunk Line Fees	106,165	16,830	17,167	17,510	17,860	18,217	18,581
Rates	1,315,000	420,000	170,000	180,000	180,000	180,000	185,000
Loans	49,500,000	39,000,000	10,500,000	0	0	0	0
Grants	0	0	0	0	0	0	0
Revenue Bond Proceeds	25,070,000	25,070,000	0	0	0	0	0
Total Available Revenue	\$77,947,652	\$64,608,830	\$11,507,000	\$440,000	\$767,000	\$308,625	\$316,197
Total Revenues less Total Capital Expenditures	\$1,510,652	\$438,830	\$100,000	\$10,000	\$337,000	\$308,625	\$316,197

2017-2022
CIP



2017-2022
CIP



Table 4.6 Water System (Enterprise Funded)							
Projects	Total Project Costs	2017	2018	2019	2020	2021	2022
		Well No. 9 Replacement (S-1)	\$251,000	\$251,000	\$0	\$0	\$0
Deception Pass 10-inch Main Hanger Replacement	\$750,000	\$750,000	\$0	\$0	\$0	\$0	\$0
Emergency Supply Study (S-2)	109,000	0	0	109,000	0	0	0
Ault Field Booster Station Surge Protection Analysis (BS-1)	46,000	46,000	0	0	0	0	0
Ault Field Booster Station Surge Protection Const. (BS-1)	208,000	0	0	208,000	0	0	0
Crescent Harbor/Regatta Water Main Lowering	240,000	240,000	0	0	0	0	0
Steel/AC line replacement (DS-9)- NE 4th	0	0	0	0	0	0	0
Steel/AC line replacement (DS-9)- NE 11th	0	0	0	0	0	0	0
O'Leary St. Water Main (PZ-1)	636,000	636,000	0	0	0	0	0
North O'Leary St. Water Main (PZ-2)	527,000	527,000	0	0	0	0	0
Telemetry upgrades wells/west tank	55,000	0	55,000	0	0	0	0
Cross City Transmission Main (T-1A)	1,751,000	0	0	1,751,000	0	0	0
Emergency Supply Well (S-4)	64,000	0	0	0	64,000	0	0
West 384 Zone Development (PZ-4) - design	71,000	0	0	0	0	71,000	0
Steel/AC line replacement (DS-9) - design	160,000	0	0	0	160,000	0	0
Telemetry upgrades wells/web viewing	54,000	0	0	0	54,000	0	0
NE Regatta Drive Pipeline (DS-1)	127,000	0	0	127,000	0	0	0
Eastside Reservoir Demolition (S-3)	110,000	0	110,000	0	0	0	0
Steel/AC line replacement (DS-9) - construction	929,000	0	0	0	929,000	0	0
Develop emergency well supply (S-4)	280,000	0	0	0	0	280,000	0
West 384 Zone development (PZ-4) - construction	294,000	0	0	0	294,000	0	0
Glencoe Street Fire Flow Improvements (DS-2) - design	217,000	0	0	0	0	217,000	0
West 384 Zone Extension: Phase 1 (T-3)	3,015,000	0	3,015,000	0	0	0	0
Capital Project Expenditures	\$9,894,000	\$2,450,000	\$3,180,000	\$2,195,000	\$1,501,000	\$568,000	\$0
Revenue Sources							
	6-Year Total	2017	2018	2019	2020	2021	2022
Contributions from Beginning Fund Balance							
Water (Fund 401)	\$1,071,746	\$308,000	\$200,000	\$200,000	\$200,000	\$163,746	
Cumulative Reserve (Fund 411)	800,000	350,000	150,000	150,000	150,000	0	0
System Development Charges	930,000	155,000	155,000	155,000	155,000	155,000	155,000
Rates	1,570,000	350,000	225,000	230,000	265,000	250,000	250,000
Loans	0	0	0	0	0	0	0
Grants	0	0	0	0	0	0	0
Revenue Bonds	5,776,203	1,050,000	2,487,526	1,498,677	740,000	0	0
Developer Contributions	262,500	262,500	0	0	0	0	0
Total Available Revenue	\$10,410,449	\$2,475,500	\$3,217,526	\$2,233,677	\$1,510,000	\$568,746	\$405,000
Total Revenues less Total Capital Expenditures	\$516,449	\$25,500	\$37,526	\$38,677	\$9,000	\$746	\$405,000

2017-2022
CIP



Table 4.7 Stormwater System (Enterprise Funded)							
Projects	Total Project Costs	2017	2018	2019	2020	2021	2022
			\$0	\$0	\$0	\$0	\$0
Capital Project Expenditures	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Revenue Sources							
	6-Year Total	2017	2018	2019	2020	2021	2022
Contributions from Beginning Fund Balance							
Stormwater (Fund 404)	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Cumulative Reserve (Fund 414)	0	0	0	0	0	0	0
Rates	0	0	0	0	0	0	0
Loans	0	0	0	0	0	0	0
Grants	0	0	0	0	0	0	0
Developer Contributions	0	0	0	0	0	0	0
Total Available Revenue	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Revenues less Total Capital Expenditures	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2017-2022
CIP



Table 4.8 General Government							
Projects	Total Project Costs	2017	2018	2019	2020	2021	2022
		New West Side Fire Station	\$4,000,000	\$4,000,000	\$0	\$0	\$0
Library HVAC	0	0	0	0	0	0	0
Animal Shelter	400,000	400,000	0	0	0	0	0
Capital Project Expenditures	\$4,400,000	\$4,400,000	\$0	\$0	\$0	\$0	\$0
Revenue Sources							
6-Year Total	2017	2018	2019	2020	2021	2022	
General Fund	\$400,000	\$400,000	\$0	\$0	\$0	\$0	\$0
Grants	0	0	0	0	0	0	0
Developer Contributions	0	0	0	0	0	0	0
Bond Levy Proceeds - Voter Approved	4,000,000	4,000,000	0	0	0	0	0
Total Available Revenue	\$4,400,000	\$4,400,000	\$0	\$0	\$0	\$0	\$0
Total Revenues less Total Capital Expe	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2017-2022
CIP



Table 4.9 Marina (Enterprise Funded)							
Projects	Total Project Costs	2017	2018	2019	2020	2021	2022
				0	0	0	0
		0	0	0	0	0	0
Capital Project Expenditures	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Revenue Sources							
6-Year Totals	2017	2018	2019	2020	2021	2022	
Contributions from Beginning Fund Balance							
<i>Marina (Fund)</i>		\$0	\$0	\$0	\$0	\$0	\$0
<i>Cumulative Reserve (Fund)</i>		0	0	0	0	0	0
Rates		0	0	0	0	0	0
Loans		0	0	0	0	0	0
Grants		0	0	0	0	0	0
Developer Contributions		0	0	0	0	0	0
Insurance		0	0	0	0	0	0
Total Available Revenue	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Revenues less Total Capital Expenditures	\$0	\$0	\$0	\$0	\$0	\$0	\$0



2017-2022 CIP

Review Process

- Adoption of CIP is amendment to Comp Plan
- Review criteria for amendments OHMC 18.15.080
- In general:
 - Health, safety & welfare
 - Consistent with Comp Plan goals and policies; GMA
 - Changing circumstances or new policy direction
 - Compatible with community
- Proposed 2017-2022 CIP consistent with all criteria



2017-2022 CIP

Recommendation

- Conduct public hearing
- Recommend approval

Suggested Motion

I move the Planning Commission recommend approval of the draft 2017-2022 Capital Improvements Plan to the City Council.

Chapter 19.12

ESTABLISHMENT OF DISTRICTS

Sections:

19.12.010 Establishment and designation of use districts.

19.12.010 Establishment and designation of use districts.

In order to classify, regulate, restrict and segregate the uses of land and building, to regulate and restrict the height and size of buildings, to regulate the area of yards and other open spaces about buildings, and to regulate the density of population, classes of use districts are established. The following table identifies the zoning districts which implement the land use designations from the comprehensive plan:

Comprehensive Plan Land Use Designation		Zoning District	
PRE	Planned Residential Estate	PRE	Planned Residential Estate
LD	Low Density Residential	R-1	Single Family Residential
		R-2	Limited Multifamily Residential
		R-3	Multifamily Residential
HR/LC	High Intensity Residential/Low Intensity Commercial	R-4	Multifamily Residential
		RO	Residential Office
		C-1	Neighborhood Commercial
HIC	High Intensity Commercial	C-3	Community Commercial
		C-4	Highway Service Commercial
		C-5	Highway Corridor Commercial
CBD	Central Business District	CBD	Central Business Districts
MAR	Maritime	MAR	Maritime District
IBP	Industrial/Business Park	PBP	Planned Business Park
		PIP	Planned Industrial Park
		I	Industrial
PF	Public Facilities	PF	Public Facilities
ORA	Open Space, Recreation and Agriculture	OS	Open Space

Windjammer Park Integration Plan

Planning Commission Meeting – May 24, 2016

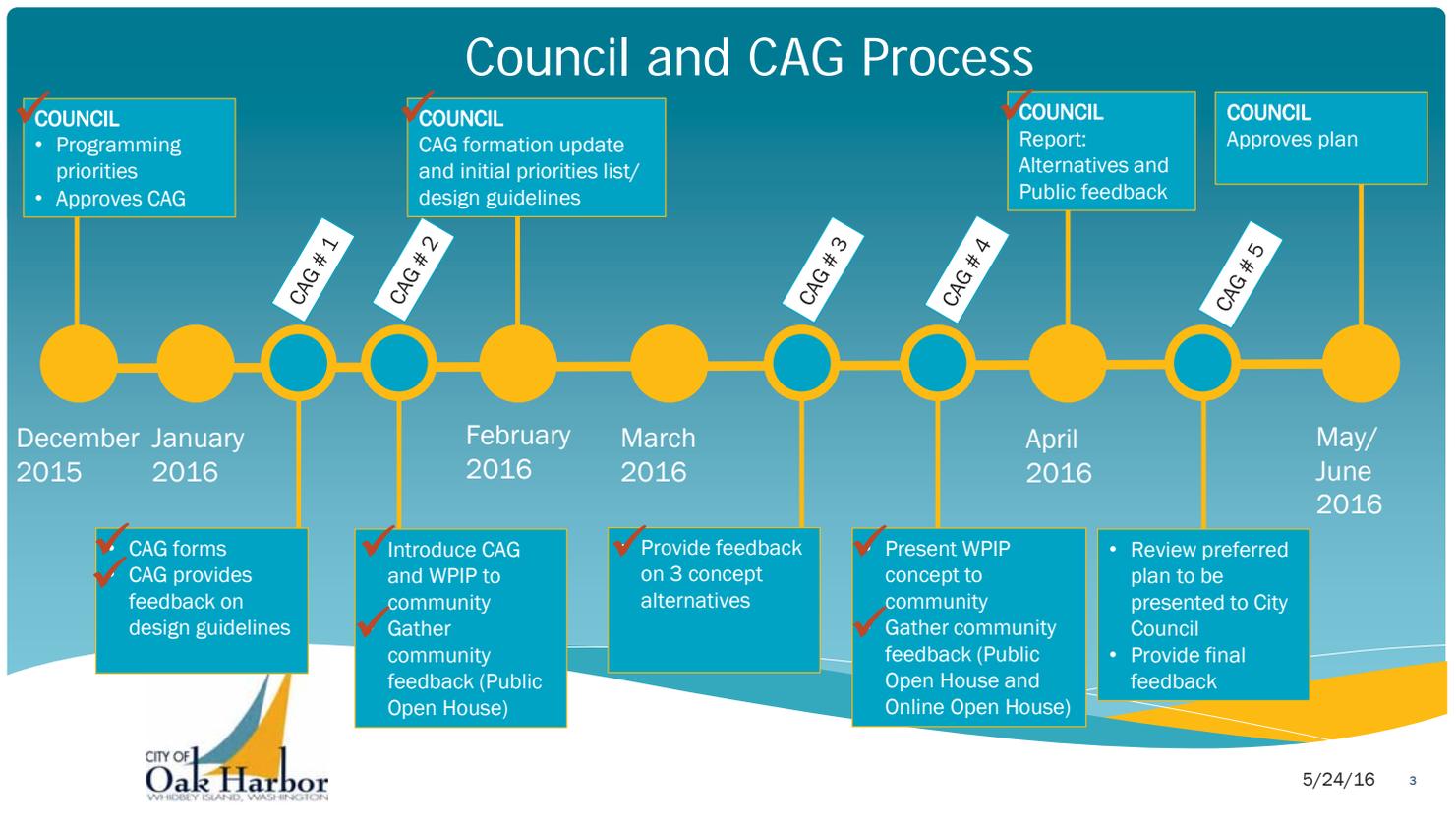


5/24/16

Project Steps & Schedule



5/24/16 2



Recap: Draft Concept Feedback received and design direction

CITY OF Oak Harbor
 WHIDBEY ISLAND, WASHINGTON

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3/29/16 CAG Meeting and Online Open House Recap

- In-person open house attendance: 28
- Online open house visitors: 356 unique users
- In-person comment forms and surveys completed: 6
- Online Open House feedback received: 49 surveys total



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Draft Plan Feedback

- Family-friendly elements and activities should be prioritized, especially supporting splash park.
- Observations that there are a lot of different elements in the park plan.
- Concern about effect on Waterside Condos (due to new activities or driveway/parking).
- Varied opinions on the inclusion of dunes as part of walking path, potentially needing additional information/clarity of design.
- CAG generally agrees with removing/relocating RV Park and ballfields, if other locations can be found. Public opinion varies.
- Consensus that the waterfront is a resource and asset.



