City of Oak Harbor
City Council Meeting

Agenda for

April 21, 2009
7:00 p.m.

Oak Harbor City Council
7:00 p.m.
Tuesday, April 21, 2009

Welcome to the Oak Harbor City Council Meeting

*As a courtesy to Council and the audience, **PLEASE TURN YOUR CELL PHONES OFF** before the meeting begins. The City Council values your ideas, and sets aside time at the beginning of each meeting, from 6:45 p.m. to 7:00 p.m., to talk with citizens. During the meeting's Public Comments section, Council will listen to your input regarding subjects of concern or interest that are not on the agenda. For scheduled public hearings, please sign your name to the sign up sheet, located in the Council Chambers if you wish to speak. The Council will take all information under advisement, but generally will not take any action during the meeting. To ensure your comments are recorded properly, state your name and address clearly into the microphone. Please limit your comments to three minutes in order that other citizens have sufficient time to speak.*

Thank you for participating in your City Government!

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION **Ron Eerkes – New Covenant Fellowship**

ROLL CALL

MINUTES 4/7/09 Regular Meeting

NON-ACTION COUNCIL ITEMS:

1. Introduction of New Employee – Pete Heller.
2. Proclamation – Big Read 2009: The Maltese Falcon.
3. Proclamation – Earth Day.
4. Proclamation – Arbor Day.
5. Proclamation – Bike to Work Month.
6. Proclamation – Silver Star Banner Day.
7. Public Comments.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS:

8. Consent Agenda:

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a. Noise Permit – Living Faith Christian Center.

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b. Resolution – Supporting PBY Memorial Foundation.

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c. Rotary Mower Purchase.
d. Pay Bills.

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9. Application – Taxi License for Roadrunner Taxi.

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10. Public Hearing – Zoning Code Amendment, Manufactured Home Developments.

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11. Professional Services Agreement – Comprehensive Utilities Rate Study Agreement with HDR Engineering, Inc.
12. City Administrator's Comments.
13. Councilmembers' Comments.
    - Standing Committee Reports
14. Mayor's Comments.

ADJOURN

If you have a disability and are in need of assistance, please contact the City Clerk at (360)279-4539 at least two days before the meeting.

"To improve the golden moment of opportunity and catch the good that is within our reach, is the great art of life."
- Samuel Johnson

Regular City Council Meeting
Tuesday, April 7, 2009, 7:00 p.m.
City Hall Council Chambers

CALL TO ORDER Mayor Slowik called the meeting to order at 7:00 p.m.

INVOCATION Pastor David Lura, First United Methodist Church

ROLL CALL

Mayor Jim Slowik
Five members of the Council,
- Rick Almberg
- Beth Munns
- Danny Paggao, Mayor Pro Tem
- Jim Palmer
- Bob Severns

Paul Schmidt, City Administrator
Margery Hite, City Attorney
Doug Merriman, Finance Director
Steve Powers, Development Services Director
Cathy Rosen, Public Works Director
Hank Nydam, Parks Manager
Rick Wallace, Chief of Police
Mark Soptich, Fire Chief
Mike McIntyre, Senior Services Director
Mack Funk, Harbormaster
Renée Recker, Executive Assistant to the Mayor

ABSENT

Councilmember James M. Campbell and Eric Gerber were absent and formally excused from this meeting.

MINUTES

MOTION: COUNCILMEMBER PALMER MOVED TO APPROVE THE MINUTES OF THE 3/24/09 REGULAR MEETING. THE MOTION WAS SECONDED BY COUNCILMEMBER MUNNS AND CARRIED UNANIMOUSLY.

NON-ACTION COUNCIL ITEMS

Employee Recognition – Randy Payne – Public Works, Ten Years

Public Works Director Cathy Rosen introduced Mr. Payne who began his public works employment in 1999 as a Parks Maintenance Worker. Randy was one of several labor pool employees, later called the special projects crew, between January 2000 and July 2004. The crew worked primarily in their home divisions, but were cross-trained in all public works areas and assisted with projects as needed. The special projects classification was eliminated in 2004 and Mr. Payne was re-classified and also achieved a promotion to Parks Specialist II. He has proven himself to be a very valuable employee and his work ethic and time management skills are exemplary. He has taken the lead on many recent park projects where his landscaping expertise has been showcased. Mr. Payne was thanked and congratulated for ten years of City service.

Proclamation – Pam Headridge Day, April 7, 2009
Councilmember Munns read and presented this proclamation to Ms. Headridge who has coached the Oak Harbor High School Wildcat Cheerleaders for eighteen seasons. Ms. Headridge established the Wildcat Cheerleading Squad as one of the top cheerleading programs in the country and her teams have won several titles at the state, regional, and national levels. She implemented a no-cut policy at Oak Harbor High School which has provided opportunities to students with physical challenges and has encouraged many girls and boys to participate in cheerleading. Ms. Headridge is widely renowned for her understanding of this sport and she travels the country teaching at conferences and seminars. She has been named the National Coach of the Year, Washington State Coach of the Year, National Federation Sectional Eight Spirit Coach of the Year, and has been inducted into the Washington State Cheerleading Coaches Hall of Fame. Past Principal Dick Devlin and School Board member Gary Wallin spoke about Ms. Headridge's achievements. Members of the Oak Harbor High School Wildcat Cheerleading Squad also spoke about Ms. Headridge. Ms. Headridge talked about her philosophy and successes with this award-winning program and introduced Robin Gohn, assistant coach for eight years who will now head the program, and new assistant coach, Stephanie Streepack. Ms. Headridge was presented with the Mayor's Leadership Award and Mayor Slowik called for a break so Council could personally congratulate her. The meeting reconvened at 7:30 p.m.

Public Comments
Helen Chatfield Weeks, 1415 SE 9th. Ms. Chatfield-Weeks also talked about Ms Headridge's contributions to her students and community – she is beloved.

With no other public comments coming forth, Mayor Slowik closed the public comments portion of the meeting at 7:35 p.m.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS
Consent Agenda

a. State Appropriation Contract – Marina Dredging Design Engineering.
b. Agreement – With Whidbey Animals' Improvement Foundation (WAIF) for Animal Shelter Services.
c. Resolution – Resolution 09-09 to set a Public Hearing for Local Improvement District 2007-1, Bayshore Drive. (This consent agenda item was added to the agenda this evening; Council Members had received copies of the resolution two days prior to the meeting.)
d. Pay Bills.

MOTION: **COUNCILMEMBER MUNNS MOVED TO APPROVE CONSENT AGENDA ITEMS A, B, C, AND D, WITH ITEM D PAYING ACCOUNTS PAYABLE CHECK NUMBERS 136501 – 136509 IN THE AMOUNT OF $1,054.35; ACCOUNTS PAYABLE CHECK NUMBERS 136510 – 136513 IN THE AMOUNT OF $1,281.79; ACCOUNTS PAYABLE CHECK NUMBERS 136514 – 136729 IN THE AMOUNT OF $775,952.14; AND PAYABLE CHECK NUMBERS 92775 – 92836 IN THE AMOUNT OF $973,119.86.**

THE MOTION WAS SECONDED BY COUNCILMEMBER PALMER AND CARRIED UNANIMOUSLY.

Approval to Submit Community Oriented Policing Services (COPS) Grant Application for Hiring and Recovery Program

Chief of Police Rick Wallace presented this agenda bill asking for authorization to apply for grant funding, available as part of the American Recovery and Reinvestment Act Stimulus Funding Program. In 2009, the Oak Harbor Police Department's High School Resource Officer position was cut from the police budget based upon mutual financial concerns with both Oak Harbor School District and the Police Department. This funding would restart the now vacant High School Resource Officer program and provide 100 percent funding at the agency's entry level wage and benefits costs for three years from that officer's date of employment. The Police Department would be required to retain this position, in addition to the Police Department's current authorized staffing level, for an additional one year period from the end date of the grant funding. Oak Harbor School District has expressed a partnering interest with the Police Department in applying for the grant funding. Final determination as to whether or not to accept this grant funding can be made if the Police Department is awarded the funding.

Mayor Slowik called for public comments.

Mel Vance, 275 NW 8th. Mr. Vance spoke in support of the High School Resource Officer's position.

Council Discussion

Discussion followed about budgeting the fourth year, partnering with Oak Harbor School District, and the benefit of providing security to students, staff, and parents, current staffing level definition (today's level), and salary. Mayor Slowik had spoken with the Superintendent of Schools and the District is willing to pay half of the fourth year wage in order to reinstitute this valuable position.

MOTION: COUNCILMEMBER PALMER MOVED TO AUTHORIZE THE POLICE DEPARTMENT TO APPLY FOR GRANT FUNDING UNDER THE COPS HIRING RECOVERY PROGRAM TO REPLACE THE VACANT HIGH SCHOOL RESOURCE OFFICER POSITION. THE MOTION WAS SECONDED BY COUNCILMEMBER MUNNS AND CARRIED UNANIMOUSLY.

Element Nightclub License

Chief of Police Rick Wallace presented this agenda bill which is a revision to the proposed Nightclub License conditions to be issued to Mr. Mike Kummerfeldt for operation of Element as a nightclub. The changes in conditions were requested by the City Council and do two things: (1) the hours for which security personnel are required have been changed from "between 0115 and 0230" to "between 0115 and 0400;" and (2) the period for review has been changed from "a six-month basis" to "a three-month basis." This condition is further clarified to require that the Chief of Police shall provide an investigative report to the City Council for public hearing as a result of the three-month review, to be held pursuant to OHMC 5.22.090. Chief Wallace read the nine conditions.

Mayor Slowik noted that the formal public hearing had been closed two Council meetings ago but called for public comment.

Mike Kummerfeldt, Owner of Element. Mr. Kummerfeldt felt that government was stepping on private enterprise. He stated, for the record, that he did not have a problem with the conditions except for that portion of number 5 which stipulates that four visible security personnel will be in the parking lot between 0115 and 0400. Mr. Kummerfeldt presented a document which shows the results from head counts in the building and parking lot that is attached to these minutes as Exhibit A. With so few people in the parking lot between 2:30 a.m. and 4:00 p.m., he would be paying four security personnel for no reason. He asked that Council reconsider the 4:00 a.m. extension or stipulate security personnel based on a set number of people being in the parking lot. The original mandate was 2:30 a.m. and the parking lot headcount from 2:30 a.m. on is zero.

There were no other public comments.

Council Discussion

Discussion followed that government intrusion was not the intended purpose of these conditions but Element created problems that the City had to resolve which has taken a large amount of staff time. Condition 8 allows for a review in three months to evaluate the conditions of this license and if these conditions are meeting the goals of Chapter 5.22 OHMC. Discussion continued about checking the efficacy of these conditions sooner than three months or leaving the conditions in place, as presented. Condition 4 was discussed with clarification that a vacuum sweeper will be used for litter clean-up, that this was an observation by surrounding businesses, and the parking lot is currently being kept clean. Electronic surveillance systems were discussed which are part of Element's business plan.

MOTION: COUNCILMEMBER MUNNS MOVED THAT A NIGHTCLUB LICENSE BE ISSUED TO ELEMENT IN ACCORDANCE WITH CHAPTER 5.22 OF THE OAK HARBOR MUNICIPAL CODE WITH THE FOLLOWING STIPULATED CONDITIONS:

1. **Adhere to all laws, regulations, ordinances and zoning conditions of the State of Washington and the City of Oak Harbor applicable to the nightclub business located at 656 SE Bayshore Drive, Suite 1, Oak Harbor, Washington.**
2. **With the exception of ingress and egress to and from the building, ensure that doors and windows remain closed at all times while any type of music or entertainment is playing.**
3. **Fully shield all new and/or existing site and building mounted lighting so that light is directed downward and stays on-site.**
4. **Ensure that the parking lot, sidewalk and the adjacent city park are kept clean of litter, daily by 6:00 a.m.**
5. **Provide designated and visible security personnel and security measures sufficient to reduce the potential for illegal activity, noise violations or any other public health and safety violation as described in the Oak Harbor Municipal Code, inside and outside the business to include the parking lot and adjacent properties. This will include:**

a. A minimum of four designated and visible security personnel within the building, while open for business as a nightclub.
b. On Friday and Saturday nights, a minimum of four designated and visible security personnel will be in the parking lot between 0115 and 0400. Security shall monitor the parking lot during business hours to prevent or report to police, as appropriate, any potentially illegal activity occurring in the parking lot or visible in adjacent properties.
c. The license-holder shall implement and enforce a ban policy, that will ban patrons from the club, for a three month period, who:
   (1) Engage in activities in the business and/or parking lot which either result in arrest or would constitute probable cause for arrest.
   (2) Create noise violations in the business and parking lot.
   (3) Loiter in the parking lot for more than ten minutes.
   (4) Engage in illegal activity immediately adjacent to the business property, after leaving the club.
d. The license-holder will provide the Oak Harbor Police Department with a copy of the list of banned patrons on a weekly basis.
e. The license-holder shall implement and enforce a policy which requires club employees to call the police, as soon as possible, when they witness potentially criminal activity in the business, in the parking lot, and adjacent to the club property.

6. Provide Oak Harbor Police Department monthly with a list of current security employees.
7. On a monthly basis, provide OHPD with the current hours of operation for each of the three different types of businesses at this location: nightclub, card room and sports bar.
8. Meet with the Chief of Police, or his designee, on a three-month basis, to review the efficacy of the conditions of this license in meeting the goals of the Nightclubs Ordinance, Ch. 5.22 OHMC. The Chief of Police shall submit an investigative report as a result of the quarterly review to the City Council to report upon the efficacy of the conditions of this license in preventing or mitigating the noise, traffic and public health and safety impacts of the nightclub. This investigative report shall lead to a City Council public hearing pursuant to OHMC 5.22.090.
9. The license-holder acknowledges that the Chief of Police or other city official may, pursuant to OHMC 5.22.090, submit an investigative report to the City Council at any time if, in that official's opinion, the license conditions have not been sufficient to mitigate the noise, traffic and public health and safety impacts of the nightclub. In the event that such report is submitted to the City Council, the license-holder may be subject to new or additional conditions as provided in OHMC 5.22.090.

Any violation of the above conditions, according to the Chief of Police of Oak Harbor, shall subject the license-holder to the penalties of Oak Harbor Municipal Code 5.22.065 and may subject the license-holder to license revocation per Oak Harbor Municipal Code Section 5.22.070.

THE MOTION WAS SECONDED BY COUNCILMEMBER PALMER AND CARRIED UNANIMOUSLY.

Public Hearing - Arts Ordinances

Finance Director Doug Merriman presented this agenda bill and ordinances whose purpose is to amend portions of *Oak Harbor Municipal Code Chapter 3.71 Utility Taxes* and portions of *Chapter 2.29 Oak Harbor Arts Commission. Section 3.71.010 Businesses subject to Utility Tax,* is amended to impose a quarter percent utility tax increase on water suppliers, sewage treatment and collections businesses, and solid waste collection providers for the purpose of funding public art. In addition, the proposed *Section 3.71.060 Allocation of Utility Tax to the Art Acquisition and Maintenance Fund*, directs that City Council shall decide, no less frequently than through the adoption of every biennial budget, what proportion of the utility tax collected shall be allocated to the Art Acquisition and Maintenance Fund. Finally, Section Two of the ordinance describes the process by which the ordinance shall be subject to referendum.

Section 2.29.020 Purpose and Functions of the Oak Harbor Arts Commission, is amended to add wording to better describe the purpose of the Commission, and to establish the Commission as a recommending body to the Mayor and City Council on matters of public art programs. Finally, Section 2.29.120 is amended to eliminate the rule that an additional one percent charge be applied against capital projects for art funding, and that the proceeds from the changes in Section 3.71.010 will be placed in the General Fund with a direct allocation being made of the designated monies to the Art Acquisition and Maintenance Fund.

Mayor Slowik opened the public hearing at 8:05 p.m. but there were no comments so the public hearing was closed.

Council Discussion

Discussion followed about funds that have been collected (approximately $12,000), that new funds remain utility-related, that the Art Commission supports these two ordinances, Council will decide on allocation of the ¼ percent funds (Art Acquisition and Maintenance Fund), and visibility of the ¼ percent on utility bills. These two ordinances meet the goals of cost neutrality, art placement, and a steady, consistent revenue source.

MOTION: **COUNCILMEMBER MUNNS MOVED TO APPROVE THE ORDINANCES AMENDING OHMC CHAPTER 2.29 AND OHMC CHAPTER 3.71. THE MOTION WAS SECONDED BY COUNCILMEMBER SEVERNS.**

City Attorney Hite advised that the two ordinances needed to be individually approved.

MOTION WITHDRAWN:

COUNCILMEMBER MUNNS WITHDREW HER MOTION. COUNCILMEMBER SEVERNS WITHDREW HIS SECOND OF THE MOTION.

MOTION:

COUNCILMEMBER MUNNS MOVED TO APPROVE THE ORDINANCE AMENDING OHMC CHAPTER 2.29. THE MOTION WAS SECONDED BY COUNCILMEMBER ALMBERG AND CARRIED UNANIMOUSLY.

MOTION: **COUNCILMEMBER MUNNS MOVED TO APPROVE THE ORDINANCE AMENDING OHMC CHAPTER 3.71. THE MOTION WAS SECONDED BY COUNCILMEMBER SEVERNS AND CARRIED UNANIMOUSLY.**

Public Hearing - 2008 Comprehensive Plan Amendments Rezonings
Development Services Director Steve Powers presented this agenda bill and ordinances that would implement the 2008 Comprehensive Plan Land Use Map Amendments. The ordinances will rezone those properties that were approved for land use changes. The City Council approved the 2008 Comprehensive Plan Amendments on December 16, 2008. The Comprehensive Plan amendments included three requests for Land Use Map changes, revisions to the Capital Improvements Plan and update of the Transportation Element. The three properties and the associated changes are listed below:

1. 164 NE Ernst Street – This 12,590 square feet lot is located north of SR 20 and Ernst Drive intersection. The zoning change considered is from R1, Single Family Residential to RO, Residential Office.
2. 33170 SR 20 – This 40,000 square feet lot is located on the southeast corner of SR 20 and NE Narrows. The zoning change considered is from RO, Residential Office to C3, Community Commercial.
3. Two properties (R13335-454-3221, R13335-468-3460) along Goldie Street that are currently zoned I, Industrial and are considered for change to C3, Community Commercial. The 2008 Comprehensive Plan Amendment process considered five properties along Goldie Street. Only two properties that are within the City limits are considered in this rezoning process. The remaining three properties will acquire City zoning designation only upon annexation.

Mayor Slowik opened the public hearing at 8:15 p.m., but there were no comments so the public hearing was closed.

MOTION: **COUNCILMEMBER PALMER MOVED TO ADOPT THE ORDINANCE THAT WILL APPROVE THE REZONING OF ISLAND COUNTY PARCEL NUMBER S7285-210-00020 FROM R-1, SINGLE FAMILY RESIDENTIAL TO RO, RESIDENTIAL OFFICE. THE MOTION WAS SECONDED BY COUNCILMEMBER SEVERNS AND CARRIED UNANIMOUSLY.**

MOTION: **COUNCILMEMBER PALMER MOVED TO ADOPT THE ORDINANCE THAT WILL APPROVE THE REZONING FOR THE ISLAND COUNTY PARCEL NUMBER R13335-428-4450 FROM RO, RESIDENTIAL OFFICE TO C3, COMMUNITY COMMERCIAL. THE MOTION WAS SECONDED BY COUNCILMEMBER SEVERNS AND CARRIED UNANIMOUSLY.**

MOTION: **COUNCILMEMBER PALMER MOVED TO ADOPT THE ORDINANCE THAT WILL APPROVE THE REZONING FOR THE ISLAND COUNTY PARCEL NUMBERS R13335-454-3221 AND R13335-468-3460 FROM I, INDUSTRIAL TO C3, COMMUNITY COMMERCIAL WITH THE CONDITION THAT DEVELOPMENT OF THE PROPERTY WILL NOT INCLUDE ANY RESIDENTIAL DWELLING UNITS. THE MOTION WAS SECONDED BY COUNCILMEMBER ALMBERG AND CARRIED UNANIMOUSLY.**

Labor Agreement with the Oak Harbor Firefighters Local 4504 IAFF

Finance Director Doug Merriman presented this agenda bill for approval of the draft labor agreement between the City of Oak Harbor and the Oak Harbor Firefighters Local 4504 IAFF. The proposed agreement covers the time period of January 1, 2009 through December 31, 2010 including both the firefighter and lieutenant employee classes consisting of eight authorized positions within the fire department. The following areas represent those topics of discussion that have been incorporated into the new agreement:

1. *Article 6 – Salary and Wages*

The labor agreement contains a cost of living adjustment provision utilizing 90% of the increase in the Seattle Area Consumer Price Index calculated using the net change from June 30th of one year through June 30th of the year preceding the agreement start date. In addition to the cost of living calculation, a comparable analysis is performed on the firefighter salary scales of nine similarly-sized cities. Since the time of the Union's initial contract, the City and the Union have agreed to use the 50% benchmark, or the arithmetic average of these comparable cities in determining the base salary levels for both the firefighter and lieutenant pay scales. The analysis using the 2008 Union contracts from the comparable cities showed that the firefighter classification was 5.305% lower than the 50% benchmark, and that the lieutenant classification was 2.79% lower than the 50% benchmark. The contracted phases in the two adjustments were obtained by adjusting salary numbers by one half of the benchmark deficiency in 2009 with the residential amount of the deficiency being adjusted into the 2010 salary numbers.

2. *Holidays*

12 and 23-hour shift personnel work a longer work week than regular 40-hour per week personnel. 40-hour per week personnel are afforded 11 holidays or 88 hours of holiday time annually. An adjustment has been made to increase the holiday hours afforded 12 and 24-hour personnel to the equivalent hour amount of 94 hours.

3. *Physical Fitness*

Firefighters go through a series of annual medical tests to ensure their physical and mental health is to a standard that allows them to adequately fulfill their role as a City firefighter. The City and the Union have worked together to establish a medial standard of physical measurement that meets this requirement. The agreed upon standard is set at 11 METS.

4. A small typographical change has been made to the contract to adjust the term Guild to the term Union.

Mayor Slowik called for public comments but there were none.

Council Discussion

Discussion followed about the cost of living adjustment calculated through the Seattle CPI, the annual 2.65% salary adjustments for firefighters, annual 1.40% salary adjustment for the shift lieutenant and the support services lieutenant, the job descriptions for each lieutenant, the comparable cities used to calculate these salary adjustments, and the base salary/benefits for each position. Mr. Merriman talked about the fire department's high ranking, highly-trained staff, and desirable insurance ranking. The mid-range benchmark is appropriate and OHFD is running a little behind comparable cities. Council's discussion continued about budget concerns, that the CPI is budgeted and the City cannot budget for a labor agreement, it is anticipated that the CPI will lower which would affect all employees, and that approval this evening would be retroactive to 2009's first quarter.

MOTION: **COUNCILMEMBER SEVERNS MOVED TO AUTHORIZE THE MAYOR TO SIGN THE LABOR AGREEMENT WITH THE OAK HARBOR FIREFIGHTERS LOCAL 4504 IAFF. THE MOTION WAS SECONDED BY COUNCILMEMBER PALMER AND CARRIED UNANIMOUSLY.**

City Administrator's Comments

Mr. Schmidt talked about the standing committees' schedule for April and also asked that Council Members who plan to attend the AWC Conference in Spokane, June 23rd – June 26th, contact Karen Crouch no later than April 20th. He encouraged Council Members to search out arbitration workshops during their conferences. Mr. Schmidt would like to schedule a special meeting of the Public Works Standing Committee for April 22nd, noon to 1:00 p.m., at City Hall to discuss Brent and Denise Morrow's stormwater issues (Island Mini Storage). The Morrow's will be contacted once this meeting is confirmed with Council and staff.

Councilmembers' Comments

Council Members gave reports on standing committee activities, and wished everyone an enjoyable spring and Happy Easter.

Mayor's Comments

Mayor Slowik talked about the successful Whidbey Island Marathon which drew 1,900 participants this year, filled motels and hotels, and kept restaurants and shops busy. There will be a ribbon-cutting and plaque presentation/unveiling on April 24th at 3:00 p.m. for the waterfront walkway. Invitations will be sent out for this event. This project will also be nominated for an Association of Washington Cities Award.

ADJOURN

With no other business coming before Council, **Councilmember Palmer moved to adjourn; the motion was seconded by Councilmember Severns and carried unanimously.** The meeting adjourned at 8:50 p.m.

_____

Connie T. Wheeler
City Clerk

Exhibit A

Results from Element Head Counts

From Friday 3-6-2009 until Friday 4-3-2009

Friday in Building

	10	11	12	12:30	1	1:15	1:30	1:45	2	2:15	2:30	2:45	3	3:30
High	280	326	405	495	505	500	445	218	50	32	32	32	30	30
Low	33	94	309	390	401	380	283	195	15	5	14	10	5	2
Avg.	108	194	344	436	446	435	373	205	34	18	20	19	15	12

Friday in Parking Lot

	10	11	12	12:30	1	1:15	1:30	1:45	2	2:15	2:30	2:45	3	3:30
High	2	1	4	13	10	12	59	185	148	8	0	0	0	0
Low	0	0	0	1	1	2	19	45	17	0	0	0	0	0
Avg.	1	1	1	6	5	7	30	123	60	3	0	0	0	0

Saturday in Building

	10	11	12	12:30	1	1:15	1:30	1:45	2	2:15	2:30	2:45	3	3:30
High	39	160	401	500	510	510	385	385	32	32	24	15	10	10
Low	26	79	243	303	330	335	320	48	24	24	24	15	4	4
Avg.	35	119	302	373	396	401	348	169	27	26	24	15	7	7

Saturday in Parking Lot

	10	11	12	12:30	1	1:15	1:30	1:45	2	2:15	2:30	2:45	3	3:30
High	1	0	6	6	19	8	58	200	103	24	0	0	0	0
Low	0	0	1	0	0	3	5	119	5	0	0	0	0	0
Avg.	0	0	3	3	7	5	23	159	43	6	0	0	0	0

City of Oak Harbor

OFFICE OF THE MAYOR
JIM SLOWIK
MAYOR

PROCLAMATION IN RECOGNITION OF

BIG READ 2009: THE MALTESE FALCON

WHEREAS, the Everett Public Library and Sno-Isle Libraries and their community partners are dedicated to promoting reading, and;

WHEREAS, the Big Read is an initiative by the National Endowment of the Arts developed to restore reading to the center of American culture and to bring communities together through literature, and;

WHEREAS, the Big Read is a community wide reading project designed to bring people of all ages together to read, discuss, and celebrate one book, and;

WHEREAS, *The Maltese Falcon*, written by Dashiell Hammett, has been selected for its literary merit and as a pioneering novel in the now-popular mystery genre, and;

WHEREAS, community events, book discussions, celebrations of reading, and film programs will be held for all residents of Snohomish and Island counties.

NOW, THEREFORE, WE, Jim Slowik, Mayor, and Councilmembers of the City of Oak Harbor do hereby proclaim **May** as **Big Read 2009: *The Maltese Falcon* Month** and urge all residents to enrich themselves by reading the book and participating in the activities.

Signed this 21st day of April, 2009

Jim Slowik, Mayor

City of Oak Harbor

OFFICE OF THE MAYOR
JIM SLOWIK
MAYOR

PROCLAMATION IN RECOGNITION OF

EARTH DAY

WHEREAS, April 22, 2009 is the 39th anniversary of Earth Day, founded by Gaylord Nelson, then a U.S. Senator from Wisconsin, and;

WHEREAS, the first Earth Day led to the creation of the Environmental Protection Agency and the passage of the Clean Air, Clean Water and Endangered Species acts, and;

WHEREAS, a natural environment is the foundation of a healthy society and robust economy. There are currently methods and technologies available to help us live in harmony with our environment, and;

WHEREAS, human activities around the globe are causing severe environmental damage that threatens human health and our planet's ability to sustain a diverse community of life, and;

WHEREAS, there are economic, environmental and social reasons for state and local governments to initiate energy efficiency and renewable energy practices, and;

WHEREAS, Earth Day offers citizens an unprecedented opportunity to commit to building a healthy planet and flourishing communities.

NOW, THEREFORE, WE, Jim Slowik, Mayor, and Councilmembers of the City of Oak Harbor do hereby designate April 22, 2009 as Earth Day.

Signed this 21st day of Arpil, 2009

Jim Slowik, Mayor

City of Oak Harbor

OFFICE OF THE MAYOR
JIM SLOWIK
MAYOR

PROCLAMATION IN RECOGNITION OF

ARBOR DAY

WHEREAS, In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and;

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and;

WHEREAS, Arbor Day is now observed throughout our nation and the world, and;

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen and provide habitat for wildlife, and;

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires, and countless other wood products, and;

WHEREAS, trees in our City increase property values, enhance the economic vitality of business areas, and beautify our community, and;

WHEREAS, since 2003, the City of Oak Harbor has been continually recognized by the Arbor Day Foundation as a Tree City, and;

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal.

NOW, THEREFORE, WE, Jim Slowik, Mayor, and Councilmembers of the City of Oak Harbor do hereby proclaim **April 24, 2009** as **Arbor Day** in the City of Oak Harbor, and urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and

FURTHER, we urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

Signed this 21st day of April, 2009

Jim Slowik, Mayor

City of Oak Harbor

OFFICE OF THE MAYOR
JIM SLOWIK
MAYOR

PROCLAMATION IN RECOGNITION OF

BIKE TO WORK MONTH

WHEREAS, For more than a century, the bicycle has been a part of the lives of most Americans, and;

WHEREAS, millions of Americans engage in bicycling as an environmentally sound form of transportation, an excellent form of fitness, and provides quality family recreation, and;

WHEREAS, the education of cyclists and motorists as to the proper and safe operation of bicycles is important to the safety and comfort of all users, and;

WHEREAS, the League of American Bicyclists and independent bicyclists throughout the state are promoting greater public awareness of bicycle operation and safety education in an effort to reduce accidents, injuries and fatalities, and;

WHEREAS, Oak Harbor has been named "Bicycle Friendly Community" by the League of American Bicyclists.

NOW, THEREFORE, WE, Jim Slowik, Mayor, and Councilmembers of the City of Oak Harbor do hereby proclaim **May 2009** as **Bike to Work Month**.

Signed this 21st day of April, 2009

Jim Slowik, Mayor

City of Oak Harbor

OFFICE OF THE MAYOR
JIM SLOWIK
MAYOR

PROCLAMATION IN RECOGNITION OF

SILVER STAR BANNER DAY

WHEREAS, The City of Oak Harbor has always honored the sacrifices of the courageous men and women who have served our Nation in the Armed Forces, and;

WHEREAS, founded in 2005, the non-profit Silver Star Families of America's purpose is to recognize the sacrifices of our wounded and illnesses incurred during combat, and remember their efforts by honoring them with the Silver Star Banner and Flag, and;

WHEREAS, the use of silver for wounded started in 1917 and led to the tradition of covering the blue star on service flags with silver if the service member was wounded.