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Updated Preferred Concept



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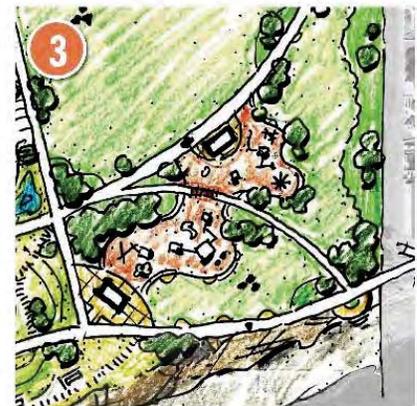
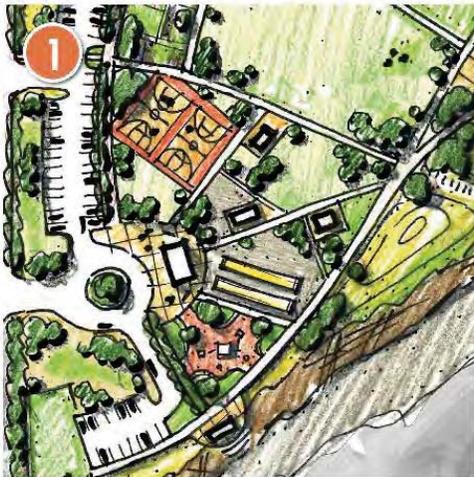
3/29/16
Draft Plan/
Preferred
Plan
Concept



5/5/16
Updated
Draft
Plan/
Preferred
Plan
Concept



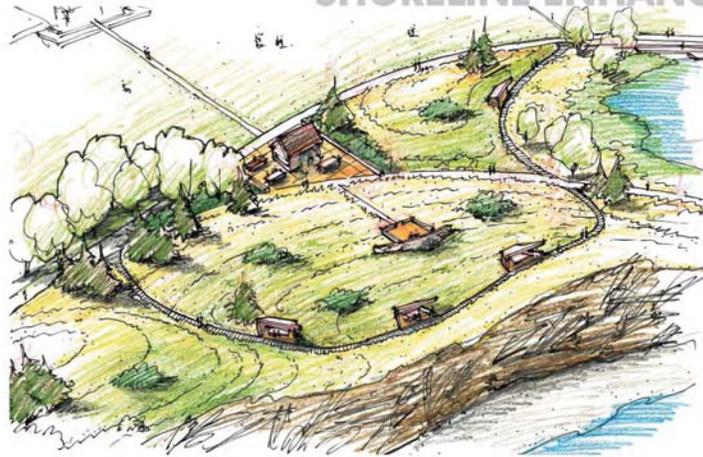
FAMILY-FRIENDLY ELEMENTS



CAG and Public Theme	Preferred Concept Evolution
Family-friendly elements and activities should be prioritized, especially supporting splash park.	The preferred alternative includes numerous family-friendly elements, including splash park, playgrounds, picnic areas, and multi-use spaces. (No change)



SHORELINE ENHANCEMENT & TRAIL



CAG and Public Theme

Varied opinions on the inclusion of dunes as part of walking path, potentially needing additional information / clarity

Preferred Concept Evolution

Updated dune and walkway layout including vignette to clarify experience.

WINDJAMMER PARK

Concepts & Evolution: SHORELINE ENHANCEMENT & TRAIL



SHORELINE ENHANCEMENT & TRAIL



WINDJAMMER PARK

Concepts & Evolution: SHORELINE ENHANCEMENT & TRAIL



WETLANDS



CAG and Public Theme

Wetlands need to be addressed either on-site or mitigated elsewhere.

Preferred Concept Evolution

Wetlands will be enhanced on site to provide a park amenity as well as help with flood storage

WINDJAMMER PARK

Concepts & Evolution: WETLANDS



13

OPEN SPACE & GARDENS



CAG and Public Theme

Open space and gardens

Preferred Concept Evolution

Gardens have been removed and replaced with greenspace expanding the multi-purpose lawn.

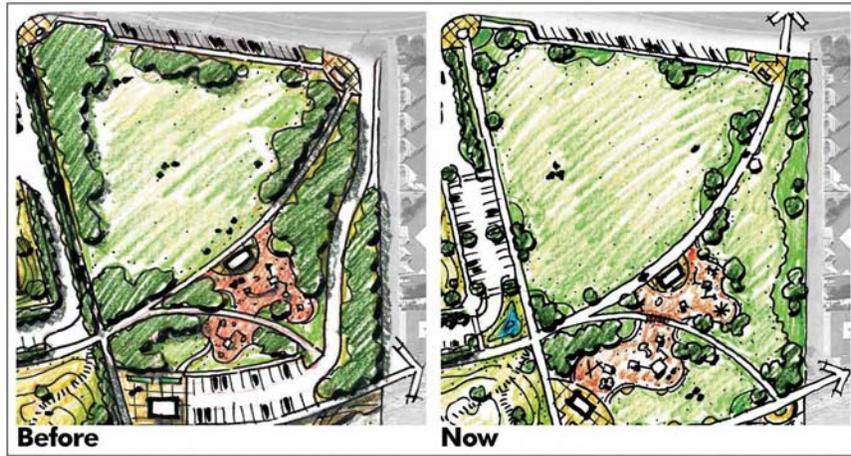
WINDJAMMER PARK

Concepts & Evolution: OPEN SPACE & GARDENS



14

IMPACTS TO WATERSIDE CONDOS



CAG and Public Theme	Preferred Concept Evolution
Concern about effect on Waterside Condos (due to new activities or driveway / parking)	The road adjacent to the condos have been removed as well as the 'park and view' and east side. parking areas. New parking will be located along SE City Beach St.



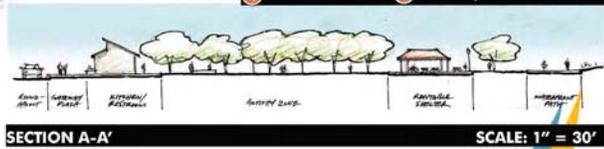
1 Grand Entrance with Windmill



2 DIAGRAM: Community Center



3 DIAGRAM: Multi-use Lawn

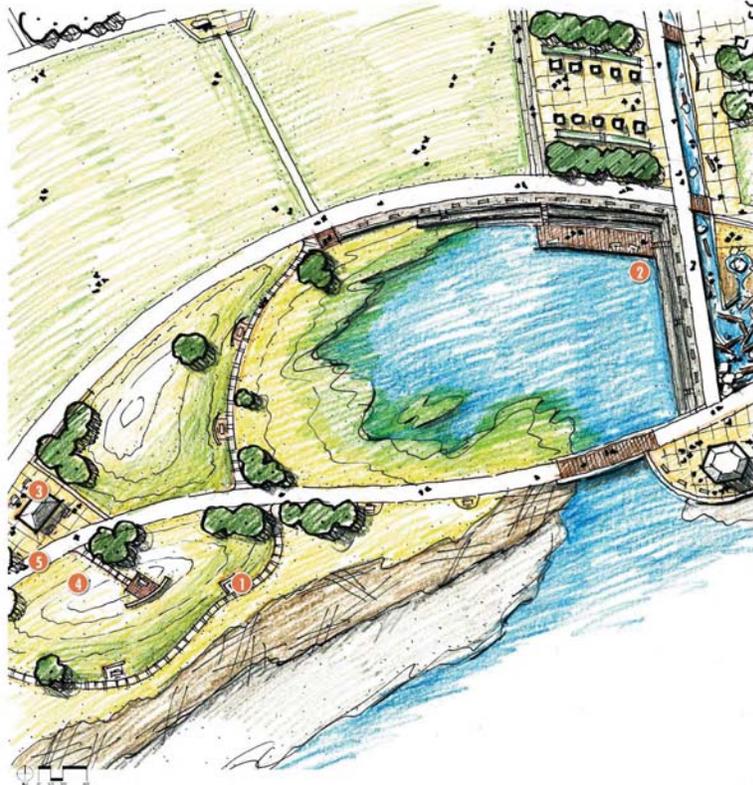


WINDJAMMER PARK

Preferred Alternative : ENLARGEMENT 2



5/24/16 17

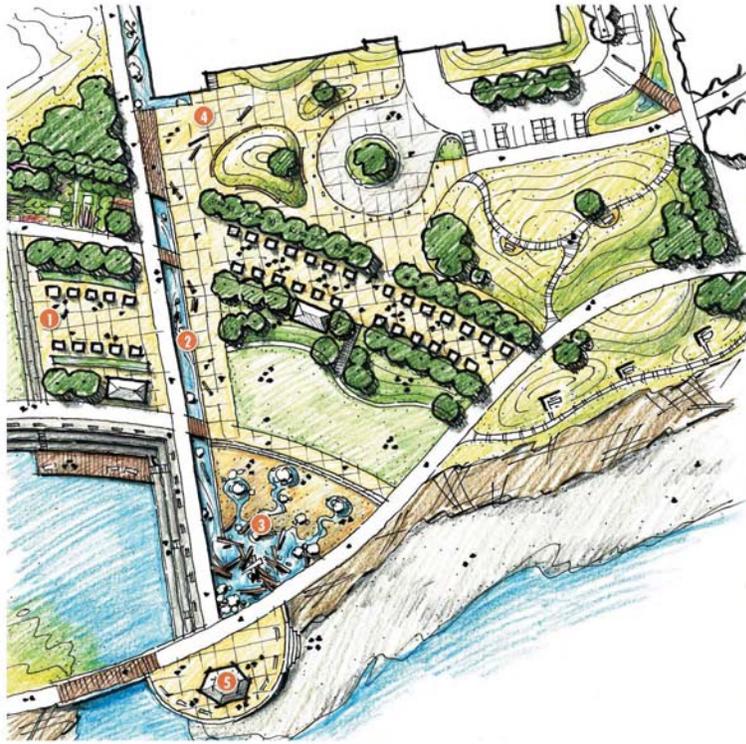


WINDJAMMER PARK

Preferred Alternative : ENLARGEMENT 3

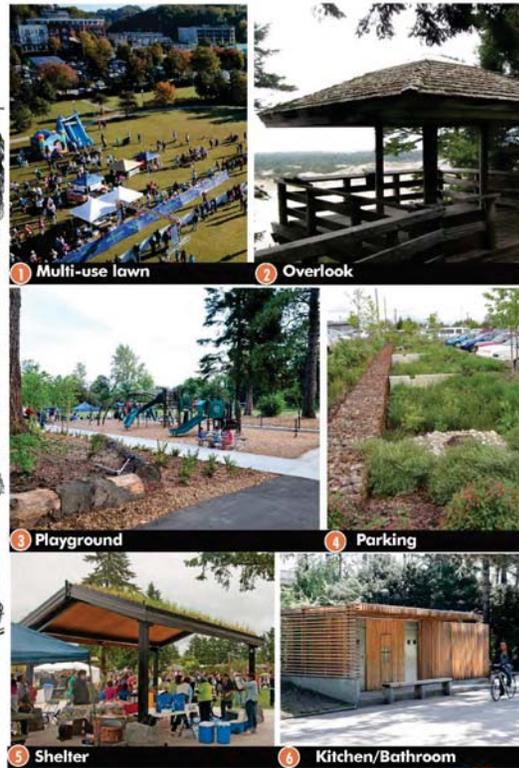
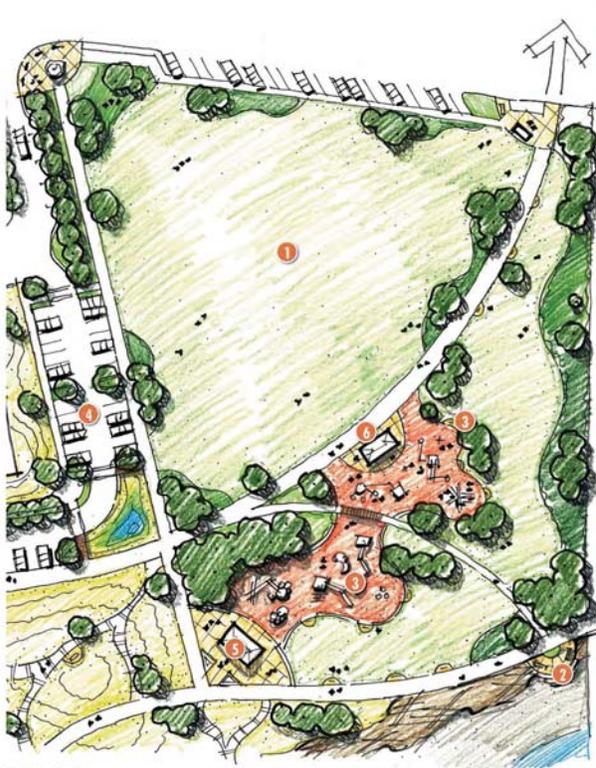


5/24/16 18



WINDJAMMER PARK

Preferred Alternative : ENLARGEMENT 4



WINDJAMMER PARK

Preferred Alternative : ENLARGEMENT 5

Questions?



Cost



Khunamokwst Park
Portland, OR
Built 2015

4 AC - \$450,000/AC

Park Program Elements:
Traditional playground, swing set, canopy with rain-garden, water play, stormwater management, skate park, multi-use lawn, paths, landscaping, restrooms

Funding Sources:
City General Fund



Milwaukie Riverfront Park
Milwaukie, OR
Phase I 2014

8.5 AC - \$1,060,000/AC

Park Program Elements:
Public plaza, amphitheater, playgrounds, parking lot, pathways, boat dock, landscaping, restrooms

Funding Sources:
Oregon State Parks Fund Local Grant, Oregon Marine board



WINDJAMMER PARK **Cost Comparison**



5/24/16 23

The Dalles Festival Park
Portland, OR
Built 2015

4AC - \$450,000/AC

Park Program Elements:
Pavilion, parking loop, paths, restroom, picnic facilities, great lawn, landscaping

Funding Sources:
ARRA Funding (American Recovery and Reinvestment Act)



Westmoreland Park
Portland, OR
Built 2012

0.6AC - \$1,000,000/AC

Park Program Elements:
Nature play, water and sand play, trails, landscaping, plaza

Funding Sources:
City General Fund, Metro Nature in Neighborhood Grant



WINDJAMMER PARK **Cost Comparison**



5/24/16 24

AM Kennedy Park

Beaverton, OR
Built 2012

2AC - \$141,200/AC

Park Program Elements:
Community gardens, playground, picnic areas, trails, open grassy areas, courts, landscaping, restroom

Funding Sources:
THPRD Bond Measure



Engelman Park

Wilsonville, OR
Built 2012

1AC - \$350,000/AC

Park Program Elements:
Playground, picnic areas, paths, stormwater management, multi-use lawn, sports fields, landscaping

Funding Sources:
City General Fund, Oregon State Park Local Park Grant



WINDJAMMER PARK **Cost Comparison**



5/24/16 25

Hood River Waterfront Park

Hood River, OR
Built 2015

6AC - \$420,000/AC

Park Program Elements:
Beach and swimming access, playground, large lawns, riverbank restoration, plaza, restroom

Funding Sources:
City General Fund



Tanner Springs Park, Portland, OR

Built 2004

1AC - \$2,500,000/AC

Park Program Elements:
Wetland restoration, plaza, walkways, art

Funding Sources:
Portland Development Commission, Tanner Springs Development Community, Private Investments



WINDJAMMER PARK **Cost Comparison**



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Windjammer Park
Oak Harbor, WA