WHEREAS, The Silver Star Families of America also advocates for the wounded and ill and assist in educating their families and the public concerning their plight, and;

WHEREAS, the members of The Silver Star Families of America have worked tirelessly to provide the wounded of this City and Country with Silver Star Banners, Flags and care packages.

NOW, THEREFORE, WE, Jim Slowik, Mayor, and Councilmembers of the City of Oak Harbor do hereby proclaim **May 1, 2009** as **Silver Star Banner Day** and vow to never forget the sacrifices of our Armed Forces and remain grateful for their service.

Signed this 21st day of April, 2009

Jim Slowik, Mayor

City of Oak Harbor
City Council Agenda Bill

Bill No. 7

Date: April 21, 2009

Subject: **PUBLIC COMMENTS**

FROM: **Jim Slowik, Mayor**

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

Jim Slowik, Mayor
Paul Schmidt, City Administrator
Doug Merriman, Finance Director

▪ Budgeted Item:	Yes	No	N/A
▪ Budget Adjustment Required:	Yes	No	N/A
▪ Funds Available for Appropriation:	Yes	No	N/A
▪ Budget Strategy Approved:	Yes	No	N/A

Margery Hite, City Attorney

SUMMARY STATEMENT

City Council will accept public comments for items not otherwise on the agenda for the first 15 minutes of the Council meeting. You may also speak to any of the consent agenda items.

City of Oak Harbor
City Council Agenda Bill

Agenda Bill No. C/A 8a
Date: April 21, 2009
Subject: Noise Permit – Living Faith Christian Center

FROM: Paul Schmidt, City Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

Jim Slowik, Mayor
Doug Merriman, Finance Director
Margery Hite, City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to forward to City Council for review and approval a Noise Permit request received from the Living Faith Christian Center for amplified sound associated with an outdoor church service BBQ.

AUTHORIZATION:

Oak Harbor Municipal Code (OHMC) 5.50.040(3)(g) provisions relating to Special Events requires compliance with noise ordinance regulations and laws. OHMC 6.56.030(2)(a) requires Council approval for a noise permit for sound amplification. As this event will include amplified sound, Council approval is required.

The City Council may grant a Noise Permit to deviate from the provisions of OHMC 6.56.030 if it is determined the activity and associated noise: 1) will not disregard the rights of others, or; 2) is temporary, or: 3) the activity creating the noise constitutes a program of a temporary nature for the benefit of the entire municipality or for the benefit of a charitable purpose.

SUMMARY STATEMENT:

The Living Faith Christian Center has submitted a Noise Permit request for amplified sound associated with planned entertainment at an outdoor church service and BBQ event scheduled for Sunday, July 5, 2009. The following equipment will be included: a sound board, two speakers, four to six monitors, keyboard, two guitars, two trumpets and a set of drums. There will also be a six –eight person choir with associated microphones and a CD player.

The Application was reviewed by Fire, Police, and Public Works Departments. Conditions of approval for the Noise Permit are listed on the permit as attached hereto.

STANDING COMMITTEE REVIEW:

Not required.

RECOMMENDED ACTION:

Grant a noise permit for amplified sound to the Living Faith Christian Center.

ATTACHMENTS:

Special Event Permit/Noise Permit Application.
Noise Permit.

MAYOR'S COMMENTS:

3/17/09 KC

CITY OF Oak Harbor
WHIDBEY ISLAND, WASHINGTON

SPECIAL EVENT PERMIT/NOISE PERMIT

APPLICATION INFORMATION:

Please check the event type:

- ☐ **Athletic Event**
- ☐ **Carnival**
- ☐ **Car Show**
- ☐ **City Facility Reservation**
- ☐ **Marina Event**
- ☒ **Noise Permit** 4/21/09
- ☐ **Parade**
- ☒ **Park Event**
- ☐ **Other**

Name of Applicant/Organization: Living Faith Christian Center

Person in Charge: Willie Lewis Address: 551-4 NE Midway Blvd, Oak Harbor

Phone Number: Daytime: Work: Email:

Additional Authorized Individuals: Fred Burleson

Phone Number: Daytime: Work: Email:

Emergency Contact: Living Faith Christian Center Office Staff

Phone Number: Daytime: Work: Email:

Type of Activity Planned (describe event): Outdoor Church Service and BBQ

Is this an event involving political or religious activity intended primarily for the communication or expression of ideas? (Please circle) YES NO

Will Participants Pay a Fee or Make a Donation? (Please circle) YES NO

Will City Services/Street Closures/Equipment be required? If so, please describe: no

Date(s) of Proposed Event: Sunday, July 5, 2009

Hours of Operation: 11-4:30 p.m.

Set-up Date/Time: 9 a.m.

Dismantling Date/Time: 4:30 – 5:30 p.m.

Number of Staff/Volunteers: 30

Estimated Number of Participants: 200

LOCATION/SHEET TO BE USED (describe area to be used, attach map/route plan): Gazebo and Smokehouse

Special Considerations – Will there be:

Amplified sound indoors? _____ outdoors? yes
(***May require a noise permit, which is granted by the City Council****)

Alcohol? (Please circle) YES NO

Animals? (Please circle) YES NO number _____ species _____

Booths/Commercial Vendors: (Please circle) YES NO

Cooking/Food Service: (Please circle) YES NO

Fire/Fireworks/Pyrotechnics: (Please circle) YES NO

Mechanical Rides: (Please circle) YES NO (If yes, requires additional permit)

Portable Restrooms: (Please circle) YES NO How Many ? _____ Some restrooms must meet ADA requirements.

Signs: (Please circle) YES NO

Stage: (Please circle) YES NO

Other special considerations: N/A

List any special signs/barricades/cones requested to be supplied by City. N/A

***NOISE PERMIT INFORMATION**

Oak Harbor Municipal Code Section 6.56.030 contains provisions which restrict or prohibit certain unnecessary noises, such as sound systems, loudspeakers and amplified music on any street or public place of the City.

The City Council may grant a Noise Permit to deviate from the provisions of OHMC 6.56.030 under the following circumstances if it is determined the activity and associated noise will: 1) not disregard the rights of others, or; 2) is temporary, or; 3) the activity creating the noise constitutes a program of a temporary nature for the benefit of the entire municipality or for the benefit of a charitable purpose.

To obtain a Noise Permit, please provide the activities you wish to carry out and the noise requirements of your event. Sunday Service - use sound board, (2) Speakers, 4-6 monitors, Keyboard, (2) guitars, (2) trumpets, drums, 6-8 vocals with microphones & CD Player. The sound will be directed from the Gazebo toward the Smokehouse, eliminating direct sound to the Mobile Home Park.

A copy of OHMC Section 6.56.030 may be obtained upon request.

****

Public Relation: Please state what efforts, if any, have occurred, or you intend to make, to notify residents or businesses that will likely be affected by your event. Please attach any letters of support. If permit is granted it will be the responsibility of event organizers to alert those likely to be impacted. (i.e. street closures, no parking zones, noise, etc.) We will hand-out/post fliers at the Mobile Home Park one week prior to the event. We will also post fliers again two days prior to the event.

ATTACH COPIES OF BROCHURES, POSTERS, FLYERS, OR MAILINGS ADVERTISING THIS EVENT

INSURANCE – The City does not maintain insurance that will respond to claims against the applicant arising out of the use of facilities by the applicant, its members, or those attending the event. Depending on the type of event you are planning, and the activity and risk level of your group, you may be required to obtain bodily injury and property damages liability insurance in accordance with City policy, name the City as an **additional insured** on the policy, and be responsible for obtaining said insurance. After reviewing this application, the City will determine whether you must obtain liability insurance.

HOLD HARMLESS – Applicant/Permittee/User shall defend, indemnify and hold harmless the City of Oak Harbor, its agents, employees and officials, while acting within the scope of their duties, from all causes of action, demands and claims, including the cost of their defense, arising in favor of the organization, the organization's employees or third parties on account of personal injuries, bodily injuries, death, or damage to property arising out of the acts or omissions of the organization, its employees or representatives, concessionaires of the event or any other person or entity, except for liability caused due to the sole negligence of the City.

Date: 3-10-09

Signature of Applicant: [signature] Fred Burleson

Organization/Title: Living Faith Christian Center / Associate Pastor - Event Coordinator

(FOR OFFICIAL USE ONLY)

APPROVED BY: _____Parks & Recreation Dept. _____Police Dept.
_____Planning Dept. _____Public Works Dept.
_____Fire Dept. _____Mayor/Designee

Permit Detained for the Following Reasons:_____
_____
_____
_____

Recommend Approval Under the Following Conditions_____
_____
_____
_____

CITY OF OAK HARBOR

NOISE PERMIT

Name of Organization:	Living Faith Christian Center
Location of Event:	Windjammer Park Gazebo, Smokehouse and surrounding area
Date of Event:	July 5, 2009
Hours of Operation:	10:00 a.m. – 5:00 p.m.
Permitted Noise:	Amplification system for soundboard, keyboard, monitors, guitars, drums, two trumpets, eight microphones and CD player.
Approval Conditions:	1. Direct amplifiers away from RV Park.

Date of City Council Approval:

Issued this day of ,2009

_____

Karen Crouch, Special Events Coordinator

This Noise Permit is limited to the date and time specified.

Please post this notice on site

City of Oak Harbor
City Council Agenda Bill

Bill No. C/A 8b
Date: April 21, 2009
Subject: Resolution to Support the PBY Memorial Foundation

FROM: Jim Slowik, Mayor

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

Paul Schmidt, City Administrator
Doug Merriman, Finance Director
Margery Hite, City Attorney, as to form

PURPOSE

This Resolution sets out the City Council's support for the PBY Memorial Foundation and their efforts to procure and display a PBY Catalina aircraft in Oak Harbor.

AUTHORITY

SUMMARY STATEMENT

The PBY Memorial Foundation was established to honor the PBY aircraft and crews, in addition to educating the public on the special history of the PBY and the heroism of those who flew and supported this aircraft. While this resolution offers the Council's support of the project, it implies no financial contribution.

STANDING COMMITTEE REPORT

None.

RECOMMENDED ACTION

Authorize the Mayor to sign attached Resolution 09-10.

ATTACHMENTS

Resolution 09-10.

MAYOR'S COMMENTS

RESOLUTION NO. 09-10

A RESOLUTION OF THE CITY OF OAK HARBOR IN SUPPORT OF THE PBY MEMORIAL FOUNDATION.

WHEREAS, Naval Air Station Whidbey Island was established in 1942 to serve as the primary base for the PBY air fleet; and

WHEREAS, starting from a group of 14 individuals, the PBY Memorial Foundation has increased its membership to over 240; and

WHEREAS, the PBY Memorial Foundation was established to honor the PBY aircraft and all aircraft and crews based in Oak Harbor; and

WHEREAS, with the generosity of the US Navy, space has been granted within the original Seaplane Base Administration Building for displaying PBY memorabilia and photos; and

WHEREAS, it is the goal of the PBY Memorial Foundation to procure and display a PBY Catalina aircraft.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oak Harbor recognizes and supports the efforts of the PBY Memorial Foundation to secure and site this vintage aircraft in Oak Harbor.

PASSED and approved by the City Council this 21st day of April, 2009.

THE CITY OF OAK HARBOR

_____

Jim Slowik, Mayor

ATTEST:

_____

Connie Wheeler, City Clerk

APPROVED AS TO FORM:

_____

Margery Hite, City Attorney

City of Oak Harbor
City Council Agenda Bill

Bill No. C/A 8c
Date: April 21, 2009
Subject: Rotary Mower Purchase

FROM: Cathy Rosen, Public Works Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

Jim Slowik, Mayor
PS Paul Schmidt, City Administrator
Doug Merriman, Finance Director
MH Margery Hite, City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to authorize the purchase of a rotary mower.

AUTHORITY

Per Oak Harbor Municipal Code (OHMC) 2.320.125, department directors may use existing contracts or proposed solicitations of other local, state, or federal agencies to procure materials, supplies, and equipment for the city if such method of procurement would foster economy and efficiency as permitted by law.

SUMMARY STATEMENT

The 2009-2010 biennial budget for the Parks Division includes $50,000 from the 126 Community Parks Fund to purchase a large rotary mower to be used to mow the athletic fields at Ft. Nugent Park as well as a back up mower when the City's other rotary mower is out of service.

After completion of Ft. Nugent Park Phase III, the contractor was responsible for mowing and upkeep of the improvements that were installed in that phase during the warranty period which was one year. The warranty period has expired and the City has assumed all maintenance responsibilities for Ft. Nugent Park.

Ft. Nugent Park is a multi-million dollar investment with high quality athletic fields that need to be maintained properly with efficient and effective equipment. The park is unique as compared with other large City parks in that it has various slopes that require a mower head that is capable of floating over these conditions.

Staff researched multiple options and found that there were only two manufacturers that could provide the City with a mower that has the multiple deck heads necessary to maintain Ft. Nugent Park.

The City has a contract with the state to purchase from the contracts of the Office of State Procurement (OSP). Therefore, staff solicited quotes for the Toro Groundmaster 4500-D and the Jacobsen AR522 off of State Contract #08506. The results have been included in the chart below:

VENOR	MODEL	UNIT PRICE	LESS DISCOUNT	TAXES	TOTAL PRICE
Western Equipment & Irrigation Distributors	Toro Groundsmaster 4500-D	$ 59,363.91	$ (10,490.55)	$ 4,105.36	$ 52,978.72
Brim Tractor Company	Jacobsen AR522	$ 55,797.00	$ (11,159.40)	$ 3,749.56	$ 48,387.16

Staff has reviewed the state contract requirements and found that their procedures satisfy the competitive bidding requirements under OHMC 2.320.040 for the purchase of equipment over $30,000.00.

In review of the State Contract requirements, City staff has confirmed that the state contract procedures are in compliance with OHMC 2.320.040 as follows:

1. **Invitation for bids**: Per the State of Washington Purchasing Manual rev. 11/1/08, an invitation for bids was made on October 24, 2006 for lawn and grounds equipment, which included the specifications for a mower with multiple deck heads.

2. **Public notice**: Per the State of Washington Purchasing Manual rev. 11/1/08, public notice was published on the State website entitled Washington's Electronic Business solutions otherwise known as WEBS not less than 14 calendar days prior to the date for offering of bids.

3. **Opened publicly**: Per the bidding invitation, the bids received from the vendors for lawn and grounds equipment were opened, recorded and made available for public inspection on November 21, 2006.

4. **Bid evaluations**: Per the State of Washington Purchasing Manual rev. 11/1/08, bids were evaluated based on objective factors including discounts, transportation costs, life-cycle costs, quality, and the particular suitability for the bid purpose.

5. **Bid award**: Per the State of Washington Purchasing Manual rev. 11/1/08, after the prospective bids were evaluated, the lowest responsible bidders were awarded the contract on February 1, 2007.

The Department of General Administration develops and administers contracts for goods and services with an estimated term value of approximately $900 million, on behalf of state agencies, colleges and universities, select nonprofit organizations, and local governments.

Therefore, staff has determined that Brim Tractor Company's bid, under the state contract, for a Jabcobsen AR522 mower is the lowest responsible bid.