28.5 AC - \$630,000/AC



Phasing



WINDJAMMER PARK

Preferred Alternative : PHASING



WINDJAMMER PARK

Preferred Alternative : PHASE 1

- WINDJAMMER PARK PHASE 1**
- Regrade and add parking to SE City Beach Street. Include large net at edge of ballfields.
 - Add parking and access road south of CWF
 - Begin construction on plaza
 - Install immediate landscaping and stormwater treatment
 - Begin construction on crescent parking
 - Enhance wetland
 - Plant trees, shrubs and grasses
 - Plant gardens
 - Add wetland overlook
 - Rough grading and seeding in Phase 1B area



WINDJAMMER PARK PHASE 1B

- Installation of splash park and nature play playground
- Continuation of plaza from CWF
- Extension of fountain from CWF
- Begin enhancement of shoreline by grading and adding in soft walking trail and wind shelters
- Begin Waterfront trail
- Install small lawn area
- Add picnic tables and benches
- Plant trees and dune grasses

WINDJAMMER PARK

Preferred Alternative : PHASE 1B

May 05, 2016



5/24/16

31



WINDJAMMER PARK PHASE 2

- Extend streetscape along SW Beekma Dr to Pioneer Street
- Erect signage at corner of SW Beekma and Pioneer Street
- Construct round-about
- Relocate windmill
- Complete crescent parking lot
- Complete wetland expansion
- Build vehicular and pedestrian bridge
- Integrate small plaza with canopy
- Plant trees and shrubs

WINDJAMMER PARK

Preferred Alternative : PHASE 2

May 05, 2016



5/24/16

32



- WINDJAMMER PARK PHASE 3**
- Renovate kayak campsite
 - Relocate non-motorized boat launch
 - Reconfigure parking and park n view
 - Install overlook with steps to beach
 - Construct new kitchen/bathroom facility
 - Installation of playground, bocce ball courts, hard courts
 - Add picnic shelters
 - Continue waterfront trail
 - Install interior trails
 - Add benches and picnic tables
 - Build Large Stage
 - Lay sod for "Great Lawn"
 - Plant gardens, natural grasses and trees

WINDJAMMER PARK

Preferred Alternative : PHASE 3



- WINDJAMMER PARK PHASE 5**
- Relocate little league fields
 - Lay sod for multi-use areas
 - Install plaza and kiosk
 - Add parking along SE Bayshore Dr
 - Install kitchen/restroom facilities
 - Install large playground
 - Install picnic shelter and hardscape
 - Add benches and picnic tables
 - Continuation of waterfront trail and interior trails and soft trails
 - Continuation of grading for shoreline enhancements
 - Construct overlook with beach access
 - Plant trees and shrubs

WINDJAMMER PARK

Preferred Alternative : PHASE 5

Windjammer Park Potential Funding Sources		
Phase	Grants and Potentially Appropriated City Funding	Potential Funding Sources
1	CWF Project Costs	
1B	Grants and Funding	City General Fund Park Impact Fees WRSCO - Washington Wildlife and Recreation Program (Waterfront parks, picnic shelters, play areas, restrooms) WRSCO - Estuary and Salmon Restoration Program (Shoreline Enhancements)
2	TBD Based on Funding and available opportunities	WRSCO - Aquatic Lands Enhancement Account (Parking lots and entry drives) WRSCO - Land and Water Conservation Fund (Parking) WRSCO - Washington Wildlife and Recreation Program (Waterfront parks, amphitheater/stage)
3	TBD Based on Funding and available opportunities	WRSCO - Estuary and Salmon Restoration Program (Shoreline Enhancements) WRSCO - Washington Wildlife and Recreation Program (Waterfront parks, hardcourts, picnic shelters, play areas, playing fields, restrooms)
4	TBD Based on Funding and available opportunities	WRSCO - Aquatic Lands Enhancement Account (Lagoon Renovation, waterfront parks, waterfront boardwalks) WRSCO - Estuary and Salmon Restoration Program (Shoreline Enhancements) WRSCO - Washington Wildlife and Recreation Program (Waterfront parks, picnic shelters, play areas, playing fields, restrooms)
5	TBD Based on Funding and available opportunities	WRSCO- Youth Athletic Fields Grant (Relocation of ball fields) WRSCO - Estuary and Salmon Restoration Program (Shoreline Enhancements) WRSCO - Washington Wildlife and Recreation Program (Waterfront parks, picnic shelters, play areas, playing fields, restrooms)

Potential City Funding, where appropriate	Collaboration with local groups	Other Potential Grant Resources for Parks and Recreation	Other Ideas
General Fund	Arts Commission	Weyerhaeuser Company Foundation	Fundraising
City 2% Lodging Tax	Knights of Columbus	Wells Fargo Corporate Giving Grants	Brick Sales
.09 Rural County Economic Development		Seattle Fund	Community Garden and Craft Shows
Real Estate Tax		Safeco Community Grants	
Park Impact Fees		LL Bean Construction and Recreation Grants	
		Home Depot Community Impact Grants	
		American Express Grant Program	
		Robert Wood Johnson Foundation	
		HUD Community Development Grant Program	

Next Steps

- May 25: City Council WPIP Workshop
- June 7: City Council meeting and action on WPIP



BACK POCKET



Established Priorities for Park Elements

GIVEN ELEMENTS	HIGH PRIORITY	MEDIUM PRIORITY	LOW PRIORITY	REMOVE
<ul style="list-style-type: none"> Automobile infrastructure* Canopy Existing wetlands Kayak campsite Kitchens Parking Restrooms Site furnishings - contemporary or materials found in Oak Harbor Windmill 	<ul style="list-style-type: none"> Event plaza Lagoon (renovate) Splash park Stage/amphitheater Waterfront trail/park trails 	<ul style="list-style-type: none"> Beach access Educational elements Gateway entrance (grand) Landscape and gardens Linkage to downtown Multi-purpose lawn North park commercial redevelopment Playground RV park* Safe connection bike trail to park 	<ul style="list-style-type: none"> Baseball fields* Boat launch Fitness trail/equipment Gazebo Multi-use hard court/basketball court* 	<ul style="list-style-type: none"> City dock Site furnishings - traditional Wading pools

Items are listed alphabetically, not in order of priority

*Relocate in or out of park



Park Program: Adjacency Themes

Element	Auto. Infrastructure	Baseball fields	Beach access	Boat launch	Canopy	Event plaza	Existing wetlands	Gateway entrance
Adjacent Elements	<ul style="list-style-type: none"> Baseball fields Boat launch Event plaza Gateway entrance Linkage to downtown Parking RV Park 	<ul style="list-style-type: none"> Restrooms 	<ul style="list-style-type: none"> Boat launch Kayak campsite Trail network 	<ul style="list-style-type: none"> Parking 	<ul style="list-style-type: none"> Gazebo Kitchens Restrooms 	<ul style="list-style-type: none"> Landscape and gardens Multi-purpose lawn Parking Restrooms 	<ul style="list-style-type: none"> Landscape and gardens 	<ul style="list-style-type: none"> Landscape and gardens Linkage to downtown Parking

Element	Gazebo	Kayak campsite	Kitchens	Lagoon	Landscape/gardens	Linkage to downtown	Multi-purpose Lawn	Multi-purpose Hard/basketball court	Playground	Restrooms
Adjacent Elements	<ul style="list-style-type: none"> Kitchens Landscape and gardens Multi-purpose lawn Restrooms 	<ul style="list-style-type: none"> Restrooms Trail network 	<ul style="list-style-type: none"> Playground Restrooms Site furnishings Stage / amphitheater 	<ul style="list-style-type: none"> Multi-purpose lawn Playground Restrooms 	<ul style="list-style-type: none"> Trail network 	<ul style="list-style-type: none"> Parking 	<ul style="list-style-type: none"> Restrooms Trail network 	<ul style="list-style-type: none"> Restrooms Trail network 	<ul style="list-style-type: none"> Restrooms Splash park 	<ul style="list-style-type: none"> Splash park Stage / amphitheater



The Basis of the Three Draft Concepts

CONCEPT DEVELOPMENT

ELEMENTS IN ALL CONCEPTS

GIVEN ELEMENTS:

- Windmill
- Site Furnishings
- Restrooms
- Parking
- Kayak Campsite
- Kitchens
- Canopy

HIGH PRIORITY ELEMENTS:

- Lagoon Renovation
- Splash Park
- Events Plaza
- Stage/Amphitheater
- Waterfront Trails/Park Trails
- Multi-purpose Lawn
- Playgrounds
- Landscape and Gardens
- Beach Access
- Grand Gateway

ELEMENTS WITHIN THE PARK:

- Educational Elements
- Wetland
- Multi-use Hard Court
- Fitness Trail
- Site Furnishing
- Wind Shelters

ELEMENTS OUTSIDE THE PARK:

- North Park Redevelopment
- Linkage to Downtown
- Safe Connection Bike Trail to Park

**CONCEPT #1 - With RV Park
Without Ballfields**

GIVEN ELEMENTS

HIGH PRIORITY ELEMENTS

OTHER ELEMENTS

-
-
-
-

**CONCEPT #2 - With Ballfields
Without RV Park**

GIVEN ELEMENTS

HIGH PRIORITY ELEMENTS

OTHER ELEMENTS

-
-
-
-

**CONCEPT #3 - Without Ballfields
and RV Park**

GIVEN ELEMENTS

HIGH PRIORITY ELEMENTS

OTHER ELEMENTS

-
-
-
-

CITY OF
Oak Harbor
WHIDBEY ISLAND, WASHINGTON

WINDJAMMER PARK

CITY OF
Oak Harbor
WHIDBEY ISLAND, WASHINGTON

3/8/16 Concept 1: Recreation



3/8/16
 Concept 2:
 Naturalistic



3/8/16
 Concept 3:
 Civic



Take-aways from 3/8/16 Concept Review

Preferences

- Concept preferences by CAG members were ordered as follows:
 - Concept 2 (Naturalistic)
 - Concept 3 (Civic)
 - Concept 1 (Recreation)

Most inspiring spaces :

- Parking "crescent" (Concept 3)
- Stage (Concept 3)
- Community space/room (Concept 3)
- Event Plaza (Concept 1)
- Lagoon/open space (Concept 1)

Other themes

- OK to show removal of RV Park
- While formal fields are desired as a facility useful for the community, OK to show removal of formal ballfields and/or modify to be flexible field space (with assumption that formal ballfields will find a new home)



Take-aways from 3/8/16 Concept Review, continued

Favorite spaces compared to each other (* indicates >6 responses showing active interest):

- Amphitheater (Concept 3) *
- Ballfields (Concept 2) *
- Beach Access (Concept 2/3)
- Event Plaza (Concept 3)
- Existing wetlands (Concept 1)
- Gateway Entrance @Beeksma/Bayshore (Concept 3) *
- Interior trails (Concepts 1/3)
- Lagoon (all 3 concepts)
- Landscape/gardens (Concept 3)
- Multi-purpose lawn (Concept 2/3)
- Parking (Concept 3)
- Splash park (Concept 1)
- Rentable spaces (Concept 2) *
- RV Park (Concept 2/3) *
- Vehicular access (concept 3)
- Waterfront promenade (Concept 2) *
- Windmill (Concept 1/generally relocate) *



Impact Fee Deferral Code Amendment

Public Hearing

City of Oak Harbor Planning Commission Report

Date: June 28, 2016
Subject: Impact Fee Deferral Amendment

FROM: Dennis Lefevre, Senior Planner, Development Services Department

PURPOSE

In May 2015, the Washington State Legislature passed Engrossed Senate Bill (ESB) 5923 (see Attachment 1) requiring counties and cities administering an impact fee program to provide an option for impact fee deferral assessed on single-family detached and attached new residential construction.

BACKGROUND

Impact fees are authorized for Washington State jurisdictions planning under the Growth Management Act and are charges assessed on new development projects that recover the cost incurred by local government in providing public facilities which serve the new development.

The City of Oak Harbor has authorized the collection of impact fees for parks (Ordinance No. 1045, May 1996) and transportation (Ordinance No. 1103, September 1997). As established in those ordinances and codified in the Oak Harbor Municipal Code (OHMC) Chapter 3.63, Impact Fees, the fees are to be collected at the time the building permit is issued.

DISCUSSION

ESB 5923 sets forth specific requirements for the impact fee deferral while allowing the City certain discretion, including the time for deferral and the collection of an administrative fee. A deferral system must include one or more of the following timing options:

- Defer impact fee collection until final inspection;
- Defer impact fee collection until certificate of occupancy; and/or,
- Defer impact fee collection until the time of closing of the first sale of the property occurring after issuance of the building permit.

It is important to note that ESB 5923 limits the term of impact fee deferral to a maximum of 18 months from the date of building permit issuance.

Development Services staff convened a meeting with representatives from the Building, Finance and Legal Departments to discuss these options. Due to the potential confusion involving fund payment source and timing, the third option was removed. In consideration for the first two options, this amendment identifies both options (final inspection and certificate of occupancy) as available to a developer applying for impact fee deferral. The applicant will specify which timing option is chosen.

An applicant may not apply for impact fee deferral for more than twenty single-family residential

construction building permits per calendar year.

An applicant for impact fee deferral must grant and record in favor of the City of Oak Harbor an impact fee lien in the amount of the deferred impact fee. Upon receipt of the final impact fee payment, the City will execute a release of deferred impact fee lien for each structure fees have been received. The lien release must be recorded by the applicant and is at the applicant's expense.

The City will withhold final inspection or certificate of occupancy will not be issued until the impact fees have been paid in full. If the period of deferral expires and the fees have not been paid, the City may initiate foreclosure proceedings in accordance with RCW Chapter 61.12.

Proposed Ordinance No. 1772 is included in this packet as Attachment 2. In addition, Resolution No. 16-20 (Attachment 3) amends the Master Fee Schedule to include a fair and reasonable fee to administer this program. Two separate actions by the Planning Commission will be necessary.

This procedural ordinance is exempt from the State Environmental Policy Act requirements (WAC 197-11-800(19)(a)) and was transmitted on May 27, 2016 to the Washington Department of Commerce for the required 60-day Notice of Intent to Adopt Development Regulations.

OHMC Section 18.20.270(2)(b) identifies an amendment to regulation as a Type V review process. The Type V review process requires a public hearing before the Planning Commission. All actions taken by the Planning Commission take the form of a recommendation to the City Council. This meeting has been advertised as a public hearing.

RECOMMENDED ACTION

Staff recommends the Planning Commission transmit two recommendations of approval for Ordinance No. 1772 and Resolution No. 16-20 to the City Council.