STANDING COMMITTEE REPORT

The Public Works Standing Committee reviewed this item at their meeting on April 2, 2009.

RECOMMENDED ACTION

Award the bid for the purchase of the Jacobsen AR522 to Brim Tractor Company in the amount of $48,387.16.

ATTACHMENTS

None

MAYOR'S COMMENTS

City of Oak Harbor
City Council Agenda Bill

Bill No. 9
Date: April 21, 2009
Subject: Application for Taxi License
Roadrunner Taxi

FROM: Paul Schmidt
City Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

Jim Slowik, Mayor
Doug Merriman, Finance Director
Margery Hite, City Attorney, as to form

PURPOSE

Consider the application for a taxi company license as submitted by Alan D. Brewer – Roadrunner Taxi.

AUTHORITY

Oak Harbor Municipal Code Chapter 5.30, For Hire Vehicles.

5.30.110 Disqualification of licensing for criminal conviction.

(1) No person shall receive a taxi license or a taxi driver license who has been convicted of assault within the last ten years, a felony in the last seven years, a gross misdemeanor in the last five years, or who has ever been convicted of sexual offenses as defined under state law or an offense which is similar to those as defined in Chapter 9A.44 RCW.

(2) A license granted under this chapter shall be revoked when license holder is convicted of a felony, gross misdemeanor, assault or sexual offense as defined under state law or an offense which is similar to those defined in Chapter 9A.44 RCW.

5.30.050 Compliance with state law required.

No vehicle shall be used that does not fully comply with all requirements of the State Department of Licenses and with the state law for the protection and safety of its passengers. Each vehicle shall be maintained in a condition of continued fitness for public use, and shall be subject to inspection, at all reasonable times by the chief of police.

5.30.060 Application for license – Issuance.

In order to obtain the license, an applicant shall make written request to the city clerk for a license to do so. Such request shall be made upon blanks furnished by the city clerk. Such request shall be filed with the city clerk and the chief of police. The police chief shall make an investigation and report and on approval of the City Council the applicant shall be issued a license upon payment of the license fee herein provided.

5.30.070 Items which may be considered.

In making the decision to grant or deny a license the Council may consider the following:

(1) Whether the applicant will provide safe and reasonable service;

(2) Whether the proposed rate structure is reasonable and other personnel are licensed and qualified;

(3) Whether the licensee will operate within the law; and

(4) Whether additional taxi service will cause unreliability and instability in the taxi service business for Oak Harbor.

SUMMARY STATEMENT

Mr. Brewer has completed the appropriate paperwork as shown in the list of attachments, the Police Department, in compliance with OHMC 5.30.060, has finished an investigation, and the taxi driver application/background check was approved pursuant to OHMC 5.30.110. All applicable fees have been paid. With respect to 5.30.070(4) OHMC, the City currently has three operating taxi companies: Ault Field Taxi, Whidbey Taxi, and Triangle Taxi.

STANDING COMMITTEE REPORT

Since the Public Safety Standing Committee meeting was deferred from April 16, 2009 to April 23, 2009, this agenda bill was not reviewed by that committee.

RECOMMENDED ACTION

Approve the application for taxi license – Roadrunner Taxi.

ATTACHMENTS

1. Full Text of Oak Harbor Municipal Code Chapter 5.30, For Hire Vehicles
2. Application for City Business License
3. Application for Taxi License and Rate Sheet
4. Application for Taxi Driver Background Check
5. Certificate of Insurance

MAYOR'S COMMENTS

Chapter 5.30

FOR HIRE VEHICLES

Sections:

5.30.010 Purpose.
5.30.020 License required.
5.30.030 State and county license fee payment required.
5.30.040 Driver's license required – Parking stall charge.
5.30.050 Compliance with state law required.
5.30.060 Application for license – Issuance.
5.30.070 Items which may be considered.
5.30.080 Filing schedule of charges required.
5.30.090 Approval of filed schedule by council.
5.30.100 Additional information.
5.30.110 Disqualification of licensing for criminal conviction.
5.30.120 Cancellation of license.
5.30.130 Carrying passengers for hire without license unlawful.
5.30.140 Renewal.
5.30.150 Appeals from decisions of the police chief.

5.30.010 Purpose.

In order to protect public health, safety and welfare, the city finds that it must regulate privately operated taxicab transportation services operating within the city limits. These concerns include safety, reliability and stability of privately operated taxicab transportation. (Ord. 677 § 1, 1984).

5.30.020 License required.

Every person, firm or corporation who shall by means of any vehicle, motor-driven or otherwise, carry passengers for hire from any point within the corporate limits of the city shall first obtain a license to do as hereinafter provided. The license fee for the first two taxicabs owned and operated by any person, firm or corporation, shall be $50.00 per year and for each additional taxicab to the same owner, it shall be $25.00 per year. All licenses expire on December 31st of each year and shall not be transferable from owner to owner or car to car. The license must be carried by the driver or be attached to the vehicle at all times that the vehicle is used as a taxi and shall be displayed to the police when requested. (Ord. 708, 1985; Ord. 677 § 2, 1984).

5.30.030 State and county license fee payment required.

No automobiles or vehicles are to be used unless the state and county license fees have been paid, if any such license is required. (Ord. 677 § 3, 1984).

5.30.040 Driver's license required – Parking stall charge.

No person shall operate any such vehicle unless he is the holder of a state driver's license and shall have been interviewed and approved by the chief of police. The holder of a license may petition the city council at the time of application for the license or at any time thereafter for the right to use and designate certain parking stalls as taxi parking. The council may permit or designate certain stalls as taxi parking and a charge shall be made therefor at the rate of $5.00 per month per parking stall. The charge shall be paid in advance on or before the anniversary date of the taxi license. (Ord. 677 § 4, 1984).

5.30.050 Compliance with state law required.

No vehicle shall be used that does not fully comply with all requirements of the State Department of Licenses and with the state law for the protection and safety of its passengers. Each vehicle shall be maintained in a condition of continued fitness for public use, and shall be subject to inspection, at all reasonable times by the chief of police. (Ord. 677 § 5, 1984).

5.30.060 Application for license – Issuance.

In order to obtain the license, an applicant shall make written request to the city clerk for a license to do so. Such request shall be made upon blanks furnished by the city clerk. Such request shall be filed with the city clerk and the chief of police. The police chief shall make an investigation and report and on approval of the city council the applicant shall be issued a license upon payment of the license fee herein provided. (Ord. 677 § 6, 1984).

5.30.070 Items which may be considered.

In making the decision to grant or deny a license the council may consider the following:

(1) Whether the applicant will provide safe and reasonable service;

(2) Whether the proposed rate structure is reasonable and other personnel are licensed and qualified;

(3) Whether the licensee will operate within the law; and

(4) Whether additional taxi service will cause unreliability and instability in the taxi service business for Oak Harbor. (Ord. 677 § 7, 1984).

5.30.080 Filing schedule of charges required.

Every person, firm or corporation holding a license for the operation of a taxicab within the city shall file his schedule of rates and charges, and all amendments thereto, with the city clerk. (Ord. 677 § 8, 1984).

5.30.090 Approval of filed schedule by council.

The city council may approve or disapprove the rate schedule as proposed within 30 days after filing. If no action is taken the rate schedule is approved. No charge shall be collected in excess of the rate filed and approved. A copy of the rates, filed and approved, shall be posted in each vehicle used as a taxi. (Ord. 677 § 9, 1984).

5.30.100 Additional information.

Every person, firm or corporation holding a license for the operation of a taxicab shall file with the city clerk the names, addresses and other identifying information required by the clerk of each driver. (Ord. 677 § 10, 1984).

5.30.110 Disqualification of licensing for criminal conviction.

(1) No person shall receive a taxi license or a taxi driver license who has been convicted of assault within the last 10 years, a felony in the last seven years, a gross misdemeanor in the last five years, or who has ever been convicted of sexual offenses as defined under state law or an offense which is similar to those as defined in Chapter 9A.44 RCW.

(2) A license granted under this chapter shall be revoked when license holder is convicted of a felony, gross misdemeanor, assault or sexual offense as defined under state law or an offense which is similar to those defined in Chapter 9A.44 RCW. (Ord. 1390 § 1, 2004; Ord. 677 § 11, 1984).

5.30.120 Cancellation of license.

The city council may cancel a license if such license is used in violation of this chapter or state laws or is a taxi business operated without licensed drivers, fares are charged in excess of the approved schedule, or the business is operated in an unsafe or fraudulent manner. (Ord. 677 § 12, 1984).

5.30.130 Carrying passengers for hire without license unlawful.

It is unlawful for any person, firm or corporation to carry passengers for hire as set forth in OHMC 5.30.020 without having a license therefor from the city as herein provided. (Ord. 677 § 13, 1984).

5.30.140 Renewal.

A license granted under this chapter may be renewed after application to the city clerk-treasurer unless objected to in writing by the mayor giving reasons for such objection. In such case, the matter shall be set before the city council for hearing after due notice to the applicant. The council may renew or cancel the license on the basis of the factors listed in OHMC 5.30.070. (Ord. 677 § 15, 1984).

5.30.150 Appeals from decisions of the police chief.

Appeals from decisions of the police chief concerning for hire vehicle driver licenses shall be to the city administrator or his/her designee. (Ord. 1331 § 1, 2002).

CITY OF OAK HARBOR
WHIDBEY ISLAND, WASHINGTON

CITY OF OAK HARBOR
865 S.E. BARRINGTON DRIVE
OAK HARBOR, WA 98277-4092
(360) 279-4500

APPLICATION FOR YEAR ENDING
DATE BUSINESS OPENED / /

APPLICATION FOR CITY BUSINESS LICENSE

FILL OUT FORM COMPLETELY - INCOMPLETE APPLICATIONS CANNOT BE PROCESSED

BUSINESS NAME Taxi Service
DBA Alan Brewer Road Runner Taxi
MAILING ADDRESS

BUSINESS LOCATION Same as mailing
BUSINESS PHONE #
UBI NUMBER
STATE LIC #
CONTRACTOR LICENSE #

CIRCLE KIND OF BUSINESS WHOLESALE FINANCIAL INST. OTHER
RETAIL SERVICES MANUFACTURING REAL ESTATE SOLICITING

BUSINESS IN A RESIDENCE? YES NO

TOTAL NUMBER OF EMPLOYEES Ø

DESCRIPTION OF BUSINESS (give details)
Taxi For hire Transportation Services

CIRCLE OWNER STATUS: INDIVIDUAL PARTNERSHIP LLP LLC
CORPORATION NON-PROFIT (*ATTACH LATEST COPY OF IRS 501 (C) EXEMPTION CERTIFICATE)

LIST OWNERS, PARTNERS OR OFFICERS	TITLE	RESIDENCE ADDRESS	CITY	ZIP	RESIDENCE PHONE
1. Alan D. Brewer	owner				
2.					

AMUSEMENT DEVICES ON PREMISES? YES NO NUMBER _____
DO YOU STORE FLAMMABLE OR HAZADOUS MATERIALS? YES NO
IF YES, TYPE AND QUANTITY:

IN CASE OF EMERGENCY NOTIFY: PHONE
1. Doris Brewer
2. Bryan Brewer

FEES DUE

MAKE CHECKS PAYABLE TO : CITY OF OAK HARBOR

CIRCLE CLASSIFICATION	1 - $100.00
	2 - $ 50.00
	3 - $ 25.00
POOL AND BILLIARDS	$ 50.00
CARD TABLES	$ 50.00 FOR ONE TABLE + $5.00 FOR EACH ADDITIONAL TABLE
PINBALL AND SIMILAR COIN OP- DEVICES	$ 25.00 PER DEVICE
NIGHTCLUB LICENSE	$200.00 + ADDITIONAL $10.00 FOR WSP WATCH CK
PAWNBROKER	$ 30.00
FOR HIRE VEHICLES	$ 50.00 FOR 1st TWO VEHICLES, $25.00 EACH ADDITIONAL
AMUSEMENT ARCADE	$ 100.00
TOTAL DUE	$ 75.00

I DECLARE UNDER PENALTY OF PERJURY THAT THE INFORMATION AND STATEMENT CERTIFIED HEREIN ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I AM AWARE THAT ANY VIOLATION OF THE OAK HARBOR MUNICIPAL CODE WILL TERMINATE THE BUSINESS LICENSE.

SIGNED BY _____

OFFICE/TITLE _____

APPLICATE DATE _____

THE CITY OF OAK HARBOR SALES TAX LOCATION CODE IS 1503.
ALL BUSINESS SIGNS WITHIN THE CITY LIMITS MUST BE APPROVED BY THE BUILDING DEPARTMENT
NOTE: ADDITIONAL CITY PERMITS MAY BE NECESSARY BEFORE THE OWNER CAN COMMENCE BUSINESS.

AMOUNT PAID	DATE ISSUED	BY	SIC#	DATE BUSINESS DISCONTINUED	LICENSE NUMBER
$			36		

THIS FORM MUST BE RETURNED

Municipal Code, Chapter 5.30
Ordinance #677

CITY OF OAK HARBOR

APPLICATION FOR TAXI LICENSE

Fee: $50.00 first two taxi's
$25.00 each additional
Due January 1 each year
Stalls: $5.00 per month per stall

* * * * * * * * * * * * * *

Name of Applicant Alan D. Brower

Address _____ Phone Number _____

Fax Number N/A Date of Birth _____

Name and address of Taxi Company RoadRunner Taxi

OPERATORS OF VEHICLES:

			(police approval)
1.	Name Alan D. Brower	Driver's Lic. # _____	YES NO
2.	Name _____	Driver's Lic. # _____	YES NO
3.	Name _____	Driver's Lic. # _____	YES NO

Name of Insurance Company ~~Sentry~~ Columbia Insurance Com/Via Trade Winds.
Policy Number #7/APR234175

VEHICLES

	Make	Year	License Number
1.	Dodge Caravan	89	WA/153-NEL
2.			
3.			

Vehicles inspected by Police. YES NO

Alan D. Brower 3-19-09
Signature of Applicant Date

(Rate charges and schedule must be attached to application. All amendments to the rate schedule must be filed with the City Clerk.)

City of Oak Harbor
Application for a Taxi License
Page Two

Police Department Recommendation

_____

_____

_____

_____
Signature Date

City Council Action: Approved_____#_____$_____
Date Lic. No. issued Fee Paid

Denied _____
Date

_____
City Clerk Date

RoadRunner Taxi Rate Sheet

Minimum pickup	$ 6.50	
Per Mile	$ 2.50/mi.	
Base to Oak Harbor	$ 13.00 one way	(also same for Oak Harbor to Base) (outside of town + mileage)
Oak Harbor to Coupeville	$ 30.00 one way	(outside City of Coupeville + mileage)

OAK HARBOR POLICE DEPARTMENT
TAXI DRIVER APPLICATION/BACKGROUND CHECK

PD@City PA

CITY CLERK - Please attach one of these forms to each application for a license to operate a taxi.

Applicant Fees – **Payable at City Hall, per name, prior to records checks being performed:**

$10.00	WSP WATCH Check
10.00	Oak Harbor Police Department local records check
$20.00	Total fee

Applicant Name (Print) Alan D. Brewer Date of Birth

Applicant Phone Number:

Alias/Maiden Names N/A

States resided in since age 18 WA

Applicant Social Security Number Taxi Company Pondrunner Taxi

OHPD RECORDS USE ONLY

DRIVER'S CHECK - Run each state listed above and enter state name below.

ST NA ST ST ST ST ST ST ST ST ST

After running each of the following, write "Attached" or "None" in the space provided.

LOCAL RECORDS ✓ WATCH ✓

CHECKS RUN BY Yvette B Hayes DATE 3-23-09

APPLICATION is: ☒ Approved ☐ Disapproved

If disapproved, give reason:

Officer Signature Yvette B Hayes Date 3-23-09

40

Company Name COLUMBIA INSURANCE COMPANY

CERTIFICATE OF INSURANCE

3024 Harney Street • Omaha, Nebraska 68131-3580

This certificate of insurance is NOT an insurance policy and does not amend, extend or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain; the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies which may substantially limit coverage. Where reference is made to an Aggregate Limit, those limits are Company's maximum liability under the Policy for the entire policy period regardless of the number of insureds, claimants or occurrences.

Date 03/20/09

NAME OF INSURED: ALAN BREWER DBA; ROAD RUNNER TAXI

P.O. ADDRESS:

POLICY NUMBER	KINDS OF INSURANCE	LIMITS	EFFECTIVE	EXPIRES
	COMMERCIAL GENERAL LIABILITY ☐ Occurrence Form ☐ Claims-Made Form Coverages ☐ Premises-Operations ☐ Products/Completed Operations ☐ Other (Specify)			
	General Aggregate Limit	$		
	Products-completed Operations Aggregate Limit	$		
	Personal & Advertising Injury Limit	$		
	Each Occurrence Limit	$		
	Fire Damage Limit (Any One Fire)	$		
	Medical Expense Limit (Any One Person	$		
	Aggregate Limit on Claims Expenses	$		
71APR234175	AUTOMOBILE LIABILITY		03/16/09	03/16/2010
	Body Injury Each Person	$		
	Each Accident	$		
	Property Damage Each Accident	$		
	Bodily Injury and Property Damage combined Single Limit	$ 325,000		
	GARAGE LIABILITY			
	Bodily Injury and Property Damage Auto Only	Other than Auto		
	Combine Single Limit $	$		
	Aggregate Limit	$		
	Garagekeepers Insurance ☐ Legal Liability	$		
	☐ Direct Excess	$		
	☐ Direct Primary	$		
	EXCESS LIABILITY ☐ Automobile ☐ General Liability Name of Primary Insurer:			
	Primary Limits	$		
	Excess Limits	$		
	General Aggregate Limit	$		
	☐ Aggregate Limit inclusive of Claims Expenses			
	Workers Compensation	$ Statutory Limits		
	Employer's Liability	$		
	Other			

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES
1989 DODGE CARAVAN #1B4GK44RXLX109146

In the event of any material change in or cancellation of said policies, the COMPANY intends to, but is not obligated to, notify the party to whom this Certificate is addressed of such change or cancellation, and COMPANY undertakes no responsibility by reason of any failure to do so.

This Certificate issued to:
CITY OF OAK HARBOR
865 SE BARRINGTON DR
OAK HARBOR, WA 98277

By Johannes Schmidt
Title PRESIDENT - SUPERIOR UNDERWRITERS

M-100j (4/91)

NOTE TO AGENT – Mail Copy to Home Office Immediately

Company Name COLUMBIA INSURANCE COMPANY

CERTIFICATE OF INSURANCE

3024 Harney Street • Omaha, Nebraska 68131-3580

This certificate of insurance is NOT an insurance policy and does not amend, extend or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain; the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies which may substantially limit coverage. Where reference is made to an Aggregate Limit, those limits are Company's maximum liability under the Policy for the entire policy period regardless of the number of insureds, claimants or occurrences.

Date 03/20/09

NAME OF INSURED: ALAN BREWER DBA: ROAD RUNNER TAXI

P.O. ADDRESS: [illegible]

POLICY NUMBER	KINDS OF INSURANCE	LIMITS	EFFECTIVE	EXPIRES
	COMMERCIAL GENERAL LIABILITY ☐ Occurrence Form ☐ Claims-Made Form Coverages ☐ Premises-Operations ☐ Products/Completed Operations ☐ Other (Specify)			
	General Aggregate Limit	$		
	Products-completed Operations Aggregate Limit	$		
	Personal & Advertising Injury Limit	$		
	Each Occurrence Limit	$		
	Fire Damage Limit (Any One Fire)	$		
	Medical Expense Limit (Any One Person	$		
	Aggregate Limit on Claims Expenses	$		
71APR234175	AUTOMOBILE LIABILITY Body Injury Each Person	$	03/16/09	03/16/2010
	Each Accident	$		
	Property Damage Each Accident	$		
	Bodily Injury and Property Damage combined Single Limit	$ 325,000		
	GARAGE LIABILITY Bodily Injury and Property Damage Auto Only Other than Auto Combine Single Limit $	$		
	Aggregate Limit	$		
	Garagekeepers Insurance ☐ Legal Liability	$		
	☐ Direct Excess	$		
	☐ Direct Primary	$		
	EXCESS LIABILITY ☐ Automobile ☐ General Liability Name of Primary Insurer:			
	Primary Limits	$		
	Excess Limits	$		
	General Aggregate Limit	$		
	☐ Aggregate Limit inclusive of Claims Expenses			
	Workers Compensation	$ Statutory Limits		
	Employer's Liability	$		
	Other			

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES
PER SCHEDULE OF VEHICLES ON FILE WITH THE COMPANY

In the event of any material change in or cancellation of said policies, the COMPANY intends to, but is not obligated to, notify the party to whom this Certificate is addressed of such change or cancellation, and COMPANY undertakes no responsibility by reason of any failure to do so.

This Certificate issued to:

ST OF WASHINGTON - DEPT OF LICENSING
MASTER LICENSE SERVICE - FOR HIRE DESK
PO BOX 9034
OLYMPIA, WA 98507

By [signature]
Title PRESIDENT - SUPERIOR UNDERWRITERS

M-100j (4/91)

NOTE TO AGENT – Mail Copy to Home Office Immediately

City of Oak Harbor
City Council Agenda Bill

Bill No. 10
Date: April 21, 2009
Subject: Manufactured Home Park Code Amendments

FROM: Steve Powers RSP
Director of Development Services

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

Jim Slowik, Mayor
PM Paul Schmidt, City Administrator
Doug Merriman, Finance Director
MH Margery Hite, City Attorney, as to form

PURPOSE

This agenda bill presents amendments to Oak Harbor Municipal Code Chapters 19.20 and 19.25 as they relate to manufactured home parks. The existing code, while providing for manufactured home parks, is limited in its application and is somewhat contradictory. The amendments will correct these deficiencies, help the City meet our Growth Management Act responsibility to provide opportunities for affordable housing and will facilitate the construction of the City's proposed affordable housing project.

AUTHORITY

The authority to establish land use controls is provided by RCW 36.70A.040.

SUMMARY STATEMENT

Background

On January 20, 2009, the City Council approved a resolution setting out the City Council's intention to establish an affordable housing project and to work with the Housing Authority of Snohomish County (HASCO) to finance, develop and manage (initially) a manufactured home community for residents 55 years of age and older. The resolution authorized the Mayor to enter into a cooperative agreement with HASCO and its partner, HomeSight, to proceed with the grant applications and project development for the affordable housing project. Since that time, Development Services Staff have identified barriers in the Municipal Code that limit the construction of affordable housing in the form of manufactured home parks

Discussion

Provision of affordable housing is an important goal of the Growth Management Act. This goal is reflected in the goals and policies of the Housing Element of the City's Comprehensive Plan. In addition to helping meet the needs of residents, an adequate supply of affordable housing can help the City achieve its economic development and land use objectives.

Existing code language restricts manufactured home parks to only the R-3 and R-4 districts, but at the same time allows individual manufactured homes to be placed on recorded lots in any

zone. Thus, manufactured homes are already allowed in all residential zones, just not in a "park" setting. Permitting manufactured home parks in more residential districts will potentially increase the number of sites available for more affordable housing and will provide for a range of project densities. Additionally, the construction of manufactured home parks can provide economies of scale that increase the affordability of the individual units, while at the same time providing for amenities serving the new neighborhood.

The proposed amendments would permit manufactured home parks in all residential zones within the City (the R-1, R-2, R-3, and R-4 zones). The code provides for common parking, landscaping and recreational amenities. Proposed projects will be reviewed and approved by the Planning Commission and City Council. The amendments can generally be summarized as follows:

- Broadening the applicability of the manufactured home park overlay district to all residential districts.
- Defining what constitutes a 'qualified affordable housing project.'
- Providing density bonuses for a qualified affordable housing project.
- Clarifying and simplifying the plan submittal and approval process.
- Establishing consistency between the different sections of the Municipal Code that pertain to manufactured homes.

In short, the proposed amendments will make available more opportunities for affordable housing within the community and will facilitate the construction of the City's proposed project.

Schedule and Process

Staff proposes that the City Council adopt the proposed amendments as an interim ordinance. This approach will put the new code in place on a temporary basis until such time as the final code can be acted upon. In order to be timely as it relates to the City's proposed project, staff has developed an aggressive schedule for the consideration of the amendments. This schedule takes into account the State-mandated review period by the Department of Community, Trade and Economic Development (CTED). The schedule and process are as follows:

April 21	Council conducts public hearing and considers interim adoption.
April 28	Planning Commission conducts public hearing and considers recommendation to City Council.
May 5	Council considers final adoption (if CTED grants expedited review).
June 16	Council considers final adoption (if 60-day CTED review necessary).

Other, minor amendments are necessary in Title 16, Manufactured Homes, and in Chapter 18.20, Permit Processing. These will come forward to the City Council at a later date.

STANDING COMMITTEE REPORT

This item was presented to the Governmental Services Standing Committee on April 13, 2009.

RECOMMENDED ACTION

Conduct a public hearing and adopt an interim ordinance amending OHMC 19.20 and 19.25 permitting manufactured home parks in all residential zones.

ATTACHMENTS

Draft Ordinance

MAYOR'S COMMENTS

RECOMMENDED ACTION

•Conduct public hearing

•Adopt an interim ordinance repealing Title 19 "Zoning" of the Oak Harbor Municipal Code and adopting chapters of Title 19 by section and amending various sections to allow manufactured home parks in al residential zones and provide density bonuses to "qualified affordable housing projects." with corrections:

1. ord include R4 in ter of par 3
2. 3rd paragraph 19.25.034 to include word maximum
3. page 69 numbering sequence

ATTACHMENTS

Draft Ordinance

MAYOR'S COMMENTS

Rick / Jim Palmer / Beth ~~[illegible]~~

Danny no

ORDINANCE NO.

AN ORDINANCE REPEALING TITLE 19 "ZONING" OF THE OAK HARBOR MUNICIPAL CODE AND ADOPTING CHAPTERS OF TITLE 19 BY SECTION AND WITH AMENDMENTS TO SECTIONS 19.08.555, 19.08.560, 19.08.690, 19.20.100, 19.20.105, 19.20.110, 19.20.120, 19.20.125, 19.20.130, 19.20.145, 19.20.150, 19.20.180, 19.20.185, 19.20.215, 19.20.850, 19.20.860, 19.20.870, 19.20.880, 19.20.890, 19.20.900, 19.20.905, 19.20.910, 19.20.920, 19.20.930, 19.25.010, 19.25.020, 19.25.030, 19.25.040, 19.25.050, 19.25.060, 19.25.070, 19.25.080, 19.25.090, 19.25.100, 19.25.110, 19.25.120, 19.25.130, 19.25.140, 19.25.150, 19.25.160, 19.25.170, 19.25.180, 19.25.190, 19.25.190, 19.25.200, 19.25.210, 19.25.220, 19.25.230, AND 19.25.240 OF THE OAK HARBOR MUNICIPAL CODE TO ALLOW MANUFACTURED HOME PARKS IN ALL RESIDENTIAL ZONES AND PROVIDE DENSITY BONUSES TO "QUALIFIED AFFORDABLE HOUSING PROJECTS,"

WHEREAS, the City of Oak Harbor acknowledges that the provision of an adequate supply of affordable housing within the City boundaries is an important housing goal in the City's Comprehensive Plan and,

WHEREAS, the City of Oak Harbor recognizes that manufactured homes make up a crucial component of the City's affordable housing stock and,

WHEREAS, the City's existing municipal code restricts development of manufactured home parks to the R-3 (multifamily residential / medium-high density residential) zones and,

; R4

WHEREAS, the City of Oak Harbor understands that compatibility of manufactured homes with surrounding land uses is of critical importance and that placement of these homes in park settings promotes greater compatibility

WHEREAS, having reviewed the proposed amendment to the manufactured home park code and associated sections, a form of development regulation, for consistency with its Comprehensive Plan as required by RCW 36.70A.040(4); and

WHEREAS, also having reviewed the proposed amendment for consistency with the text amendment criteria identified in OHMC 19.80, namely consistency with the Oak Harbor Comprehensive Plan and substantial promotion of the public health, safety and welfare; and

WHEREAS, being satisfied that the proposed amendment is consistent with the above requirements; and

WHEREAS, Ordinance 1221 § 1 adopted Title 19 of the Oak Harbor Municipal Code in its entirety and must therefore be set out in full to amend any of its provisions;

NOW, THEREFORE

THE CITY COUNCIL OF THE CITY OF OAK HARBOR do ordain as follows:

Section One. Oak Harbor Municipal Code Title 19 entitled "Zoning" last amended by Ord. 1405 in 2004 is hereby repealed in its entirety.

Section Two. Title 19 of the Oak Harbor Municipal Code is hereby re-adopted to contain the following chapters:

Title 19
ZONING

Chapters:

19.04 Title, Purpose, Standards and Relationship
19.08 Definitions
19.12 Establishment of Districts
19.16 District Boundaries
19.18 Nonconforming Uses and Structures
19.20 Zoning Districts
19.25 Manufactured Home Parks
19.26 Relationship to the Oak Harbor Comprehensive Plan
19.28 Limitations of Uses
19.29 Wireless Communications Facilities
19.31 Planned Residential Developments
19.34 Home Occupations
19.35 Temporary Use Permits
19.36 Sign Code
19.38 Essential Public Facilities
19.42 Accessory Dwelling Units
19.44 Parking
19.46 Landscaping and Screening
19.47 Land Clearing
19.48 Site Plan Review Procedures
19.50 Aviation Environs Overlay Zone
19.56 Shoreline Management
19.60 Administration
19.66 Variances
19.67 Conditional Uses
19.75 Map Amendments and Contract Rezones
19.80 Text Amendments
19.85 Procedure for Amendments to the Zoning Code
19.90 Assurances
19.100 Penalties, Nuisances and Enforcement
19.110 Judicial Review

Section Three. Oak Harbor Municipal Code Chapter 19.04 is hereby re-adopted to read as follows:

Chapter 19.04
TITLE, PURPOSE, STANDARDS AND RELATIONSHIP

Sections:

19.04.010 Title.
19.04.020 Purpose.
19.04.030 Standards.
19.04.040 Relationship between comprehensive plan policies and zoning classification.

19.04.010 Title.

This title shall be known as the comprehensive zoning ordinance of the city of Oak Harbor.

This title shall consist of the text hereof and the map or maps entitled "City of Oak Harbor, Washington Zoning Map," part of the comprehensive zoning ordinance. If any conflict between the map or maps and this title should arise, the text of this title shall prevail.