SUGGESTED MOTIONS

Positive motions would be: *I move to recommend to the City Council approval of Ordinance No. 1772 amending Oak Harbor Municipal Code Chapter 3.63, Impact Fees.*

I move to recommend to the City Council approval of Resolution No. 16-20 amending the City of Oak Harbor's Schedule A Master Fee Schedule.

ATTACHMENTS

1. Engrossed Senate Bill 5923.
2. Proposed Ordinance No. 1772.
3. Proposed Resolution No. 16-20.

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5923

Chapter 241, Laws of 2015

64th Legislature
2015 Regular Session

SINGLE-FAMILY DETACHED AND ATTACHED RESIDENTIAL CONSTRUCTION--
DEFERRED IMPACT FEES

EFFECTIVE DATE: 9/1/2016

Passed by the Senate April 16, 2015
Yeas 28 Nays 18

BRAD OWEN

President of the Senate

Passed by the House April 14, 2015
Yeas 82 Nays 15

FRANK CHOPP

Speaker of the House of Representatives

Approved May 11, 2015 2:46 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5923** as passed by Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

Secretary

FILED

May 12, 2015

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 5923

AS AMENDED BY THE HOUSE

Passed Legislature - 2015 Regular Session

State of Washington 64th Legislature 2015 Regular Session

By Senators Brown, Llias, Roach, Dandel, Hobbs, Warnick, and Chase

Read first time 02/11/15. Referred to Committee on Trade & Economic Development.

1 AN ACT Relating to promoting economic recovery in the
2 construction industry; amending RCW 82.02.050 and 36.70A.070; adding
3 a new section to chapter 44.28 RCW; adding a new section to chapter
4 43.31 RCW; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 82.02.050 and 1994 c 257 s 24 are each amended to
7 read as follows:

8 (1) It is the intent of the legislature:

9 (a) To ensure that adequate facilities are available to serve new
10 growth and development;

11 (b) To promote orderly growth and development by establishing
12 standards by which counties, cities, and towns may require, by
13 ordinance, that new growth and development pay a proportionate share
14 of the cost of new facilities needed to serve new growth and
15 development; and

16 (c) To ensure that impact fees are imposed through established
17 procedures and criteria so that specific developments do not pay
18 arbitrary fees or duplicative fees for the same impact.

19 (2) Counties, cities, and towns that are required or choose to
20 plan under RCW 36.70A.040 are authorized to impose impact fees on
21 development activity as part of the financing for public facilities,

1 provided that the financing for system improvements to serve new
2 development must provide for a balance between impact fees and other
3 sources of public funds and cannot rely solely on impact fees.

4 (3)(a)(i) Counties, cities, and towns collecting impact fees
5 must, by September 1, 2016, adopt and maintain a system for the
6 deferred collection of impact fees for single-family detached and
7 attached residential construction. The deferral system must include a
8 process by which an applicant for a building permit for a single-
9 family detached or attached residence may request a deferral of the
10 full impact fee payment. The deferral system offered by a county,
11 city, or town under this subsection (3) must include one or more of
12 the following options:

13 (A) Deferring collection of the impact fee payment until final
14 inspection;

15 (B) Deferring collection of the impact fee payment until
16 certificate of occupancy or equivalent certification; or

17 (C) Deferring collection of the impact fee payment until the time
18 of closing of the first sale of the property occurring after the
19 issuance of the applicable building permit.

20 (ii) Counties, cities, and towns utilizing the deferral process
21 required by this subsection (3)(a) may withhold certification of
22 final inspection, certificate of occupancy, or equivalent
23 certification until the impact fees have been paid in full.

24 (iii) The amount of impact fees that may be deferred under this
25 subsection (3) must be determined by the fees in effect at the time
26 the applicant applies for a deferral.

27 (iv) Unless an agreement to the contrary is reached between the
28 buyer and seller, the payment of impact fees due at closing of a sale
29 must be made from the seller's proceeds. In the absence of an
30 agreement to the contrary, the seller bears strict liability for the
31 payment of the impact fees.

32 (b) The term of an impact fee deferral under this subsection (3)
33 may not exceed eighteen months from the date of building permit
34 issuance.

35 (c) Except as may otherwise be authorized in accordance with (f)
36 of this subsection (3), an applicant seeking a deferral under this
37 subsection (3) must grant and record a deferred impact fee lien
38 against the property in favor of the county, city, or town in the
39 amount of the deferred impact fee. The deferred impact fee lien,

1 which must include the legal description, tax account number, and
2 address of the property, must also be:

3 (i) In a form approved by the county, city, or town;

4 (ii) Signed by all owners of the property, with all signatures
5 acknowledged as required for a deed, and recorded in the county where
6 the property is located;

7 (iii) Binding on all successors in title after the recordation;
8 and

9 (iv) Junior and subordinate to one mortgage for the purpose of
10 construction upon the same real property granted by the person who
11 applied for the deferral of impact fees.

12 (d)(i) If impact fees are not paid in accordance with a deferral
13 authorized by this subsection (3), and in accordance with the term
14 provisions established in (b) of this subsection (3), the county,
15 city, or town may institute foreclosure proceedings in accordance
16 with chapter 61.12 RCW.

17 (ii) If the county, city, or town does not institute foreclosure
18 proceedings for unpaid school impact fees within forty-five days
19 after receiving notice from a school district requesting that it do
20 so, the district may institute foreclosure proceedings with respect
21 to the unpaid impact fees.

22 (e)(i) Upon receipt of final payment of all deferred impact fees
23 for a property, the county, city, or town must execute a release of
24 deferred impact fee lien for the property. The property owner at the
25 time of the release, at his or her expense, is responsible for
26 recording the lien release.

27 (ii) The extinguishment of a deferred impact fee lien by the
28 foreclosure of a lien having priority does not affect the obligation
29 to pay the impact fees as a condition of final inspection,
30 certificate of occupancy, or equivalent certification, or at the time
31 of closing of the first sale.

32 (f) A county, city, or town with an impact fee deferral process
33 on or before April 1, 2015, is exempt from the requirements of this
34 subsection (3) if the deferral process delays all impact fees and
35 remains in effect after September 1, 2016.

36 (g)(i) Each applicant for a single-family residential
37 construction permit, in accordance with his or her contractor
38 registration number or other unique identification number, is
39 entitled to annually receive deferrals under this subsection (3) for
40 the first twenty single-family residential construction building

1 permits per county, city, or town. A county, city, or town, however,
 2 may elect, by ordinance, to defer more than twenty single-family
 3 residential construction building permits for an applicant. If the
 4 county, city, or town collects impact fees on behalf of one or more
 5 school districts for which the collection of impact fees could be
 6 delayed, the county, city, or town must consult with the district or
 7 districts about the additional deferrals. A county, city, or town
 8 considering additional deferrals must give substantial weight to
 9 recommendations of each applicable school district regarding the
 10 number of additional deferrals. If the county, city, or town
 11 disagrees with the recommendations of one or more school districts,
 12 the county, city, or town must provide the district or districts with
 13 a written rationale for its decision.

14 (ii) For purposes of this subsection (3)(g), an "applicant"
 15 includes an entity that controls the applicant, is controlled by the
 16 applicant, or is under common control with the applicant.

17 (h) Counties, cities, and towns may collect reasonable
 18 administrative fees to implement this subsection (3) from permit
 19 applicants who are seeking to delay the payment of impact fees under
 20 this subsection (3).

21 (i) In accordance with sections 3 and 4 of this act, counties,
 22 cities, and towns must cooperate with and provide requested data,
 23 materials, and assistance to the department of commerce and the joint
 24 legislative audit and review committee.

25 (4) The impact fees:

26 (a) Shall only be imposed for system improvements that are
 27 reasonably related to the new development;

28 (b) Shall not exceed a proportionate share of the costs of system
 29 improvements that are reasonably related to the new development; and

30 (c) Shall be used for system improvements that will reasonably
 31 benefit the new development.

32 ~~((4))~~ (5)(a) Impact fees may be collected and spent only for
 33 the public facilities defined in RCW 82.02.090 which are addressed by
 34 a capital facilities plan element of a comprehensive land use plan
 35 adopted pursuant to the provisions of RCW 36.70A.070 or the
 36 provisions for comprehensive plan adoption contained in chapter
 37 36.70, 35.63, or 35A.63 RCW. After the date a county, city, or town
 38 is required to adopt its development regulations under chapter 36.70A
 39 RCW, continued authorization to collect and expend impact fees
 40 ~~((shall be))~~ is contingent on the county, city, or town adopting or

1 revising a comprehensive plan in compliance with RCW 36.70A.070, and
2 on the capital facilities plan identifying:

3 ~~((a))~~ (i) Deficiencies in public facilities serving existing
4 development and the means by which existing deficiencies will be
5 eliminated within a reasonable period of time;

6 ~~((b))~~ (ii) Additional demands placed on existing public
7 facilities by new development; and

8 ~~((c))~~ (iii) Additional public facility improvements required to
9 serve new development.

10 (b) If the capital facilities plan of the county, city, or town
11 is complete other than for the inclusion of those elements which are
12 the responsibility of a special district, the county, city, or town
13 may impose impact fees to address those public facility needs for
14 which the county, city, or town is responsible.

15 **Sec. 2.** RCW 36.70A.070 and 2010 1st sp.s. c 26 s 6 are each
16 amended to read as follows:

17 The comprehensive plan of a county or city that is required or
18 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
19 and descriptive text covering objectives, principles, and standards
20 used to develop the comprehensive plan. The plan shall be an
21 internally consistent document and all elements shall be consistent
22 with the future land use map. A comprehensive plan shall be adopted
23 and amended with public participation as provided in RCW 36.70A.140.
24 Each comprehensive plan shall include a plan, scheme, or design for
25 each of the following:

26 (1) A land use element designating the proposed general
27 distribution and general location and extent of the uses of land,
28 where appropriate, for agriculture, timber production, housing,
29 commerce, industry, recreation, open spaces, general aviation
30 airports, public utilities, public facilities, and other land uses.
31 The land use element shall include population densities, building
32 intensities, and estimates of future population growth. The land use
33 element shall provide for protection of the quality and quantity of
34 groundwater used for public water supplies. Wherever possible, the
35 land use element should consider utilizing urban planning approaches
36 that promote physical activity. Where applicable, the land use
37 element shall review drainage, flooding, and storm water run-off in
38 the area and nearby jurisdictions and provide guidance for corrective

1 actions to mitigate or cleanse those discharges that pollute waters
2 of the state, including Puget Sound or waters entering Puget Sound.

3 (2) A housing element ensuring the vitality and character of
4 established residential neighborhoods that: (a) Includes an inventory
5 and analysis of existing and projected housing needs that identifies
6 the number of housing units necessary to manage projected growth; (b)
7 includes a statement of goals, policies, objectives, and mandatory
8 provisions for the preservation, improvement, and development of
9 housing, including single-family residences; (c) identifies
10 sufficient land for housing, including, but not limited to,
11 government-assisted housing, housing for low-income families,
12 manufactured housing, multifamily housing, and group homes and foster
13 care facilities; and (d) makes adequate provisions for existing and
14 projected needs of all economic segments of the community.

15 (3) A capital facilities plan element consisting of: (a) An
16 inventory of existing capital facilities owned by public entities,
17 showing the locations and capacities of the capital facilities; (b) a
18 forecast of the future needs for such capital facilities; (c) the
19 proposed locations and capacities of expanded or new capital
20 facilities; (d) at least a six-year plan that will finance such
21 capital facilities within projected funding capacities and clearly
22 identifies sources of public money for such purposes; and (e) a
23 requirement to reassess the land use element if probable funding
24 falls short of meeting existing needs and to ensure that the land use
25 element, capital facilities plan element, and financing plan within
26 the capital facilities plan element are coordinated and consistent.
27 Park and recreation facilities shall be included in the capital
28 facilities plan element.

29 (4) A utilities element consisting of the general location,
30 proposed location, and capacity of all existing and proposed
31 utilities, including, but not limited to, electrical lines,
32 telecommunication lines, and natural gas lines.

33 (5) Rural element. Counties shall include a rural element
34 including lands that are not designated for urban growth,
35 agriculture, forest, or mineral resources. The following provisions
36 shall apply to the rural element:

37 (a) Growth management act goals and local circumstances. Because
38 circumstances vary from county to county, in establishing patterns of
39 rural densities and uses, a county may consider local circumstances,
40 but shall develop a written record explaining how the rural element

1 harmonizes the planning goals in RCW 36.70A.020 and meets the
2 requirements of this chapter.

3 (b) Rural development. The rural element shall permit rural
4 development, forestry, and agriculture in rural areas. The rural
5 element shall provide for a variety of rural densities, uses,
6 essential public facilities, and rural governmental services needed
7 to serve the permitted densities and uses. To achieve a variety of
8 rural densities and uses, counties may provide for clustering,
9 density transfer, design guidelines, conservation easements, and
10 other innovative techniques that will accommodate appropriate rural
11 densities and uses that are not characterized by urban growth and
12 that are consistent with rural character.

13 (c) Measures governing rural development. The rural element shall
14 include measures that apply to rural development and protect the
15 rural character of the area, as established by the county, by:

- 16 (i) Containing or otherwise controlling rural development;
17 (ii) Assuring visual compatibility of rural development with the
18 surrounding rural area;
19 (iii) Reducing the inappropriate conversion of undeveloped land
20 into sprawling, low-density development in the rural area;
21 (iv) Protecting critical areas, as provided in RCW 36.70A.060,
22 and surface water and groundwater resources; and
23 (v) Protecting against conflicts with the use of agricultural,
24 forest, and mineral resource lands designated under RCW 36.70A.170.

25 (d) Limited areas of more intensive rural development. Subject to
26 the requirements of this subsection and except as otherwise
27 specifically provided in this subsection (5)(d), the rural element
28 may allow for limited areas of more intensive rural development,
29 including necessary public facilities and public services to serve
30 the limited area as follows:

31 (i) Rural development consisting of the infill, development, or
32 redevelopment of existing commercial, industrial, residential, or
33 mixed-use areas, whether characterized as shoreline development,
34 villages, hamlets, rural activity centers, or crossroads
35 developments.

36 (A) A commercial, industrial, residential, shoreline, or mixed-
37 use area (~~(shall be)~~) are subject to the requirements of (d)(iv) of
38 this subsection, but (~~(shall)~~) are not (~~(be)~~) subject to the
39 requirements of (c)(ii) and (iii) of this subsection.

1 (B) Any development or redevelopment other than an industrial
2 area or an industrial use within a mixed-use area or an industrial
3 area under this subsection (5)(d)(i) must be principally designed to
4 serve the existing and projected rural population.

5 (C) Any development or redevelopment in terms of building size,
6 scale, use, or intensity shall be consistent with the character of
7 the existing areas. Development and redevelopment may include changes
8 in use from vacant land or a previously existing use so long as the
9 new use conforms to the requirements of this subsection (5);

10 (ii) The intensification of development on lots containing, or
11 new development of, small-scale recreational or tourist uses,
12 including commercial facilities to serve those recreational or
13 tourist uses, that rely on a rural location and setting, but that do
14 not include new residential development. A small-scale recreation or
15 tourist use is not required to be principally designed to serve the
16 existing and projected rural population. Public services and public
17 facilities shall be limited to those necessary to serve the
18 recreation or tourist use and shall be provided in a manner that does
19 not permit low-density sprawl;

20 (iii) The intensification of development on lots containing
21 isolated nonresidential uses or new development of isolated cottage
22 industries and isolated small-scale businesses that are not
23 principally designed to serve the existing and projected rural
24 population and nonresidential uses, but do provide job opportunities
25 for rural residents. Rural counties may allow the expansion of small-
26 scale businesses as long as those small-scale businesses conform with
27 the rural character of the area as defined by the local government
28 according to RCW 36.70A.030(15). Rural counties may also allow new
29 small-scale businesses to utilize a site previously occupied by an
30 existing business as long as the new small-scale business conforms to
31 the rural character of the area as defined by the local government
32 according to RCW 36.70A.030(15). Public services and public
33 facilities shall be limited to those necessary to serve the isolated
34 nonresidential use and shall be provided in a manner that does not
35 permit low-density sprawl;

36 (iv) A county shall adopt measures to minimize and contain the
37 existing areas or uses of more intensive rural development, as
38 appropriate, authorized under this subsection. Lands included in such
39 existing areas or uses shall not extend beyond the logical outer
40 boundary of the existing area or use, thereby allowing a new pattern

1 of low-density sprawl. Existing areas are those that are clearly
2 identifiable and contained and where there is a logical boundary
3 delineated predominately by the built environment, but that may also
4 include undeveloped lands if limited as provided in this subsection.
5 The county shall establish the logical outer boundary of an area of
6 more intensive rural development. In establishing the logical outer
7 boundary, the county shall address (A) the need to preserve the
8 character of existing natural neighborhoods and communities, (B)
9 physical boundaries, such as bodies of water, streets and highways,
10 and land forms and contours, (C) the prevention of abnormally
11 irregular boundaries, and (D) the ability to provide public
12 facilities and public services in a manner that does not permit low-
13 density sprawl;

14 (v) For purposes of (d) of this subsection, an existing area or
15 existing use is one that was in existence:

16 (A) On July 1, 1990, in a county that was initially required to
17 plan under all of the provisions of this chapter;

18 (B) On the date the county adopted a resolution under RCW
19 36.70A.040(2), in a county that is planning under all of the
20 provisions of this chapter under RCW 36.70A.040(2); or

21 (C) On the date the office of financial management certifies the
22 county's population as provided in RCW 36.70A.040(5), in a county
23 that is planning under all of the provisions of this chapter pursuant
24 to RCW 36.70A.040(5).

25 (e) Exception. This subsection shall not be interpreted to permit
26 in the rural area a major industrial development or a master planned
27 resort unless otherwise specifically permitted under RCW 36.70A.360
28 and 36.70A.365.

29 (6) A transportation element that implements, and is consistent
30 with, the land use element.

31 (a) The transportation element shall include the following
32 subelements:

33 (i) Land use assumptions used in estimating travel;

34 (ii) Estimated traffic impacts to state-owned transportation
35 facilities resulting from land use assumptions to assist the
36 department of transportation in monitoring the performance of state
37 facilities, to plan improvements for the facilities, and to assess
38 the impact of land- use decisions on state-owned transportation
39 facilities;

40 (iii) Facilities and services needs, including:

1 (A) An inventory of air, water, and ground transportation
2 facilities and services, including transit alignments and general
3 aviation airport facilities, to define existing capital facilities
4 and travel levels as a basis for future planning. This inventory must
5 include state-owned transportation facilities within the city or
6 county's jurisdictional boundaries;

7 (B) Level of service standards for all locally owned arterials
8 and transit routes to serve as a gauge to judge performance of the
9 system. These standards should be regionally coordinated;

10 (C) For state-owned transportation facilities, level of service
11 standards for highways, as prescribed in chapters 47.06 and 47.80
12 RCW, to gauge the performance of the system. The purposes of
13 reflecting level of service standards for state highways in the local
14 comprehensive plan are to monitor the performance of the system, to
15 evaluate improvement strategies, and to facilitate coordination
16 between the county's or city's six-year street, road, or transit
17 program and the office of financial management's ten-year investment
18 program. The concurrency requirements of (b) of this subsection do
19 not apply to transportation facilities and services of statewide
20 significance except for counties consisting of islands whose only
21 connection to the mainland are state highways or ferry routes. In
22 these island counties, state highways and ferry route capacity must
23 be a factor in meeting the concurrency requirements in (b) of this
24 subsection;

25 (D) Specific actions and requirements for bringing into
26 compliance locally owned transportation facilities or services that
27 are below an established level of service standard;

28 (E) Forecasts of traffic for at least ten years based on the
29 adopted land use plan to provide information on the location, timing,
30 and capacity needs of future growth;

31 (F) Identification of state and local system needs to meet
32 current and future demands. Identified needs on state-owned
33 transportation facilities must be consistent with the statewide
34 multimodal transportation plan required under chapter 47.06 RCW;

35 (iv) Finance, including:

36 (A) An analysis of funding capability to judge needs against
37 probable funding resources;

38 (B) A multiyear financing plan based on the needs identified in
39 the comprehensive plan, the appropriate parts of which shall serve as
40 the basis for the six-year street, road, or transit program required

1 by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
2 35.58.2795 for public transportation systems. The multiyear financing
3 plan should be coordinated with the ten-year investment program
4 developed by the office of financial management as required by RCW
5 47.05.030;

6 (C) If probable funding falls short of meeting identified needs,
7 a discussion of how additional funding will be raised, or how land
8 use assumptions will be reassessed to ensure that level of service
9 standards will be met;

10 (v) Intergovernmental coordination efforts, including an
11 assessment of the impacts of the transportation plan and land use
12 assumptions on the transportation systems of adjacent jurisdictions;

13 (vi) Demand-management strategies;

14 (vii) Pedestrian and bicycle component to include collaborative
15 efforts to identify and designate planned improvements for pedestrian
16 and bicycle facilities and corridors that address and encourage
17 enhanced community access and promote healthy lifestyles.

18 (b) After adoption of the comprehensive plan by jurisdictions
19 required to plan or who choose to plan under RCW 36.70A.040, local
20 jurisdictions must adopt and enforce ordinances which prohibit
21 development approval if the development causes the level of service
22 on a locally owned transportation facility to decline below the
23 standards adopted in the transportation element of the comprehensive
24 plan, unless transportation improvements or strategies to accommodate
25 the impacts of development are made concurrent with the development.
26 These strategies may include increased public transportation service,
27 ride sharing programs, demand management, and other transportation
28 systems management strategies. For the purposes of this subsection
29 (6), "concurrent with the development" means that improvements or
30 strategies are in place at the time of development, or that a
31 financial commitment is in place to complete the improvements or
32 strategies within six years. If the collection of impact fees is
33 delayed under RCW 82.02.050(3), the six-year period required by this
34 subsection (6)(b) must begin after full payment of all impact fees is
35 due to the county or city.

36 (c) The transportation element described in this subsection (6),
37 the six-year plans required by RCW 35.77.010 for cities, RCW
38 36.81.121 for counties, and RCW 35.58.2795 for public transportation
39 systems, and the ten-year investment program required by RCW
40 47.05.030 for the state, must be consistent.

1 (7) An economic development element establishing local goals,
2 policies, objectives, and provisions for economic growth and vitality
3 and a high quality of life. The element shall include: (a) A summary
4 of the local economy such as population, employment, payroll,
5 sectors, businesses, sales, and other information as appropriate; (b)
6 a summary of the strengths and weaknesses of the local economy
7 defined as the commercial and industrial sectors and supporting
8 factors such as land use, transportation, utilities, education,
9 workforce, housing, and natural/cultural resources; and (c) an
10 identification of policies, programs, and projects to foster economic
11 growth and development and to address future needs. A city that has
12 chosen to be a residential community is exempt from the economic
13 development element requirement of this subsection.

14 (8) A park and recreation element that implements, and is
15 consistent with, the capital facilities plan element as it relates to
16 park and recreation facilities. The element shall include: (a)
17 Estimates of park and recreation demand for at least a ten-year
18 period; (b) an evaluation of facilities and service needs; and (c) an
19 evaluation of intergovernmental coordination opportunities to provide
20 regional approaches for meeting park and recreational demand.

21 (9) It is the intent that new or amended elements required after
22 January 1, 2002, be adopted concurrent with the scheduled update
23 provided in RCW 36.70A.130. Requirements to incorporate any such new
24 or amended elements shall be null and void until funds sufficient to
25 cover applicable local government costs are appropriated and
26 distributed by the state at least two years before local government
27 must update comprehensive plans as required in RCW 36.70A.130.

28 NEW SECTION. **Sec. 3.** A new section is added to chapter 44.28
29 RCW to read as follows:

30 (1) The joint legislative audit and review committee must review
31 the impact fee deferral requirements of RCW 82.02.050(3). The review
32 must consist of an examination of issued impact fee deferrals,
33 including: (a) The number of deferrals requested of and issued by
34 counties, cities, and towns; (b) the type of impact fee deferred; (c)
35 the monetary amount of deferrals, by jurisdiction; (d) whether the
36 deferral process was efficiently administered; (e) the number of
37 deferrals that were not fully and timely paid; and (f) the costs to
38 counties, cities, and towns for collecting timely and delinquent
39 fees. The review must also include an evaluation of whether the

1 impact fee deferral process required by RCW 82.02.050(3) was
2 effective in providing a locally administered process for the
3 deferral and full payment of impact fees.

4 (2) The review required by this section must, in accordance with
5 RCW 43.01.036, be submitted to the appropriate committees of the
6 house of representatives and the senate on or before September 1,
7 2021.

8 (3) In complying with this section, and in accordance with
9 section 4 of this act, the joint legislative audit and review
10 committee must make its collected data and associated materials
11 available, upon request, to the department of commerce.

12 (4) This section expires January 1, 2022.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.31
14 RCW to read as follows:

15 (1) Beginning December 1, 2018, and each year thereafter, the
16 department of commerce must prepare an annual report on the impact
17 fee deferral process established in RCW 82.02.050(3). The report must
18 include: (a) The number of deferrals requested of and issued by
19 counties, cities, and towns; (b) the number of deferrals that were
20 not fully and timely paid; and (c) other information as deemed
21 appropriate.

22 (2) The report required by this section must, in accordance with
23 RCW 43.01.036, be submitted to the appropriate committees of the
24 house of representatives and the senate.

25 NEW SECTION. **Sec. 5.** This act takes effect September 1, 2016.

Passed by the Senate April 16, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 11, 2015.

Filed in Office of Secretary of State May 12, 2015.

ORDINANCE NO. 1772

AN ORDINANCE OF THE CITY OF OAK HARBOR, WASHINGTON, AMENDING OAK HARBOR MUNICIPAL CODE CHAPTER 3.63, IMPACT FEES, BY REVISING SECTIONS 3.63.020 AND 3.63.030 AND ADDING SECTION 3.63.065(7) AND SECTION, 3.63.075, DEFERRAL OF IMPACT FEES.

WHEREAS, impact fees are authorized for those jurisdictions planning under the Growth Management Act and are charges assessed by local governments on new development projects that recover the cost incurred by local government in providing public facilities required to serve the new development; and,

WHEREAS, on May 21, 1996 the City of Oak Harbor City Council adopted Ordinance No. 1045 authorizing the collection of impact fees for parks; and,

WHEREAS, on September 2, 1997 the City of Oak Harbor City Council adopted Ordinance No. 1103 authorizing the collection of impact fees for transportation; and,

WHEREAS, as established in Ordinance Nos. 1045 and 1103 the park and transportation impact fees are to be collected at the time the building permit is issued; and,

WHEREAS, on May 11, 2015 the Washington State Legislature passed Engrossed Senate Bill (ESB) 5923 requiring counties and cities to provide an option for impact fee deferral assessed on single-family detached or attached new residential construction; and,

WHEREAS, ESB 5923 sets forth specific requirements for the impact fee deferral while also allowing the City certain discretion, including the time for deferral and the collection of an administrative fee; and,

WHEREAS, pursuant to this legislative mandate, the City of Oak Harbor seeks to amend Oak Harbor Municipal Code (OHMC) Chapter 3.63, Impact Fees, to establish a deferral program and the Master Fee Schedule to include an administrative fee for this program; and,

WHEREAS, under Washington Administrative Code 197-11-800(19)(a) this procedural Ordinance is exempt from the State Environmental Policy Act; and,

WHEREAS, in conformance with the requirements of the Washington Department of Commerce the proposed Ordinance was transmitted on May 27, 2016 to satisfy the 60-day review requirement;

NOW, THEREFORE, the City Council of the City of Oak Harbor, Washington do ordain as follows:

Section One. OHMC Chapter 3.63, Impact Fees, is hereby adopted amending Sections 3.63.020 and 3.63.030 and adding Sections 3.63.065(7) and 3.63.075 to read as set forth in Exhibit “A”;

Section Two. The Master Fee Schedule, Schedule A (Development Services – Land Development & Building) is hereby amended providing for a fair and equitable administrative fee for the processing of impact fee deferral applications as adopted under Section 1 of this Ordinance. The amended Master Fee Schedule is set forth as Exhibit “B”.

Section Three. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.

Section Four. Effective Date. This Ordinance shall be in full force and effect five (5) days after publishing.

PASSED by the City Council this _____ day of _____, 2016.

CITY OF OAK HARBOR

ROBERT SEVERNS, MAYOR

Attest:

Approved as to form:

By _____
Anna Thompson, City Clerk

By _____
Nikki Esparza, City Attorney

Date of Publication: _____

Effective Date: _____

Exhibit “A”

Chapter 3.63 IMPACT FEES

Sections:

<u>3.63.010</u>	Short title, authority and purpose.
<u>3.63.020</u>	Payment and amount of park impact fees by subdivider.
<u>3.63.030</u>	Payment and amount of park impact fees.
<u>3.63.040</u>	Basis for dedication or assessment of park impact fees.
<u>3.63.050</u>	Dedication suitability.
<u>3.63.060</u>	Dedication standards.
<u>3.63.065</u>	Payment and amount of transportation impact fees for development activities.
<u>3.63.068</u>	Credits for transportation impact fees.
<u>3.63.070</u>	Fund created – Use of funds.
<u>3.63.075</u>	<u>Deferral of Impact Fees</u>
<u>3.63.080</u>	Refunds.
<u>3.63.085</u>	Exemption or reduction for low-income housing.
<u>3.63.090</u>	Appeals.
<u>3.63.100</u>	Relationship to SEPA.