19.04.020 Purpose.

(1) The text and zoning map in this title constitute the comprehensive zoning ordinance and regulations for the incorporated area of the city of Oak Harbor and are adopted to protect and promote the public health, safety, morals and welfare and to protect the economic and social advantages which result from an orderly planned use of land resources. Such regulations are designed to achieve the following objectives:

(a) To promote the achievement of the comprehensive plan for the city of Oak Harbor;

(b) To advance the position of the city of Oak Harbor as a regional center of commerce, recreation and culture;

(c) To provide for desirable, appropriately located living areas in a variety of dwelling types, and at a suitable range of population densities, with adequate provision for useful open space;

(d) To protect residential, commercial, industrial and civic areas from the intrusions of incompatible uses and to provide opportunities for establishments to create efficient operations in mutually beneficial relationships to each other and to share their services;

(e) To insure preservation of adequate space for commercial, industrial and other activities necessary for a healthy economy;

(f) To promote safe, fast and efficient movement of people and goods without sacrifice to the quality of Oak Harbor's environment, and to provide adequate off-street parking;

(g) To achieve excellence and originality of design in all future developments and to preserve the natural beauty of Oak Harbor's setting;

(h) To stabilize expectations regarding future development of Oak Harbor, thereby providing a basis for wise decisions with respect to such

development;

(i) To preserve and enhance the quality of Oak Harbor's environment.

(2) Since the public health, safety and general welfare is superior to the interests and pecuniary gains of the individual, the intent of this title may limit the use of property and prevent its most profitable gain. If some reasonable use of property is allowed by this title, the effect is not confiscatory and is a proper exercise of police power.

19.04.030 Standards.

The standards established by this title are determined to be the minimum requirements essential for its purpose and intent.

19.04.040 Relationship between comprehensive plan policies and zoning classification.

It is the intent of this title to provide a direct relationship between the provisions of this zoning code, its administration and enforcement, and the adopted Oak Harbor comprehensive plan. This relationship is established by the adoption of development regulations which implement the comprehensive plan. All development, uses and activities governed by this title shall be in conformance with the policies of the Oak Harbor comprehensive plan.

Section Four. Oak Harbor Municipal Code Chapter 19.08 is hereby re-adopted and amended to read as follows:

Chapter 19.08
DEFINITIONS

Sections:

19.08.005 Definitions.
19.08.010 Accessory dwelling unit.
19.08.015 Accessory use.
19.08.020 Alley.
19.08.025 Alteration.
19.08.030 Assisted living facility.
19.08.035 Auto convenience market.
19.08.040 Automatic teller machine.
19.08.045 Automobile service station including self-service.
19.08.050 Aviation environs.
19.08.055 Banner.
19.08.060 Basement.
19.08.065 Berm.
19.08.070 Binding site plan.
19.08.075 Hearing examiner.
19.08.078 Building code.
19.08.079 Fire code.
19.08.080 Brew pub.
19.08.085 Buffer.
19.08.090 Buildable area.
19.08.095 Building.
19.08.100 Building, accessory.
19.08.105 Building area.
19.08.110 Building, detached.
19.08.115 Building height.
19.08.120 Building line.
19.08.125 Building, multiple-occupancy.
19.08.130 Building, office.
19.08.135 Building, quasi-public.
19.08.140 Building, single-occupancy.
19.08.145 Building site.
19.08.150 Canopy.
19.08.155 Carport.
19.08.160 Certificate of occupancy.
19.08.165 Child day care center.
19.08.170 Church.
19.08.175 City.
19.08.180 City staff.
19.08.185 Club.
19.08.190 Coffee kiosk.

19.08.195 Commercial use.
19.08.200 Commercial vehicle.
19.08.205 Conditional use.
19.08.210 Condominium.
19.08.215 Court.
19.08.220 Covered moorage building area.
19.08.225 Currency exchange.
19.08.230 Data processing facility.
19.08.235 Day-night average sound level (Ldn).
19.08.240 Deciduous.
19.08.245 Density.
19.08.250 Design review board.
19.08.252 Director of development services.
19.08.255 Dock.
19.08.260 Dwelling, multifamily.
19.08.265 Dwelling, single-family.
19.08.270 Dwelling unit.
19.08.275 Electrical distribution substation.
19.08.280 Essential public facility.
19.08.285 Essential use.
19.08.290 Evergreen.
19.08.295 Extended stay motel.
19.08.300 Factory-built structure.
19.08.305 Family.
19.08.310 Floor area.
19.08.315 Fraternity, sorority or student cooperative.
19.08.320 Garage, commercial.
19.08.325 Gated community.
19.08.330 General promotions.
19.08.335 Grade (adjacent ground elevation).
19.08.340 Grand openings and anniversaries.
19.08.345 Greenbelt.
19.08.350 Ground cover.
19.08.355 Health club.
19.08.360 Home, family child day care.
19.08.365 Home, foster.
19.08.370 Home, group.
19.08.375 Home improvement center.
19.08.380 Home occupation.
19.08.385 Hospital.
19.08.390 Hospital, animal.
19.08.395 Hotel.
19.08.400 House, apartment.
19.08.405 House, boarding, lodging or rooming.
19.08.410 House, guest.
19.08.415 Institution, educational.

19.08.420 Junkyard.
19.08.425 Kennel, commercial.
19.08.430 Kitchen.
19.08.435 Land clearing.
19.08.440 Landscape perimeter.
19.08.445 Landscape policy manual.
19.08.450 Landscape setback.
19.08.455 Landscaping.
19.08.460 Ldn contour.
19.08.465 Lot.
19.08.470 Lot area.
19.08.475 Lot, corner.
19.08.480 Lot coverage.
19.08.485 Lot depth.
19.08.490 Lot, developed single-family residential.
19.08.495 Lot, interior.
19.08.500 Lot, irregular shaped.
19.08.505 Lot line.
19.08.510 Lot line, front.
19.08.515 Lot line, rear.
19.08.520 Lot line, side.
19.08.525 Lot, partially developed single-family residential.
19.08.530 Lot, through.
19.08.535 Lot, undeveloped.
19.08.540 Lot width.
19.08.545 Marquee.
19.08.550 Mixed use.
19.08.555 ~~Mobile~~ Manufactured home.
19.08.560 ~~Mobile~~ Manufactured home park.
19.08.565 Moorage.
19.08.570 Motel.
19.08.575 Multiple-occupancy complex.
19.08.580 Neighborhood convenience store.
19.08.585 Noise zone map.
19.08.590 Nonconforming structure.
19.08.595 Nonconforming use.
19.08.600 Nonconforming use, land.
19.08.605 Occupant.
19.08.610 Opaque.
19.08.615 Open space.
19.08.620 Parapet.
19.08.625 Parking, employee.
19.08.630 Parking, off-street.
19.08.635 Parking space.
19.08.640 Penthouse.
19.08.645 Permit, conditional use.

19.08.650 Permit, land clearing.
19.08.655 Permit, minor clearing.
19.08.660 Permit, temporary use.
19.08.665 Permitted use.
19.08.670 Primary use.
19.08.675 Professional office.
19.08.680 Property line.
19.08.685 Public utility.
19.08.690 Qualified Affordable Housing
19.08.~~690~~695 Recreation facilities.
19.08.~~695~~700 Recreational vehicle.
19.08.~~700~~705 Reside.
19.08.~~705~~710 School, commercial.
19.08.~~710~~715 Schools – Elementary, junior or senior high, including public, private and parochial.
19.08.~~715~~720 Screen.
19.08.~~720~~725 Secondary use, incidental or accessory.
19.08.~~725~~730 Setback and yard requirements.
19.08.~~730~~735 Shelter station.
19.08.~~735~~740 Shopping center.
19.08.~~740~~745 Shrub.
19.08.~~745~~750 Sign.
19.08.~~750~~755 Sign, abandoned.
19.08.~~755~~760 Sign, area or surface area.
19.08.~~760~~765 Sign, billboard.
19.08.~~765~~770 Sign, building-mounted.
19.08.~~770~~775 Sign, canopy.
19.08.~~775~~780 Sign, construction.
19.08.~~780~~785 Sign, freestanding.
19.08.~~785~~790 Sign, grade.
19.08.~~790~~795 Sign, height.
19.08.~~795~~800 Sign, incidental.
19.08.~~800~~805 Sign, low-profile.
19.08.~~805~~810 Sign, noncommercial public service.
19.08.~~810~~815 Sign, political.
19.08.~~815~~820 Sign or signs, primary.
19.08.~~820~~825 Sign, projection.
19.08.~~825~~830 Sign, reader board.
19.08.~~830~~835 Sign, roof.
19.08.~~835~~840 Signs, subdivision.
19.08.~~840~~845 Signs, temporary and special.
19.08.~~845~~850 Sign, window.
19.08.~~850~~855 Skilled nursing facility.
19.08.~~855~~860 Solid planting.
19.08.~~860~~865 Sorority.
19.08.~~865~~870 Story.

19.08.~~870~~875 Street.
19.08.~~875~~880 Structure.
19.08.~~880~~885 Structural alteration.
19.08.~~885~~890 Surface area or facade.
19.08.~~890~~895 Temporary.
19.08.~~895~~896 Tree.
19.08.~~896~~897 Tree cluster, grove or stand.
19.08.~~897~~898 Tree root zone.
19.08.~~898~~899 Understory.
19.08.900 Tree, ornamental.
19.08.905 Tree, shade.
19.08.910 Tree, significant.
19.08.915 Upholstery shop.
19.08.920 Use.
19.08.925 Use district.
19.08.930 Used car lot.
19.08.935 Uses, prohibited.
19.08.940 Variance.
19.08.945 Vehicular surface area.
19.08.950 Video rental store.
19.08.955 Waste, hazardous.
19.08.960 Waste, hazardous – Off-site treatment and storage facility.
19.08.965 Waste, hazardous – On-site treatment and storage facility.
19.08.970 Waste, hazardous – Storage of.
19.08.975 Waste, hazardous – Treatment of.
19.08.980 Way open to public.
19.08.985 Wireless communications facility, macro.
19.08.990 Wireless communications facility, micro.
19.08.995 Wireless communications facility, mini.
19.08.1000 Wireless communications facility, monopole.
19.08.1005 Xeriscape.
19.08.1010 Yard.
19.08.1015 Yard, front.
19.08.1020 Yard, rear.
19.08.1025 Yard, service.
19.08.1030 Yard, side.

19.08.005 Definitions.

As used in this title, words in the present tense include the future, words in singular number include the plural, and words in the plural number include the singular, the word "person" may be taken for persons, association, firm, partnership or corporation, the word "structure" includes buildings, the word "occupied" includes designed or intended to be used and the word "shall" is always mandatory and not merely directive. The following words and phrases unless the context of this title otherwise requires shall have the meaning set forth in this chapter.

19.08.010 Accessory dwelling unit.

"Accessory dwelling unit" means a habitable living unit added to, created within or detached from a single-family dwelling that provides basic requirements for living, sleeping, eating, cooking and sanitation.

19.08.015 Accessory use.
"Accessory use" means a use incidental and subordinate to the principal use and located on the same lot or in the same building as the principal use.

19.08.020 Alley.
"Alley" means a passageway open to public travel which affords generally a secondary means of vehicular access to abutting lots and is not intended for general traffic circulation.

19.08.025 Alteration.
"Alteration" means a change or rearrangement of the structural parts of existing facilities, or an enlargement by extending the sides or increasing the height or depth, or the moving from one location to another. In buildings for business, commercial, industrial or similar uses the installation or rearrangement of partitions affecting more than one-third of a single floor area shall be considered an alteration.

19.08.030 Assisted living facility.*
"Assisted living facility" means a facility that provides, on a regular basis, personal care, including dressing and eating and health-related care and services, to individuals who require such assistance but who do not require the degree of care and treatment that a hospital or skilled nursing facility provides.

* Ordinance 1221 presents this section as 19.08.415. This section and subsequent sections through 19.08.415 have been editorially renumbered to maintain alphabetization.

19.08.035 Auto convenience market.
"Auto convenience market" means a place where gasoline, motor oil, lubricants, or other minor accessories are retailed directly to the public on the premises in combination with the retailing of items typically found in a convenience market or supermarket.

19.08.040 Automatic teller machine.
"Automatic teller machine" means an automated device that performs banking or financial functions at a location remote from the controlling financial institution.

19.08.045 Automobile service station including self-service.
"Automobile service station including self-service" means any building, land area or other premises or portion thereof used or intended to be used for the retail dispensing or sales of vehicular fuels and including as accessory use the sale and installation of lubricants, tires, batteries and similar accessories.

19.08.050 Aviation environs.
"Aviation environs" means the geographic area that is affected by the Whidbey Island Naval Air Station at Ault Field air traffic operations and defined on the basis of those areas immediately affected by the 60 Ldn and greater noise exposure area from the Air Installation Compatible Use Zones Study for NAS Whidbey Island Ault Field. This area

is represented on the Oak Harbor noise zone map and designated aviation environs overlay zone (AE).

19.08.055 Banner.
"Banner" means a flexible material (i.e., cloth, paper, vinyl, etc.) on which a sign is painted or printed.

19.08.060 Basement.
"Basement" means a space having one-half or more of its floor to ceiling height above the average level of the adjoining ground and with the floor to ceiling height of not less than 7.5 feet.

19.08.065 Berm.
"Berm" means an earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise.

19.08.070 Binding site plan.
"Binding site plan" means a drawing to a scale specified by local ordinance which:

(1) Identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other matters specified by local regulations;

(2) Contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as are established by the local government body having authority to approve the site plan; and

(3) Contains provisions making any development be in conformation with the site plan.

19.08.075 Hearing examiner.
"Hearing examiner" means a quasi-judicial hearing officer empowered to hear appeals from orders or determinations made by an administrative official charged with the enforcement of this title and to vary or modify certain provisions of this title relating to the use, construction or alteration of buildings or structures or the use of land, so that the spirit of this title is observed, public safety and welfare secured and substantial justice done.

19.08.078 Building code.
"Building code" means the International Building Code as now in effect or as hereafter amended, added to or otherwise changed and all sections of OHMC Title 17 which provides for a building code for Oak Harbor as it is now in effect or as hereafter amended, added to or otherwise changed.

19.08.079 Fire code.
"Fire code" means the International Fire Code as now in effect or as hereafter amended, added to or otherwise changed and all sections of OHMC Title 8 which provides for a fire code for Oak Harbor as it is now in effect or as hereafter amended, added to or otherwise changed.

19.08.080 Brew pub.
"Brew pub" means an establishment which contains a full-service standard restaurant and alcoholic beverages. This establishment also contains a minibrewery as an accessory use;

provided, that sales of the minibrewery products are less than 50 percent of total sales. This minibrewery shall be for the brewing of handcrafted, natural beer intended for retail consumption on the premises and on any premises that has a license as a standard full-service restaurant owned and operated in its entirety by the same corporate ownership and management as the brew pub.

19.08.085 Buffer.
"Buffer" means a combination of physical space and vertical elements, such as plants, berms, fences or walls, the purpose of which is to separate and screen land uses from each other.

19.08.090 Buildable area.
"Buildable area" means that portion of the building site that remains after the required yards and open spaces have been excluded.

19.08.095 Building.
"Building" means any structure having a roof, but excluding all forms of vehicles even though immobilized. When a use is required to be within a building, or where special authority granted pursuant to this title requires that a use shall be within an entirely enclosed building, then the term "building" means one so designed and constructed that all exterior walls of the structure shall be solid from the ground to the roof line, and shall contain no openings except for windows and doors which are designed so that they may be closed.