3.63.010 Short title, authority and purpose.

- (1) The ordinance codified in this chapter shall be known and may be cited as the “impact fee” ordinance.
- (2) This chapter is enacted pursuant to the Washington Growth Management Act, Chapters 82.02 and 82.03 RCW.
- (3) It is the purpose of this chapter to:
- (a) Ensure that adequate park, recreation and transportation facilities are available to serve new growth and development;
 - (b) Promote orderly growth and development by establishing standards requiring that new growth and development pay a proportionate share of the cost of park, recreation and transportation facilities needed to serve new growth and development;
 - (c) Ensure that park, recreation and transportation impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicative fees for the same impact;
 - (d) Implement the Oak Harbor comprehensive plan; and
 - (e) Provide additional funding for growth-related park and recreation facilities improvements identified by the Oak Harbor park and recreation facilities plan and for transportation improvements identified in the capital facilities as reasonable and necessary to meet the future growth needs of the city. (Ord. [1103](#) § 2, 1997; Ord. [1045](#), 1996).

3.63.020 Payment and amount of park impact fees by subdivider.

All persons proposing any subdivision of property zoned for residential use may pay the impact fee set out hereinafter in accordance with the provisions of this chapter at the time that the plat of the subdivision receives preliminary approval. Payment for short plats may be at the time the subdivision receives administrator’s approval; provided, however, that the impact fees herein assessed may be paid at or before the time of final approval of a long subdivision if such fees are bonded as an additional cost. Impact fees not paid at the time of subdivision or short plat approval shall be paid at the time of building permit issuance. Park impact fees associated with residential short plats and subdivisions may be deferred in conformance with Section 3.63.075 of this Chapter.

The park impact fees imposed in this section for a single-family residence lot and for a multiple-family, mobile home or modular home lot as computed in the appendix shall be in the master fee schedule adopted by resolution of the city council. (Ord. [1696](#) § 3, 2014; Ord. [1697](#) § 1, 2014; Ord. [1473](#) § 2, 2006; Ord. [1103](#) § 3, 1997; Ord. [1045](#), 1996).

3.63.030 Payment and amount of park impact fees.

Prior to the issuance of any building permit for any single-family residence, multiple-family residence, or for installation of any modular or mobile home, the park impact fees imposed herein shall be paid, less any credit for impact fees paid under this chapter at time of subdividing property. [Park impact fees associated with single-family detached or attached new residential construction may be deferred in conformance with Section 3.63.075 of this Chapter.](#)

The park impact fees imposed in this section for a single-family residence lot and for a multiple-family, mobile home or modular home lot as computed in the appendix shall be in the master fee schedule adopted by resolution of the city council.

Where a building consisting of one or more dwelling units is replaced by another building of one or more dwelling units, there shall be a credit against the payment of the fees imposed herein of the amount that would have been paid for the destroyed or removed building had it been assessed hereunder, or, if it was assessed hereunder, of the amount actually paid. (Ord. [1696](#) § 4, 2014; Ord. [1697](#) § 1, 2014; Ord. [1473](#) § 2, 2006; Ord. [1103](#) § 4, 1997; Ord. [1045](#), 1996).

3.63.040 Basis for dedication or assessment of park impact fees.

(1) All land dedications or park impact fee assessments shall be made on a per unit basis. "Unit" shall mean each dwelling unit, mobile home or lot as applicable and as defined in OHMC Title [19](#) (Zoning). Where the number of dwelling units or mobile homes is not precisely known at the time of development, "unit" shall mean at least one dwelling unit or mobile home for each lot, to be increased, when the number of dwelling units or mobile homes becomes known or fixed through application for a building permit or other applicable permit.

(2) Dedication of land is an alternative to payment of the park impact fees imposed in this chapter. It shall be allowed only to the extent agreed between the subdivider/developer and the city. If agreement cannot be reached, or is not appropriate, the park impact fees imposed by this chapter shall be paid. (Ord. [1103](#) § 5, 1997; Ord. [1045](#), 1996).

3.63.050 Dedication suitability.

Dedication of land that is improved for public parks, recreation facilities and open spaces is one method of mitigating the impacts on such facilities caused by property subdivision or development proposals within the city. Every property subdivision or development proposal will be reviewed by the director of development services for determination of suitable lands for dedication for parks, recreation facilities and open spaces in accordance with the standards set forth herein. Dedication shall generally not be a suitable alternative for providing parks, recreation facilities and open spaces in the following cases:

- (1) Where the area that would be dedicated for said purpose would be less than one acre in any one location;
- (2) Where the property subdivision development is in close proximity to public land already dedicated for park purposes; and
- (3) Where dedication would not be consistent with the city's comprehensive plan, parks plan or capital improvement plan. (Ord. [1273](#) § 1, 2001; Ord. [1045](#), 1996).

3.63.060 Dedication standards.

(1) The director of development services shall determine the suitability and location of lands for dedication. Dedications shall be considered suitable which best serve the public interest in providing a variety of lands for parks, recreation facilities and open spaces. The director of development services shall determine, in concert with the developer, if dedicated lands shall be improved and the specific improvements to be installed.

(2) Dedications allowed shall be completed at the earliest applicable date as a condition of approval of a building permit, conditional use permit, mobile home park, mobile home subdivision, planned unit development, short plat or final plat involving a residential or potential residential use.

(3) Any party may appeal the decision of the director of development services which concerns dedications to the park board for final determination of the issue. (Ord. [1273](#) § 2, 2001; Ord. [1045](#), 1996).

3.63.065 Payment and amount of transportation impact fees for development activities.

(1) The owners of property in which development activity takes place shall pay a transportation impact fee set out hereinafter in accordance with this chapter. Such transportation impact fee shall be deposited with the city prior to written approval from the city which authorizes commencement of such development activity.

(2) "Development activity at the time the building permit is issued according to RCW [82.02.090\(1\)](#)" means any construction or expansion of a building, structure or use, any change in use of a building or structure, or any changes in the use of land that create additional demand and need for transportation facilities. Transportation impact fees shall be collected at the time the building permit is issued.

(3) The transportation impact fees imposed in this section per peak hour trip generated for nonresidential activities and per residential unit developed shall be in the master fee schedule adopted by resolution of the city council. Peak hour trip generation shall be determined as per Chapter [11.32](#) OHMC.

(4) The following development activities are exempt from imposition of transportation impact fees:

(a) Replacement of a structure with a new structure of the same gross floor area and use at the same site or lot when such replacement occurs within five years of the demolition or destruction of the prior structure.

(b) Replacement, alteration, expansion, enlargement, remodeling, rehabilitation or conversion of an existing dwelling unit where no additional units are created and the use is not changed.

(c) Any building permit for a legal accessory dwelling unit approved under OHMC Title [19](#) (Zoning) as it is considered part of the single-family use associated with this fee.

(d) Alteration of an existing nonresidential structure that does not expand the usable space or change the use.

(5) All commercial development activity occurring within the area zoned central business district (CBD, CBD-1 and CBD-2) is exempt from imposition of transportation impact fees.

(6) The public works director is authorized to adjust the impact fees to be calculated under this chapter where the developer demonstrates that unusual circumstances make the standard impact fee applied to such development unfair or unjust. The circumstances that form the basis for the adjustment shall not be circumstances that are generally applicable to similar land uses or to all development activity in the vicinity. Unusual circumstances may include that the development activity will have substantially less impact on the system improvements than other development activities in the same land use category. Any request for an adjustment shall be made no later than the time of the application triggering imposition of impact fees. Adjustments granted under this section shall not be transferable from one property, project or development activity to another. (Ord. [1735](#) § 1, 2015; Ord. [1696](#) § 5, 2014; Ord. [1103](#) § 6, 1997).

[\(7\) Transportation impact fees assessed for single-family detached or attached new residential construction may be deferred in conformance with Section 3.63.075 of this Chapter.](#)

3.63.068 Credits for transportation impact fees.

(1) Credit shall be given for the fair market value of any dedication of land for improvement to or new construction of any transportation project designated in the capital facilities element and required by the city as a condition of approving the development activity over and above the minimum development standards set out in the Oak Harbor Municipal Code.

(2) "Fair market value" means the price in terms of money that a property or improvement will bring or cost in a competitive and open market under all conditions of a fair sale, the buyer and seller each prudently knowledgeable, and assuming the price is not affected by undue stimulus.

(a) The city engineer shall determine fair market value.

(b) The person seeking a credit must provide and pay for an appraisal, engineer's estimate or any other proof or information as required by the city engineer to assist in determining fair market value.

(c) Any credit granted shall be for fair market value at time of approval of development activity. (Ord. [1103](#) § 7, 1997).

3.63.070 Fund created – Use of funds.

(1) A neighborhood park and recreational facilities capital improvement fund, a community park and recreational facilities capital improvement fund, and a transportation and capital improvement fund are hereby created. The finance director shall be the fund manager. Park and recreation facilities and transportation impact fees shall be placed in the appropriate interest bearing deposit account for each fund.

(2) Impact fees paid to the city shall be held and disbursed as follows:

(a) When the council appropriates capital improvement project funds for a project, it may appropriate part of the costs of construction from the appropriate capital improvement fund. Moneys appropriated from other city sources shall comprise both the public share of the project cost and an advancement of that portion of the private share that has not yet been collected in impact fees;

(b) The first money spent by the department on a project after a council appropriation shall be deemed to be the fees from the capital improvement fund;

(c) Fees collected after a project has been fully funded by means of one or more council appropriations may be deemed to constitute reimbursement to the city of the public moneys advanced for the private share of the project;

(d) All interest earned on the impact fees paid as herein provided shall be retained in the account and expended for the purpose or purposes for which the impact fees were imposed.

(3) Capital improvement impact fees for parks and recreational facilities or transportation shall be expended only in conformance with the capital facilities element of the Oak Harbor comprehensive plan.

(4) Park and recreational facilities and transportation projects shall be funded by a balance between the capital improvement fund fees and other sources of public funds, and shall not be funded solely by impact fees.

(5) Impact fees shall be expended or encumbered for a permissible use within 10 years of receipt, unless there exists an extraordinary or compelling reason for fees to be held longer than 10 years. The city administrator, or his or her designee, may recommend to the council that the city hold fees beyond 10 years in cases where extraordinary or compelling reasons exist. Such reasons shall be identified in written findings by the council.

(6) The finance director shall provide an annual report on each impact fee account showing the source and amount of all moneys received and the system improvements that were financed by impact fees. Impact fees shall be considered expended or encumbered on a first in, first out basis. (Ord. [1746](#) § 1, 2015; Ord. [1103](#) § 8, 1997; Ord. [1045](#), 1996).

3.63.075 Deferral of Impact Fees.

Impact fees assessed for single-family detached or attached new residential construction may be deferred at the election of an Applicant for impact fee deferral under the following terms and conditions:

(1) For each single-family residence for which any impact fee deferral is applied for, an administrative fee set in the Master Fee Schedule must simultaneously be paid to the city due to increased burden placed on city staff for processing and monitoring.

(2) A separate application must be submitted for each single-family residence being constructed. Only the first twenty (20) applications per calendar year, by each applicant for impact fee deferral, are eligible for deferral under this section.

(3) The period of deferral expires at:

(a) the time of final inspection by the city;

(b) the time of issuance of a certificate of occupancy by the city; or,

(c) eighteen months after the building permit is issued by the city.

(4) The Applicant for impact fee deferral must grant and record in favor of the City of Oak Harbor an impact fee lien in the amount of the deferred impact fee. The lien must be in a form approved by the city and must include:

(a) a legal description, tax account number, and address of the property;

(b) signatures by all owners of the property and persons or entities holding any interest in the property, with all signatures acknowledged as required for a deed and recorded in Island County;

(c) a statement that the lien is binding on all successors in title after the recordation;

(d) a statement that it is junior and subordinate to one mortgage for the purpose of construction upon the same real property granted by the person who applied for the deferral of impact fees.

(5) The amount of impact fees deferred shall be determined by the fees in effect at the time the Applicant applies for a deferral.

(6) If impact fees are not paid in accordance with the deferral, the city may initiate foreclosure proceedings in accordance with RCW Chapter 61.12.

(7) The City shall withhold final inspection or certificate of occupancy will not be issued until the impact fees have been paid in full. Upon receipt of final payment of impact fees deferred under this section, the City shall execute a release of deferred impact fee lien for each single-family attached or detached residence for which the impact fees have been received. The Applicant, or property owner at the time of release, shall be responsible for recording the lien release at his or her expense.

(8) For the purposes of this section the following definitions are applied:

(a) "Applicant for Impact Fee Deferral" means an applicant for a building permit that also makes application for impact fee deferral. It includes an entity that controls the applicant, is controlled by the applicant, or is under common control with the applicant.

(b) "Transfer" means sale as defined in RCW 82.45.010, forfeiture, foreclosure, trade, gift, receivership, bankruptcy or other change in ownership interest in real property or improvements.

3.63.080 Refunds.

(1) Anyone required by this chapter to pay an impact fee may request and shall receive a refund when the action for which impact fees were paid is abandoned or does not proceed, and the payor shows that no impact has resulted. However, the city's costs incurred in evaluating the development shall not be refunded, but shall be paid instead to the general fund as reimbursement for the costs so expended by the city.

(2) If a property owner appears to be entitled to a refund of impact fees, the city shall notify the property owner by first class mail deposited with the United States Postal Service at their last known address. The property owner must submit a request for a refund to the council in writing within one year of the date the right to claim the refund arises or the date the notice is given, whichever is later. Any impact fees that are not expended or encumbered within the time limitations established herein, and for which no application for a refund has been made within this one-year period, shall be retained and expended on the projects for which it was collected.

(3) In the event that impact fees must be refunded for any reason, they shall be refunded with interest earned to the property owners as they appear of record with the Island County assessor at the time of refund.

(4) If the city seeks to terminate any or all impact fee requirements, all unexpended or unencumbered funds shall be refunded pursuant to this section. Upon a finding that any or all fee requirements are to be terminated, the city shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first class mail to the last known address of potential claimants. Claimants shall request refunds in the manner provided in subsection (2) of this section. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the city, but must be expended for the purpose of the fund. This notice requirement shall not apply if there are no unexpended or unencumbered balances within an account or accounts being terminated.

(5) A property owner may request and shall receive a refund, including interest earned on the impact fees, when the developer does not proceed with the development activity and no impact has resulted. (Ord. [1103](#) § 9, 1997; Ord. [1045](#), 1996).

3.63.085 Exemption or reduction for low-income housing.

(1) Low-income housing projects being developed by public housing agencies or private nonprofit housing developers may apply to be exempt from the payment of impact fees. The amount of the impact fees not collected from low income household development shall be paid from public funds other than impact fee accounts. The impact fees for these units shall be considered paid for by the city through its other funding sources, without the city actually transferring funds from its other funding sources into the impact fee account. The director of development services shall review proposed developments of low income housing by such public or nonprofit developers that apply pursuant to criteria and procedures adopted by administrative rule, and shall advise the building official and finance director as to whether the project qualifies for the exemption.

(2) The director of development services is hereby instructed and authorized to adopt administrative rules to implement this section. Such rules shall provide for the administration of this program and shall:

(a) Encourage the construction of housing for low-income households by public housing agencies or private nonprofit housing developers participating in publicly sponsored or subsidized housing programs;

(b) Ensure that housing that qualifies as low-cost meets appropriate standards regarding household income, rent levels or sale prices, location, number of units and development size. (Ord. [1273](#) § 3, 2001; Ord. [1103](#) § 10, 1997).

3.63.090 Appeals.

(1) Any property owner may pay an impact fee imposed by this chapter under protest in order to obtain a building permit or any other approval, and after such payment may file an appeal with the city clerk with the amount of such impact fee and in accordance with this section.

(2) The determination of the director of development services for subdivision approval or building official for permit approval regarding the applicability of the impact fee to a given development activity within the city shall be final. The city council shall have the power to hear and decide appeals where it is alleged there is error in the director of development services or building official's determination of the impact fee imposed upon a development activity under this chapter.

(3) Appeals to the city council regarding the amount of the impact fee imposed on any development activity may only be taken by the owner of the property where such development activity will occur. No appeal shall be permitted unless and until the impact fee at issue has been paid. Such appeals shall be taken within a reasonable time, not to exceed 10 days from the date of decision, by filing with the city clerk a notice of appeal specifying the grounds thereof, and depositing a fee per the master fee schedule adopted by resolution of the city council. The city clerk shall forthwith transmit to the city council all papers constituting the record upon which the amount of the impact fee was determined.

(4) The city council shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

(5) In exercising the above-mentioned powers, the city council may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the determination of the amount of the impact fee appealed from only upon a determination that it is proper to do so based on principles of fairness, and may make such order, requirements, decision or determination as ought to be made, and to that end shall have the powers with respect to the determination of the impact fees as are granted the director of development services or building official by this chapter.

(6) To decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in the application of this chapter, a simple majority of those present and constituting a quorum, as determined by the city council, shall suffice.

(7) Any person or persons, or any board, taxpayer, department or bureau of the city aggrieved by any decision of the city council may seek review by a court of record of such decision, in the manner provided by the laws of the state.

(8) The deposit required under subsection (3) of this section shall be used to pay the costs of the hearing unless the city council makes a determination that the applicant is the prevailing party and is not liable for the costs of the hearing. (Ord. [1696](#) § 6, 2014; Ord. [1273](#) § 4, 2001; Ord. [1205](#) § 1, 2000; Ord. [1045](#), 1996).

3.63.100 Relationship to SEPA.

When developments are subject to environmental review pursuant to SEPA and other applicable Oak Harbor ordinances and regulations, payment of the park and recreational facilities impact fee shall constitute satisfactory mitigation of those impacts related to parks and recreational facilities. (Ord. [1045](#), 1996).

Exhibit “B”

**Master Fee Schedule, Schedule A (Development Services –
Land Development & Building)**

RESOLUTION NO. 16-20

A RESOLUTION OF THE CITY OF OAK HARBOR AMENDING THE MASTER FEE SCHEDULE ADDING A FEE FOR IMPACT FEE DEFERRALS

WHEREAS, various City Council ordinances have adopted regulations requiring certain actions and services; and,

WHEREAS, Ordinance No. 1772, in compliance with Engrossed Senate Bill (ESB) 5923, has amended Oak Harbor Municipal Code (OHMC) Chapter 3.63, Impact Fees, establishing an impact fee deferral option; and,

WHEREAS, Section 1(h) of ESB 5923 allows counties and cities to collect reasonable administrative fees to implement the impact fee deferral program; and,

WHEREAS, it is the intent of the City of Oak Harbor to charge fees and charges that are consistent with the services provided and to cover the public cost of providing these services so that the public is not subsidizing individual benefits derived therefrom;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oak Harbor as follows:

Amendment of Master Fee Schedule. The Master Fee Schedule, (Schedule A Development Services – Land Development) amended by Res. No. 16-04, in 2016, is hereby amended to read as follows:

MASTER FEE SCHEDULE (Schedule A)
DEVELOPMENT SERVICES

LAND DEVELOPMENT

Chapter 3.63	IMPACT FEES	FEE
3.63.020	<u>Payment and amount of park impact fees by subdivider.</u> <ul style="list-style-type: none"> • Park impact fee: <ul style="list-style-type: none"> - Single-family residence lot - Multiple-family, mobile home or modular home lot as computed in the appendix 	 \$1,673.00 \$1,344.00
3.63.030	<u>Payment and amount of park impact fees.</u> <ul style="list-style-type: none"> • Park impact fee: <ul style="list-style-type: none"> - Single-family residence lot - Multiple-family, mobile home or modular home lot as computed in the appendix 	 \$1,673.00 \$1,344.00

Marijuana Related Uses
Code Amendment

Public Hearing

City of Oak Harbor Planning Commission Report

Date: June 28, 2016
Subject: Medical Marijuana – Ordinance
No. 1773

FROM: Dennis Lefevre, Senior Planner, Development Services Department

PURPOSE

This meeting will provide an opportunity for public and Planning Commission input on the proposed local regulatory requirements for medical marijuana producers, processors, retailers, and cooperatives.

BACKGROUND

By Ordinance No. 1740 (passed September 1, 2015) the City Council extended the moratorium on the establishment of medical marijuana dispensaries and collective gardens for one year. The one-year extension was also intended to provide an opportunity to monitor amendments and new legislation pertaining to the Cannabis Patient Protection Act (CPPA) passed in April 2015.

At the May 10, 2016 Planning Commission meeting, staff presented several CPPA implementation steps taken by the Washington State Liquor and Cannabis Board (LCB) and Department of Health (DOH). A review of those steps is below:

- The LCB increases statewide marijuana retailer licenses from 334 to 556. One additional license is allocated to Oak Harbor.
- The DOH has established consultant certification requirements to allow recreational marijuana retailers to achieve certification as a medical marijuana retailer.
- Four-member cooperatives will replace collective gardens July 1, 2016.
- No cooperative is permitted within 1,000 feet of sensitive areas¹ or within one mile of a licensed marijuana retailer.
- A cooperative must be in the domicile of one of the registered participants.
- Based on a DOH study², DOH does not support the establishment of specialty clinics.
- A medical marijuana authorization database is created by the DOH.
- All LCB marijuana license applications or cooperative registrations are provided to the local jurisdiction for review and comment.

DISCUSSION

In response to the passage of Initiative 502 (legalization of recreational marijuana, November, 2012), the City of Oak Harbor established regulations and siting requirements to maintain the

¹ Sensitive areas include: elementary and secondary schools; playgrounds; recreation center or facility; child care center, public park; public transit center; library; or any game arcade venue featuring primarily video games, simulators, and/or other amusement devices where persons under 21 years of age are not restricted.

² "Medical Marijuana Specialty Clinics", December, 2015.

public health, safety, and welfare. These regulations and requirements were codified in Oak Harbor Municipal Code (OHMC) Chapter 19.22, Marijuana Related Uses.

Chapter 19.22 restricts the location of recreational marijuana producers and processors to the Planned Industrial Park and Industrial zoning districts and retailers to the Industrial and Highway Service Commercial (C-4) zoning districts. Further restrictions were placed within 1,000 feet of sensitive areas (see footnote 1).

The CPPA required the creation of a statewide regulatory framework paralleling the framework established for the recreational marijuana industry. Consistent with the state approach, staff is proposing the enhancement of OHMC Chapter 19.22 to include medical marijuana regulations and siting restrictions. Proposed Ordinance No. 1773 (Attachment 1) identifies OHMC Chapter 19.22 with the medical marijuana element incorporated.

As noted earlier in this report, the CPPA prohibits collective gardens as of July 1, 2016 and replaces them with cooperatives. While the city prohibited the siting of collective gardens through the series of moratorium ordinances, cooperatives will now have to be addressed.

Smaller in scale than collective gardens, cooperatives must have four-or-less qualifying patients as participants. The cooperative must be at the domicile of one of the participants and be registered with the LCB. Through the registration process, the City of Oak Harbor (through the Office of the Mayor) will be notified. At this point, staff (police, fire, building, planning) will have an opportunity to review the application. Locational restrictions will be applied at this point. Statutory restrictions include the same 1,000 foot buffer from sensitive areas and a one mile restricted zone from a licensed retailer.

In conformance with the State Environmental Policy Act a non-project Determination of Non-Significance was issued on June 10, 2016. In addition, the ordinance was transmitted to the Washington Department of Commerce on June 2, 2016 for the required 60-day Notice of Intent to Adopt Development Regulations.

RECOMMENDED ACTION

As noted, under RCW 69.51A.250(3)(c), a city or county may prohibit the newly-authorized marijuana cooperatives in certain zones or, presumably, even entirely. Based on the statutory restrictions and the fact that the two licensed retailers have also been certified to sell medical marijuana, additional restrictions on cooperatives would be subjective and not centered on a sound rationale. It could be argued that a qualified patient, residing in an area that is eligible for a cooperative, may opt to purchase medical marijuana from the available medical retailers as opposed to engaging in the coordination, registration, and initial production costs involved in a cooperative.

Supported by the knowledge that all potential licensed cooperatives must be locally approved, no additional restrictions are recommended for cooperatives. Medical marijuana producers, processors, and retailers are subject to the same restrictions required for recreational marijuana

facilities. Staff recommends that, subject to comments received at the public hearing, the Planning Commission transmit a recommendation of approval to the City Council.

SUGGESTED MOTION

A positive motion would be: *I move to recommend to the City Council approval of Ordinance No. 1773 amending Oak Harbor Municipal Code Chapter 19.22 Marijuana Related Uses.*

ATTACHMENTS

1. Ordinance No. 1773.

ORDINANCE NO. 1773

AN ORDINANCE OF THE CITY OF OAK HARBOR, WASHINGTON, AMENDING OAK HARBOR MUNICIPAL CODE CHAPTER 19.22, MARIJUANA RELATED USES, TO INCORPORATE REGULATIONS FOR MEDICAL MARIJUANA PRODUCERS, PROCESSORS, RETAILERS, AND COOPERATIVES, PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the voters of Washington State approved Initiative 502 (I-502) in November 2012 legalizing, under state law, the taxing and regulating recreational use of marijuana, codified in Chapter 69.50 RCW; and,

WHEREAS, the Oak Harbor City Council agreed that the establishment of marijuana related uses without appropriate regulations could lead to negative secondary impacts to the community; and,

WHEREAS, the Oak Harbor City Council adopted Ordinance No. 1685 in February 2014, amending Oak Harbor Municipal Code (OHMC) Title 19, Zoning, by adding Chapter 19.22, Marijuana Related Uses; and,

WHEREAS, the purpose and intent of OHMC Chapter 19.22 is to acknowledge I-502 and establish regulations and siting requirements for licensed recreational marijuana producers, processors, and retailers while maintaining the public health, safety, and welfare; and,

WHEREAS, legislation was introduced in the Washington State's 2014 Legislative session which would have merged the unregulated medical marijuana industry into the state-licensed recreational market; and,

WHEREAS, the Legislature failed to act on the bills, leaving the laws regarding medical marijuana regulations unchanged; and,

WHEREAS, in light of the potential for new legislation related to medical marijuana and in accordance with RCW 36.70A.390, Ordinance Nos. 1666, 1686, and 1692 adopted September, 2013; February, 2014; and September 2014, respectively, imposed a total of eighteen months of moratorium on the establishment of medical marijuana dispensaries and collective gardens because of the potential impact on the city's public health, safety, and welfare; and,

WHEREAS, the Washington State Legislature passed Second Substitute Senate Bill 5052 in April 2015, also known as the Cannabis Patient Protection Act (CPPA), which establishes guidance for a state regulatory framework for the medical marijuana industry paralleling the recreational framework; and,

WHEREAS, the CPPA creates a medical marijuana authorization database for qualifying patients; provides potential endorsement to a licensed recreational marijuana retailer to carry

products identified by the Washington Department of Health (DOH) as beneficial to medical marijuana patients; repeals the authorization for collective gardens, effective July 1, 2016; and, authorizes the establishment of four-member cooperatives also effective July 1, 2016; and,

WHEREAS, discussion at the June 23, 2015 City of Oak Harbor Planning Commission meeting involved concerns about preparing local medical marijuana regulations while the state may refine and clarify uncertain sections of the CPPA possibly requiring supplemental local code amendments; and,

WHEREAS, the Planning Commission also reasoned that additional time would be valuable to solicit public comment and perception to this issue as well as provide an opportunity to monitor other communities; and,

WHEREAS, the Planning Commission continued their discussion on July 28, 2015 of local medical marijuana regulations and unanimously recommended to the City Council approval of Ordinance 1740, extending the duration of the moratorium extended under Ordinance 1692 an additional twelve months to September 1, 2016 along with a revised work plan; and,

WHEREAS, the Oak Harbor City Council adopted Ordinance No. 1740 on September 1, 2015; and,

WHEREAS, on May 10, 2016 the Planning Commission was briefed on the implementation status of the CPPA including the prohibition on collective gardens; creation of cooperatives; identification of sensitive area buffers; authorization database; medical marijuana certification; and, specialty clinic recommendation; and,

WHEREAS, under the CPPA, the Liquor and Cannabis Board (LCB), increased the number of licensed marijuana retailers to ensure the needs of medical marijuana qualifying patients were met; and,

WHEREAS, the statewide license increase resulted in one additional license for a total of two retail licenses available within the City of Oak Harbor; and,