19.08.100 Building, accessory.
"Accessory building" means a subordinate building the use of which is incidental and customary to that of the principal building and which is located on the same lot including a private garage. If any accessory building is attached to the principal building by a common wall or roof, such accessory building shall be considered a part of the principal building.

19.08.105 Building area.
"Building area" means the total ground coverage of a building or structure which provides shelter measured from the outside of its external walls or supporting members or from a point four feet in from the outside edge of a cantilevered roof, whichever covers the greatest area.

19.08.110 Building, detached.
"Detached building" means a building surrounded on all sides by open space.

19.08.115 Building height.
"Building height" means the vertical distance from the average natural grade level to the highest point of the coping of a flat roof or the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. Average natural grade shall be defined as the average elevation of the highest corners and the lowest corners of the lot or parcel.

19.08.120 Building line.
"Building line" means the line of that face, corner or part of a building nearest the

property line, excluding eaves up to three feet.

19.08.125 Building, multiple-occupancy.
"Multiple-occupancy building" means a single structure housing more than one type of retail business office or commercial venture.

19.08.130 Building, office.
"Office building" means an office building in the commercial and residential-office land use districts as defined by this title.

19.08.135 Building, quasi-public.
"Quasi-public building" means a structure occupied by an activity essentially public in nature, supported by public funds under private ownership or contract and nonprofit in character.

19.08.140 Building, single-occupancy.
"Single-occupancy building" means a commercial building or structure with one major enterprise, generally under one ownership. A building is classified as single occupancy only if it has:
(1) One occupant;
(2) No wall in common with another building;
(3) No part of its roof in common with another building. (

19.08.145 Building site.
"Building site" means a parcel of land occupied or intended to be occupied by a main building and its accessory buildings together with all yards and open spaces required by this title.

19.08.150 Canopy.
"Canopy" means a freestanding structure affording protection from the elements to persons or property thereunder.

19.08.155 Carport.
"Carport" means a roofed structure providing space for the parking or storage of motor vehicles and enclosed on not more than two sides.

19.08.160 Certificate of occupancy.
"Certificate of occupancy" means a permit to occupy a premises issued by the building official after inspection has verified compliance with the requirements and provisions of this title and applicable building codes.

19.08.165 Child day care center.
"Child day care center" means a facility providing regularly scheduled care for a group of children one month of age through 12 years of age for periods less than 24 hours; except, a program meeting the definition of a family child day care home shall not be licensed as a day care center without meeting the requirements of WAC 388-150-020(5)(a).

19.08.170 Church.
"Church" means an establishment, the principal purpose of which is religious worship and for which the principal building or other structure contains the sanctuary or principal

place of worship and which includes related accessory uses in the principal building or in other separate structures.

19.08.175 City.
"City" shall mean the city of Oak Harbor.

19.08.180 City staff.
"City staff" shall mean the department(s) directed by the mayor to implement this title.

19.08.185 Club.
"Club" means an incorporated or unincorporated association of persons organized for a social, fraternal, athletic, educational, literary or charitable purpose. Property occupied by a club shall be deemed to be semiprivate in character and shall be subject to the regulations governing public buildings and places, excluding groups organized primarily to render a service which is normally considered a business.

19.08.190 Coffee kiosk.
"Coffee kiosk" means a retail food business in a freestanding building that sells coffee, or other beverages, and premade bakery goods from a drive-through window to customers seated in their automobiles for consumption off the premises and that provides no indoor or outdoor seating.

19.08.195 Commercial use.
"Commercial use" means an activity with goods, merchandise or services for sale or involving a rental fee.

19.08.200 Commercial vehicle.
"Commercial vehicle" means a motor vehicle used for purposes other than a family car, such as a taxi, delivery or service vehicle.

19.08.205 Conditional use.
"Conditional use" means a use which, because of special requirements, unusual character, size or shape, infrequent occurrence or possible detrimental effect on surrounding property and for other similar reasons, may be allowed in certain zones only after review by the hearing examiner and the granting of a conditional use permit imposing such performance standards as will make the use compatible with other permitted uses in the same vicinity or zone.

19.08.210 Condominium.
"Condominium" means the ownership of single units or apartments in a building containing two or more units or two or more buildings each containing one or more units with common areas and facilities as provided in Chapter 64.32 RCW. The term "condominium" refers to the ownership arrangement, not the land use. The unit may be any permitted type.

19.08.215 Court.
"Court" means an open, unoccupied space other than a yard, on the same lot with a building or buildings and which is bounded on two or more sides by such building or buildings including the open space in a house, court or apartment, providing access to the units thereof.

19.08.220 Covered moorage building area.
"Covered moorage building area" means the area of water lying directly beneath that portion of a structure covered by a roof.

19.08.225 Currency exchange.
"Currency exchange" means any person, except a bank, trust company, savings bank, savings and loan association, credit union or industrial loan and thrift company, engaged in the business of cashing checks, drafts, money orders or traveler's checks for a fee. This term does not include a person who provides these services incidental to the person's primary business if the charge for cashing a check or draft does not exceed $1.00 or one percent of the value of the check or draft, whichever is greater.

19.08.230 Data processing facility.
"Data processing facility" means an establishment primarily involved in the compiling, storage and maintenance of documents, records and other types of information in digital form utilizing a mainframe computer. This term does not include general business offices, computer-related sales establishments and business or personal services.

19.08.235 Day-night average sound level (Ldn).
"Day-night average sound level (Ldn)" means a cumulative aircraft noise index that estimates the exposure to aircraft noise at a certain geographic point and relates the estimated exposure to an expected community response.

19.08.240 Deciduous.
"Deciduous" means a plant with foliage that is shed annually.

19.08.245 Density.
"Density" means the number of dwelling units divided by the gross acre.

19.08.250 Design review board.
"Design review board" means a committee, appointed by the city council, consisting of at least one design professional, to advise the planning department concerning the design of projects.

19.08.252 Director of development services.
The zoning code shall be administered by the "director of development services." The director of development services or his or her designee shall carry out the duties and responsibilities assigned to the "planning director" or "director of planning and community development" under this title.

19.08.255 Dock.
"Dock" means a basin for moorage of boats, including a basin formed between the extension of two piers or the area between a bank or quay and a pier. Docking facilities may include wharves, moorage or docks or any place or structure connected with the shore or upon shore lands providing for the securing of a boat or vessel.

19.08.260 Dwelling, multifamily.
"Multifamily dwelling" means a building designed to house two or more families living independently of each other and having one yard in common.

19.08.265 Dwelling, single-family.
"Single-family dwelling" means a detached building designed for and occupied exclusively by one family and the household employees of that family.

19.08.270 Dwelling unit.
"Dwelling unit" means a building or portion thereof providing complete housekeeping facilities for one family. The term "dwelling" does not include motel, tourist court, rooming house, or tourist home.

19.08.275 Electrical distribution substation.
"Electrical distribution substation" means an assembly of equipment designed to receive energy from a high voltage distribution supply system, to convert it to a form suitable for local distribution and distribute the energy to feeders through switching equipment designed to protect the service from the effects of faults.

19.08.280 Essential public facility.
"Essential public facility" means a facility, conveyance, or site whose services are provided by a governmental agency, a private or nonprofit organization under contract to or with substantial funding from government agencies, or a private organization subject to public service obligations, which is necessary to adequately provide a public service and which is typically hard to site.

19.08.285 Essential use.
"Essential use" means that use for the preservation or promotion of which the use district was created, and to which all other permitted uses are subordinate.

19.08.290 Evergreen.
"Evergreen" means a plant with foliage that persists and remains green year-round.

19.08.295 Extended stay motel.
"Extended stay motel" shall mean and include any building containing six or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes for guests and contain kitchen facilities for food preparation, including, but not limited to, such facilities as refrigerators, stoves and ovens.

19.08.300 Factory-built structure.
"Factory-built structure" means a structure that is designed for occupation or use, or is occupied or used by persons, and that complies with the building code, including factory-built housing and commercial structures. It also includes structures built under federal code declared to be equivalent to the building code.

19.08.305 Family.
"Family" means one or more persons related by blood, marriage, adoption or a group of not more than five persons (excluding servants) not related by blood or marriage, living together as a single housekeeping unit in a dwelling unit.

19.08.310 Floor area.
"Floor area" means the sum of the gross horizontal areas of the floors of a building or buildings, measured from the exterior faces of exterior walls and from the centerline of

division walls. Floor area shall include: basement space, elevator shafts and stairwells at each floor, mechanical equipment rooms or attic spaces with headroom of seven feet six inches or more, penthouse floors, interior balconies and mezzanines, and enclosed porches. Floor area shall not include: accessory water tanks and cooling towers, mechanical equipment or attic spaces with headroom of less than seven feet six inches, exterior steps or stairs, terraces, breezeways and open spaces.

19.08.315 Fraternity, sorority or student cooperative.
"Fraternity, sorority or student cooperative" means a building occupied by and maintained exclusively for students affiliated with an academic or professional college or university, or other recognized institution of higher learning and regulated by such institution.

19.08.320 Garage, commercial.
"Commercial garage" means a building or portion thereof designed and used for the storage, repair or servicing of motor vehicles or boats as a business.

19.08.325 Gated community.
"Gated community" means a residential area that restricts access to normally public spaces.

19.08.330 General promotions.
"General promotions" means events which occur on a regular basis in retail business for the purpose of boosting sales, attracting new business, selling of certain items (i.e., year end, seasonal sales, civic events, etc.).

19.08.335 Grade (adjacent ground elevation).
"Grade (adjacent ground elevation)" means the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than five feet from the building, between the building and a line five feet from the building.

19.08.340 Grand openings and anniversaries.
"Grand openings and anniversaries" means events that are held on a "once per year" basis for the purpose of advertising grand openings, ownership changes, or anniversaries.

19.08.345 Greenbelt.
"Greenbelt" shall mean dense coniferous plantings, or climbing varieties of nondeciduous vines on permanently installed aluminum mesh fencing, or architectural fencing of such design and material that retains its attractiveness with nominal maintenance.

19.08.350 Ground cover.
"Ground cover" shall mean small plants such as salal, ivy, ferns, mosses, grasses or other types of vegetation which normally cover the ground and shall include trees less than six inches in diameter measured at three feet above the ground level.

19.08.355 Health club.
"Health club" means a commercial establishment within a wholly enclosed building designed for the systematic care, development and rehabilitation of the physique and providing facilities for racquetball, handball, exercise rooms, sauna and/or related

facilities.

19.08.360 Home, family child day care.
"Family child day care home" means a family child day care home, licensed by the state, located in the family abode of the person or persons under whose direct care and supervision the child is placed, for the care of eight or fewer children, including children who reside at the home, for periods less than 24 hours.

19.08.365 Home, foster.
"Foster home" means a foster home licensed by the state which regularly provides care on a 24-hour basis to one or more but not more than six foster children under the age of 18 years or to not more than three expectant mothers or to one or two adult disabled persons in the family dwelling of the person or persons under whose direct care and supervision the child, expectant mother or adult disabled person is placed.

19.08.370 Home, group.
"Group home" means a group home licensed by the state which regularly provides care on a 24-hour basis to six or more but not more than 10 children (including minor children of the staff residing on the premises) under the age of 18 years, or disabled adults, in the family dwelling of the person or persons under whose direct care and supervision the children or adults are placed, or other suitable facility.

19.08.375 Home improvement center.
"Home improvement center" means a facility of more than 30,000 square feet of gross floor area, engaged in the retail sale of various basic hardware lines, such as tools, builders' hardware, paint and glass, housewares and household appliances, garden supplies and cutlery.

19.08.380 Home occupation.
"Home occupation" means an accessory use of the dwelling unit involving the manufacture, provision or sale of goods and/or services which is carried on by members of the family residing on the premises plus no more than one nonresident assistant or employee; provided, that additional nonresident assistants or employees may be permitted but shall require a conditional use permit. Garage sales and home parties are not defined as home occupations.

19.08.385 Hospital.
"Hospital" means an institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, training facilities, medical offices and staff residences.

19.08.390 Hospital, animal.
"Animal hospital" means a building or premises for the medical or surgical treatment of animals or pets, including dog, cat and veterinary hospitals, including the boarding of hospitalized animals, but excluding the boarding of animals not subjected to medical or surgical treatment.

19.08.395 Hotel.
"Hotel" means any building or portion thereof containing five or more rooms that are rented, or hired out to be occupied or which are occupied for sleeping purposes for compensation whether the compensation be paid directly or indirectly. A central kitchen and dining room and accessory shops and services catering to the general public can be provided. Not included are institutions housing persons under legal restraint or requiring medical attention or care.

19.08.400 House, apartment.
"Apartment house" means the building or portion of a building arranged or designed to be occupied as three or more separate dwelling units.

19.08.405 House, boarding, lodging or rooming.
"Boarding, lodging or rooming house" means any building or portion thereof having only one kitchen and used for the purpose of providing lodging with or without meals for compensation for no more than four persons other than the family of the operator occupying such dwelling.

19.08.410 House, guest.
"Guest house" means a detached structure, being an accessory to a one-family dwelling with not more than two bedrooms, having no kitchen facilities, and which shall be used and/or designed for use primarily by guests and/or servants for sleeping quarters only.

19.08.415 Institution, educational.
"Educational institution" means a college, junior college or university supported by public or private funds, tuitions, contributions or endowments, giving advanced academic instructions as approved by the State Board of Education or by a recognized accrediting agency, excluding preschool, elementary and junior and senior high schools and trade and commercial schools, including fraternity and sorority houses.

19.08.420 Junkyard.
"Junkyard" means a lot, land or structure, or part thereof, used for the collecting, storage and sale of waste paper, rags, scrap metal or discarded material, or for the collecting, dismantling, storage, salvaging or sale of parts of machinery or vehicles not in running condition.

19.08.425 Kennel, commercial.
"Commercial kennel" means any lot or building in which four or more dogs and/or cats, at least four months of age, are kept commercially for board or propagation or treatment. No animals, livestock or poultry of any kind shall be kept, raised or bred on a lot except that dogs, cats or other household pets may be kept, provided they are not kept, bred, or maintained for any commercial purposes. Four dogs, cats or other household pets kept in one place or on one lot, over four months of age, would be considered being kept for commercial purposes.

19.08.430 Kitchen.
"Kitchen" means any room used or intended or designed to be used for cooking and/or preparation of food.

19.08.435 Land clearing.
"Land clearing" shall mean the destruction and removal of vegetation by manual, mechanical, or chemical methods, from any undeveloped or partially developed lot or public lands.

19.08.440 Landscape perimeter.
"Landscape perimeter" means an unobstructed planting area which runs parallel to the rear yard and side yard property lines.

19.08.445 Landscape policy manual.
"Landscape policy manual" means a booklet prepared by the city of Oak Harbor which clarifies the purpose of Chapter 19.46 OHMC by providing examples and illustrations to augment this title.

19.08.450 Landscape setback.
"Landscape setback" means a minimum required landscaped width adjacent to a property line, common to a public street or private right-of-way.

19.08.455 Landscaping.
"Landscaping" means any combination of living plants, such as trees, shrubs, vines, ground covers, flowers or grass; natural features such as rock, stone, bark chips or shavings; and structural features, including but not limited to, fountains, reflecting pools, outdoor art work, screen walls, fences, or benches.

19.08.460 Ldn contour.
"Ldn contour" means a line linking together a series of points of equal cumulative noise exposure based on the Ldn metric.