WHEREAS, both licenses have been issued for the City, and under the authority of the CPPA and DOH requirements, both license recipients have been successfully certified as medical marijuana retailers; and,

WHEREAS, as the statewide medical marijuana regulatory framework has been patterned after the recreational framework a similar strategy was engaged for the creation of regulations and siting requirements for medical marijuana retailers in the city; and,

WHEREAS, Chapter 19.22, Marijuana Related Uses, was used as a point of departure for the regulation of the medical marijuana industry in the city; and,

WHEREAS, under the CPPA, cooperatives may be established whereby qualifying patient members are allowed to produce and process medical marijuana for use only by the cooperative members; and,

WHEREAS, these cooperatives must be located in the domicile of one of the members; and,

WHEREAS, the Washington State Attorney General issued an advisory opinion in January 2014, that states municipalities can prohibit state-licensed marijuana businesses and registered cooperatives within a city’s boundaries or impose zoning and other land use regulations pertaining to such businesses and cooperatives; and,

WHEREAS, additional restrictions on cooperatives seem unnecessary and subjective and not centered on a sound rationale; and

WHEREAS, a State Environmental Policy Act (SEPA) Determination of Non-Significance was issued on June 10, 2016 in conformance with OHMC Chapter 20.04; and,

WHEREAS, procedural requirements have been met by providing a 60-day notice of intent to adopt development regulations with the Washington State Department of Commerce; and,

WHEREAS, the City of Oak Harbor Planning Commission held a public hearing on June 28, 2016 to consider this Ordinance and forwarded a recommendation of approval to the City Council; and,

WHEREAS, the City of Oak Harbor City Council held a public hearing on August 3, 2016 to consider this Ordinance; and,

WHEREAS, nothing in this Ordinance is intended, nor shall be construed, to authorize or approve violation of federal or state law;

NOW, THEREFORE, the City Council of the City of Oak Harbor, Washington do ordain as follows:

Section One. OHMC Chapter 19.22, entitled “Marijuana Related Uses”, added by Ord. No. 1685, is hereby amended to read as follows:

**Chapter 19.22
MARIJUANA RELATED USES**

Sections:

- 19.22.010 Purpose and intent.
- 19.22.020 Definitions.
- 19.22.030 Locations allowed.
- 19.22.040 Development standards.
- 19.22.050 Nonconforming uses.

19.22.010 Purpose and intent.

The production, processing and retailing of marijuana are and remain illegal under federal law. Nothing herein or as provided elsewhere in the ordinances of the city of Oak Harbor is an authorization to circumvent federal law or provide permission to any person or entity to violate federal law. Only state-licensed marijuana producers, marijuana processors, ~~and~~ marijuana retailers, and registered cooperatives may locate in the city of Oak Harbor and then only pursuant to a license issued by the state of Washington and only when in full compliance with the local regulations contained herein. These regulations are solely intended to acknowledge the enactment by Washington voters of Initiative 502 (recreational marijuana) and the State Legislature of Second Substitute Senate Bill 5052 (medical marijuana) and associated state licensing procedures and to permit, but only to the extent required by state law, marijuana producers, marijuana processors, ~~and~~ marijuana retailers, and registered marijuana cooperatives to operate in designated zones of the city. These provisions are intended to mitigate potential secondary impacts of marijuana related uses on nearby properties and the community and to promote the public health, safety and welfare through the application of appropriate locational criteria, zoning and development standards. (Ord. 1685 § 2, 2014).

19.22.020 Definitions.

(1) “Child care center” means an agency that regularly provides early childhood education and early learning services for a group of children for periods of less than twenty-four hours (Agency defined as in RCW 43.215.010).

(2) “Cooperative” means a group of no more than four registered, qualifying patients or designated providers where producing and processing of medical marijuana or marijuana-infused products are permitted. Cooperatives are only permitted within the domicile of one of the participants.

(3) “Domicile” means a person’s true, fixed, and permanent home and place of habitation for other than educational purposes. It is the place where he or she intends to remain, and to which he or she expects to return when he or she leaves without intending to establish a new domicile elsewhere (RCW 250-18-015(2)).

(24) “Elementary school” means a school for early education that provides the first four to eight years of basic education and recognized by the Washington State Superintendent of Public Instruction.

(35) “Game arcade” means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under 21 years of age are not restricted.

(46) “Library” means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

(57) “Marijuana” ~~or “marihuana”~~ means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the

resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seeds of the plant which are incapable of germination.

(8) “Marijuana concentrates” means products consisting wholly or in part of the resin extracted from any part of the plant cannabis and having a THC concentration greater than sixty percent.

~~(69)~~ “Marijuana facility” means a state-licensed recreational or medical marijuana production, processing, or retail facility. Marijuana facilities shall not be a home occupation as defined in Chapter 19.08 OHMC, Definitions, and as authorized under Chapter 19.34 OHMC.

~~(710)~~ “Marijuana-infused products” means products that contain marijuana or marijuana extracts, ~~and~~ are intended for human use, and have a THC concentration greater than 0.3 percent and no greater than sixty percent. The term “marijuana-infused products” does not include usable marijuana or marijuana concentrates.

~~(811)~~ “Marijuana processing facility” means an entity licensed by the state of Washington to process, package, and label usable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers. A marijuana processing facility shall not be a home occupation as defined in Chapter 19.08 OHMC, Definitions, and as authorized under Chapter 19.34 OHMC.

~~(912)~~ “Marijuana processor” means a person licensed by the State Liquor ~~Control~~ and Cannabis Board to process marijuana into, marijuana concentrates, usable marijuana, and marijuana-infused products, package and label marijuana concentrates, usable marijuana and marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, usable marijuana and marijuana-infused products at wholesale to marijuana retailers.

~~(1013)~~ “Marijuana producer” means a person licensed by the State Liquor ~~Control~~ and Cannabis Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

~~(1114)~~ “Marijuana production facility” means an entity licensed by the state of Washington to produce marijuana for sale at wholesale to marijuana processor licensees and to other marijuana producers. A marijuana production facility shall not be a home occupation as defined in Chapter 19.08 OHMC, Definitions, and as authorized under Chapter 19.34 OHMC.

~~(1215)~~ “Marijuana retailer” means a person licensed by the State Liquor ~~Control~~ and Cannabis Board to sell marijuana concentrates, usable marijuana, and marijuana-infused products in a retail outlet.

~~(1316)~~ “Marijuana retail facility” means an entity licensed by the state of Washington to sell only usable marijuana, marijuana-infused products and marijuana paraphernalia to persons 21

years of age and older. A marijuana retail facility shall not be a home occupation as defined in Chapter 19.08 OHMC, Definitions, and as authorized under Chapter 19.34 OHMC.

~~(417)~~ “Playground” means a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, or federal government.

~~(418)~~ “Public park” means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district. “Public park” does not include trails.

~~(419)~~ “Public transit center” means a facility located outside of the public right-of-way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route-to-route transfers.

~~(420)~~ “Recreation center or facility” means a supervised center that provides a broad range of activities and events intended primarily for use by persons under 21 years of age, owned and/or managed by a charitable nonprofit organization, city, county, state, or federal government.

~~(421)~~ “Retail outlet” means a location licensed by the State Liquor ~~Control~~ and Cannabis Board for the retail sale of marijuana concentrates, usable marijuana, and marijuana-infused products.

~~(422)~~ “Secondary school” means a high and/or middle school: a school for students who have completed their primary education, usually attended by children in grades seven to 12 and recognized by the Washington State Superintendent of Public Instruction.

~~(2023)~~ “Usable marijuana” means dried marijuana flowers. The term “usable marijuana” does not include marijuana-infused products or marijuana concentrates. (Ord. 1685 § 3, 2014).

19.22.030 Locations allowed.

(1) State-licensed marijuana producers and marijuana processors may locate in the city pursuant to the following restrictions:

(a) Marijuana producers and marijuana processors must comply with all requirements of state law and the Washington State Liquor ~~Control~~ and Cannabis Board’s regulations.

(b) Marijuana producers and marijuana processors may locate only in the planned industrial park or industrial district(s).

(c) Marijuana producers and marijuana processors shall not locate on a site or in a building in which nonconforming production or processing uses have been established in any zone other than the planned industrial park or industrial district(s).

(d) Marijuana producers and marijuana processors shall not operate as an accessory to a primary use or as a home occupation.

(e) Marijuana producers and marijuana processors shall not locate within 1,000 feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade venue featuring primarily video games, simulators, and/or other amusement devices where persons under 21 years of age are not restricted. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the entities listed above.

(2) State-licensed marijuana retailers may locate in the city pursuant to the following restrictions:

(a) Marijuana retailers must comply with all requirements of state law and the Washington State Liquor ~~and Cannabis Control~~ Board's regulations.

(b) Marijuana retailers may locate only in the C-4 and industrial district(s).

(c) Marijuana retailers shall not locate in a building in which nonconforming retail uses have been established in any residential or office zone.

(d) Marijuana retailers shall not operate as an accessory to a primary use or as a home occupation.

(e) Marijuana retailers shall not locate within 1,000 feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade venue featuring primarily video games, simulators, and/or other amusement devices where persons under 21 years of age are not restricted. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the entities listed above. (Ord. 1685 § 4, 2014).

(3) State-registered marijuana cooperatives may locate in the city pursuant to the following restrictions:

(a) Marijuana cooperatives must comply with all requirements of state law and the Washington State Liquor and Cannabis Board's regulations.

(b) Marijuana cooperatives shall be located in the domicile of one of the qualifying participants.

(c) Marijuana cooperatives shall not locate within 1,000 feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade venue featuring primarily video games, simulators, and/or other amusement devices where persons under 21 years of age are not restricted. The distance shall be measured as the

shortest straight line distance from the property line of the proposed building/business location to the property line of the entities listed above.

(d) Marijuana cooperatives shall not locate within one mile of a marijuana retailer. The distance shall be measured as the shortest straight line distance from property line of the proposed building/business location to the property line of the entities listed above.

19.22.040 Development standards.

(1) Marijuana Retail, Processing and Production Facilities. In addition to the standards of the underlying zoning district and all other applicable municipal code regulations, all state-licensed marijuana facilities shall meet the following development standards:

(a) All facilities must be state-licensed and comply with all of the standards for state-licensed marijuana facilities.

(b) No marijuana facility shall be allowed as a home occupation.

(c) The definitions set forth in RCW 69.50.101 through 69.50.102, WAC 314-55-010 and OHMC 19.22.020 shall control.

(d) Location.

(i) No more than one facility shall be located on a single parcel.

(ii) Marijuana retail and processing facilities shall be located fully within a permanent structure designed to comply with the city building code and constructed under a building and/or tenant improvement permit from the city regardless of the size or configuration of the structure.

(iii) Marijuana production facilities shall be located:

(A) Within a permanent, fully enclosed structure designed to comply with the city building code and constructed under a building and/or a tenant improvement permit from the city regardless of the size or configuration of the structure; or

(B) In nonrigid greenhouses, other structures, or an expanse of open or clear ground fully enclosed by a physical barrier enclosed by a sight obscuring wall or fence eight feet high.

(iv) Marijuana facilities shall not be located in a mobile structure or vehicle.

(v) No state-licensed marijuana facility shall be located within 1,000 feet of the perimeter of the parcel on which any of the entities listed below are located. The distance shall be measured as the shortest straight line distance from property line of the proposed building/business location to the property line of the entities listed below:

(A) Elementary or secondary school (public or private);

(B) Playground;

(C) Recreation center or facility;

(D) Child care center;

(E) Public park;

(F) Public transit center;

(G) Library;

(H) Any game arcade venue featuring primarily video games, simulators, and/or other amusement devices where persons under 21 years of age are not restricted.

(vi) No state-licensed marijuana retail facility shall be located within 1,000 feet of the perimeter of a parcel on which a state-licensed marijuana production or processing facility is located. The distance shall be measured as the shortest straight line distance from property line of the marijuana retail facility to the property line of the marijuana production or processing facility.

(e) No production, processing or delivery of marijuana may be visible to the public nor may it be visible through windows.

(f) Marijuana retail uses shall not include drive-throughs, exterior, or off-site sales.

(g) All fertilizers, chemicals, gases and hazardous materials shall be handled in compliance with all applicable local, state and federal regulations. No fertilizers, chemicals, gases or hazardous materials shall be allowed to enter either a sanitary sewer or a storm water sewer system nor be released into the atmosphere outside of the structure where the facility is located.

(h) No odors resulting from the use of those substances noted in subsection (1)(g) of this section or from the activities conducted within the structure shall be allowed to migrate beyond the interior portion of the structure where a marijuana facility is located.

(i) A city of Oak Harbor business license pursuant to Chapter 5.03 OHMC and a state license pursuant to Chapter 314-55 WAC shall be obtained prior to the start of operations of the facility.

(j) All facilities shall comply with Chapter 19.27 RCW, State Building Code Act, and OHMC Title 17, Buildings. Appropriate permits shall be obtained for all changes of use, tenant improvements, mechanical system improvements, electrical upgrades and similar work. (Ord. 1685 § 5, 2014).

(2) Marijuana Cooperatives. In addition to the standards of the underlying zoning district and all other applicable municipal code regulations, all state-registered marijuana cooperatives shall meet the following development standards:

(a) Only one cooperative may be located per property tax parcel.

(b) A copy of each qualifying participant's recognition card must be kept at the location at all times.

(c) No cooperative shall be allowed as a home occupation and qualifying participants may not sell, donate, or otherwise provide marijuana, marijuana concentrates, usable marijuana, or marijuana-infused products to a person who is not participating in the cooperative.

(d) Production, processing or storage of plants in a cooperative may not occur if any portion of such activity can be readily seen by normal unaided vision or readily smelled from a public place or the private property of another housing unit.

(e) Cooperatives are not permitted within an accessory use when the accessory use is detached from the domicile.

19.22.050 Nonconforming uses.

No use that constitutes or purports to be a marijuana producer, marijuana processor, or marijuana retailer, as those terms are defined in this chapter, that was engaged in that activity prior to the enactment of this chapter shall be deemed to have been a legally established use under the provisions of the Oak Harbor Municipal Code and that use shall not be entitled to claim legal nonconforming status. (Ord. 1685 § 5, 2014).

Section Two. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.

Section Three. Effective Date. This Ordinance shall be in full force and effect five (5) days after publishing.

PASSED by the City Council this _____ day of _____, 2016.

CITY OF OAK HARBOR

ROBERT SEVERNS, MAYOR

Attest:

Approved as to form:

By _____
Anna Thompson, City Clerk

By _____
Nikki Esparza, City Attorney

Date of Publication: _____

Effective Date: _____