19.08.465 Lot.
"Lot" means a single tract of land no matter how legally described, whether by metes and bounds and/or by lot or lots and block designation as in a recorded plat, which at the time of applying for a building permit is designated by its owner or developer as the tract to be used, developed or built upon as a unit of land and assigned to the particular use for which the building permit is being secured and having frontage on or access to a public street.

19.08.470 Lot area.
"Lot area" means the total horizontal area within the boundary lines of a lot.

19.08.475 Lot, corner.
"Corner lot" means a lot at the junction of and having frontage on two or more intersecting streets.

19.08.480 Lot coverage.
"Lot coverage" means the portion of a lot that is occupied by the principal and accessory buildings, including all projections except eaves, expressed as a percentage of the total lot area.

19.08.485 Lot depth.
"Lot depth" means the mean dimension of the lot from the front street line to the rear

line.

19.08.490 Lot, developed single-family residential.
"Developed single-family residential lot" shall mean a platted lot upon which a single-family, habitable dwelling exists, where there are no remaining stands of trees nor significant ground cover.

19.08.495 Lot, interior.
"Interior lot" means a lot fronting on one street.

19.08.500 Lot, irregular shaped.
"Irregular shaped lot" means a lot having an interior angle of 45 degrees or less.

19.08.505 Lot line.
"Lot line" means the property line bounding a lot.

19.08.510 Lot line, front.
"Front lot line" means, in the case of an interior lot, the lot line separating the lot from the street other than an alley, and in the case of a corner lot, it may be either frontage.

19.08.515 Lot line, rear.
"Rear lot line" means a lot line which is opposite and most distant from the front lot line, and in the case of a triangular or irregular shaped lot, a line 10 feet in length within the lot parallel to and at the maximum distance from the front lot line.

19.08.520 Lot line, side.
"Side lot line" means any lot line not a front or rear lot line.

19.08.525 Lot, partially developed single-family residential.
"Partially developed single-family residential lot" shall mean a lot or parcel of land upon which a single-family dwelling is located, which contains existing stands of trees or substantial ground cover. This may include phased developments or conversions to urban use.

19.08.530 Lot, through.
"Through lot" means a lot fronting on two streets that do not intersect on the parcel's lot lines.

19.08.535 Lot, undeveloped.
"Undeveloped lot" shall mean a lot or parcel of land upon which no habitable single-family dwelling exists.

19.08.540 Lot width.
"Lot width" means the dimension of a lot line at the street, or in an irregularly shaped lot, the dimension across the lot at the building line, or in a corner lot, the narrow dimension of the lot at a street or building line.

19.08.545 Marquee.
"Marquee" means a covering structure projecting horizontally from and attached to a building, affording protection from the elements to persons or property thereunder.

19.08.550 Mixed use.
"Mixed use" means properties on which various uses such as office, commercial, institutional and residential are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design. A "single use" may include contiguous properties.

19.08.555 Manufactured Home
A" manufactured home" shall mean a single-family dwelling built according to the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Act, and as defined by WAC 296-150M-0020.

19.08.560 Manufactured~~Mobile~~ Home Park.
"Manufactured~~Mobile~~ home park" means any property used for the accommodation of inhabited manufactured~~mobile~~ homes on a tenancy, lease or ownership basis.

19.08.565 Moorage.
"Moorage" means a place to tie up or anchor a boat or vessel.

19.08.570 Motel.
"Motel" means a building or buildings, detached or in connected units or designed as a single structure, the units of which are used as individual sleeping or dwelling units, having their own private toilet facilities and may or may not have their own kitchen facilities, and are designed primarily for the accommodation of transient automobile travelers. Accommodations for trailers are not included. This term includes tourist court, motor lodge, auto court, cabin court, motor inn and similar names.

19.08.575 Multiple-occupancy complex.
"Multiple-occupancy complex" means a group of structures housing more than one type of retail business, office or commercial venture and generally under one ownership and control.

19.08.580 Neighborhood convenience store.
"Neighborhood convenience store" means an establishment primarily engaged in the provision of frequently or recurrently needed goods for household consumption, such as prepackaged food and beverages, and limited household supplies and hardware. This term does not include fuel pumps or the selling of fuel for motor vehicles. Typical uses include neighborhood markets and country stores.

19.08.585 Noise zone map.
"Noise zone map" means a map prepared by the city of Oak Harbor and adopted as an aviation environs (AE) overlay zone, which serves as a geographic interpolation of Aviation Noise Contours as established by the NAS Whidbey Island AICUZ study program. When a property falls within more than one noise zone, the more restrictive noise zone requirements shall apply for the entire property.

19.08.590 Nonconforming structure.
"Nonconforming structure" means a structure which was lawfully constructed at the time this title became effective, but which structure, because of the passage of this title, does not conform to the standards of the district in which the structure exists.

19.08.595 Nonconforming use.
"Nonconforming use" means a use which lawfully occupied a building or land at the time this title became effective, but which use, because of the passage of this title, does not conform to the use regulations of the district in which the use exists.

19.08.600 Nonconforming use, land.
"Nonconforming land use" means the use of land which was a lawful use at the time this title became effective but which use, because of the passage of this title does not conform to the regulations of the district in which the use exists.

19.08.605 Occupant.
"Occupant" means the person, firm or corporation that occupies the land or building.

19.08.610 Opaque.
"Opaque," for the purposes of this title, means visually impenetrable.

19.08.615 Open space.
"Open space" means any part of a lot unobstructed from the ground upward.

19.08.620 Parapet.
"Parapet" means that portion of a building wall which extends above the roof of the building.

19.08.625 Parking, employee.
"Employee parking" shall mean those parking facilities required for the use of employees.

19.08.630 Parking, off-street.
"Off-street parking" means parking facilities for motor vehicles on other than a public street or alley.

19.08.635 Parking space.
"Parking space" means a space within or without a building, exclusive of driveways, used to temporarily park a motor vehicle and having access to a public street or alley.

19.08.640 Penthouse.
"Penthouse" means a structure on top of a building roof such as houses an elevator shaft, mechanical equipment or similar form.

19.08.645 Permit, conditional use.
"Conditional use permit" means documented evidence of authority granted by the hearing examiner to locate a conditional use at a particular location.

19.08.650 Permit, land clearing.
"Land clearing permit" shall mean a permit obtained from the city which allows the clearing of trees and/or ground cover.

19.08.655 Permit, minor clearing.
"Minor clearing permit" shall mean a permit obtained from the city which allows the removal of trees and/or ground cover, when the total trees and ground cover removed will not exceed five percent of the trees and ground cover on the lot.

19.08.660 Permit, temporary use.
"Temporary use permit" is a mechanism by which the city may permit a use, or multiple uses, to locate within the city on a short-term basis and by which the city may allow seasonal or transient uses not otherwise permitted.

19.08.665 Permitted use.
"Permitted use" means any use authorized or permitted alone or in conjunction with another use in a specified district and subject to the limitations of the regulations of such use district.

19.08.670 Primary use.
"Primary use" means the principal or predominant use to which the property is or may be devoted, and to which all other uses on the premises are accessory.

19.08.675 Professional office.
"Professional office" means an office maintained and used as a place of business conducted by persons engaged in the healing arts for human beings, such as doctors and dentists (but wherein no overnight care for patients is given) and by engineers, attorneys, architects, accountants and other similar professions.

19.08.680 Property line.
"Property line" means the line denoting the limits of legal ownership of property.

19.08.685 Public utility.
"Public utility" means a public service corporation performing some public service and subject to special governmental regulations, or a governmental agency performing similar public services, the services by either of which are paid for directly by the recipients thereof. Such services shall include, but are not limited to, water supply, electric power, gas and transportation of persons and freight.

19.08.690 Qualified Affordable Housing
Qualified affordable housing is housing which is affordable within the meaning of RCW 43.185A.010(1) for lease, rent or purchase to households with incomes at or below 80% of the area median family income.

19.08.690 Recreation facilities.
"Recreation facilities" means facilities such as boat or yacht clubs, swimming pools, athletic clubs, golf and country clubs, for the use of the general public and operated by the municipal corporation.

19.08.695 Recreational vehicle.
"Recreational vehicle" means a vehicular-type unit primarily designed for recreational camping, travel or seasonal use which has its own motive power or is mounted on or towed by another vehicle. The basic entities are: travel trailer, folding camping trailer, park trailer, truck camper, motor home and multi-use vehicles.

19.08.700 Reside.
"Reside" means to have one's home, to dwell permanently or for a considerable time, and to have a settled abode for a time. Out-of-town residents who are visiting and staying

with local residents on a temporary basis as guests shall not be considered to be residing thereat.

19.08.705 School, commercial.
"Commercial school" means a building where instruction is given to pupils in arts, crafts, or trades, and operated as a commercial enterprise as distinguished from schools endowed and/or supported by taxation.

19.08.710 Schools – Elementary, junior or senior high, including public, private and parochial.
"Elementary, junior or senior high school, including public, private and parochial" means an institution of learning which offers instruction in the several branches of learning and study required to be taught in the public schools by the Washington State Board of Education.

19.08.715 Screen.
"Screen" means a method of reducing the impact of noise and unsightly visual intrusions with less offensive or more harmonious elements, such as plants, berms, fences, walls, or any appropriate combination thereof.

19.08.720 Secondary use, incidental or accessory.
"Incidental or accessory secondary use" means a minor or secondary use for which a lot, structure or building is designed or employed in conjunction with but subordinate to its primary use.

19.08.725 Setback and yard requirements.
"Setback and yard requirements" are the distances that buildings or uses must be removed from their lot lines. Setbacks shall be measured, where applicable, from proposed or actual public or private street right-of-way lines.

19.08.730 Shelter station.
"Shelter station" means a shelter for the protection from the elements for the waiting customer of a transportation system.

19.08.735 Shopping center.
"Shopping center" means a group of retail and other commercial establishments that is planned, owned and managed as a single property. On-site parking is provided. The center's size and orientation are generally determined by the market characteristics of the trade area served by the center. The two main configurations of shopping centers are malls and open-air strip centers.

19.08.740 Shrub.
"Shrub" means a woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground; may be deciduous or evergreen.

19.08.745 Sign.
"Sign" means any letters, figures, design, symbol, trademark or device intended to attract attention to any activity, service, place, subject, person, firm, corporation, public performance, article, machine or merchandise whatsoever. Sources of light used primarily to illuminate a sign, or a building, or ground surrounding the building, shall not

be considered signs themselves; provided however, that sources of light used primarily to attract attention to the sign itself or as a decorative feature of the display shall be considered as part of the sign. Lighted canopies, with the exception of the signed portion, shall not be considered signs themselves. Excluded from the definition are official traffic signs or signals, sheriff's notices, court notices or official public notices and the flag of a government or noncommercial institution, and signs not visible from the street or sidewalk.

19.08.750 Sign, abandoned.
"Abandoned sign" means a sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity, and/or for which no legal owner can be found.

19.08.755 Sign, area or surface area.
"Area or surface area of sign" means the greatest area of a sign, on which copy is to be placed, enclosed within not more than three circles, rectangles or squares, or any combination of these forms which produces the smallest area. Sign structure, architectural embellishments, framework and decorative features which contain no written or advertising copy and are not internally lighted shall not be included.

19.08.760 Sign, billboard.
"Billboard sign" means an outdoor advertising sign containing a message, commercial or otherwise, unrelated to any use or activity on the property on which the sign is located, but not including directional signs as defined herein.

19.08.765 Sign, building-mounted.
"Building-mounted sign" means a single or multiple-faced sign attached to the face of a building or marquee.

19.08.770 Sign, canopy.
"Canopy sign" means any sign erected upon, against or directly above a canopy.

19.08.775 Sign, construction.
"Construction sign" means an information sign which identifies the architect, engineers, contractors and other individuals, or firms involved with the construction of a building, or announcing the character of the building or enterprise, which is erected during the building construction period.

19.08.780 Sign, freestanding.
"Freestanding sign" means a single or multiple-faced sign supported from the ground by one or more columns, uprights or braces.

19.08.785 Sign, grade.
"Grade (sign)" means the elevation or level of the street closest to the sign to which reference is made, as measured at the street's centerline, or the relative ground level in the immediate vicinity of the sign.

19.08.790 Sign, height.
"Height of sign" means the vertical distance from the grade to the highest point of a sign or any vertical projection thereof, including its supporting columns, or the vertical

distance from the relative ground level within five feet of the sign.

19.08.795 Sign, incidental.
"Incidental sign" means a single or double-face sign not exceeding two square feet in surface area of a noncommercial nature, intended primarily for the convenience of the public. Included are signs designating rest rooms, address numbers, hours of operation, public telephone, etc. Also included are signs designed to guide pedestrian or vehicular traffic to an area or place on the premises of a business, building or development, as well as building directories with the letters not to exceed four inches in height.

19.08.800 Sign, low-profile.
"Low-profile sign" means a freestanding sign not exceeding six feet in height measured from the finished grade to the top of the sign and not exceeding 32 square feet in area.

19.08.805 Sign, noncommercial public service.
"Noncommercial public service sign" means noncommercial signs devoted to religious, charitable, cultural, governmental or educational messages, including, but not limited to the advertising of events sponsored by a governmental agency, a school, church, civic or fraternal organization or other organizations engaged in activities for profit.

19.08.810 Sign, political.
"Political sign" means signs advertising a candidate or candidates for public elective office, or a political party, or signs urging a particular vote on a public issue decided by ballot.

19.08.815 Sign or signs, primary.
"Primary sign or signs" means all signs, including freestanding signs, of a user which are not exempt or which do not come within the category of incidental signs. The term "primary sign" is intended to include virtually all signs of a commercial nature.

19.08.820 Sign, projection.
"Projection sign" means a projecting sign with no exposed legs or braces, designed to look as though it could have been part of the building structure rather than something suspended from the building.

19.08.825 Sign, reader board.
"Reader board sign" means a sign or part of a sign on which the letters are readily replaceable such that the copy can be changed from time to time at will.

19.08.830 Sign, roof.
"Roof sign" means any sign erected upon, against or directly above a roof or on top of or above the parapet of a building, including a sign affixed to any structure erected upon a roof, including a structure housing building equipment.

19.08.835 Signs, subdivision.
"Subdivision signs" means signs used to identify a land development which is to be or was accomplished at essentially one time.

19.08.840 Signs, temporary and special.
"Temporary and special signs" means signs of a temporary or special nature and are

limited to construction signs, grand opening displays, real estate signs, open house signs, residential land subdivision signs and subdivision directional signs.

19.08.845 Sign, window.
"Window sign" means all signs located inside and affixed to or within three feet of windows of a building, whether temporary or permanent, except lighted signs of a commercial advertisement nature which may be viewed from the exterior of the building. The term does not include merchandise located within three feet of a window. Lighted window signs shall be included in determining the number of primary signs and in determining the permissible sign area for each facade. Does not include incidental signs.

19.08.850 Skilled nursing facility.*
"Skilled nursing facility" means an institution or a distinct part of an institution that is licensed to provide health care under medical supervision for 24 or more consecutive hours to two or more patients who are not related to the governing authority or its members by marriage, blood or adoption.

* Ordinance 1221 presents this section as 19.08.465. This section and previous sections, starting at OHMC 19.08.465, have been editorially renumbered to maintain alphabetization.

19.08.855 Solid planting.
"Solid planting" means a planting of evergreen trees and shrubs which will prevent a through and unobscured penetration of sight or light.

19.08.860 Sorority.
See OHMC 19.08.315, Fraternity, sorority or student cooperative.

19.08.865 Story.
"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of the building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused underfloor space is more than six feet above grade (which is the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than five feet from the building, between the building and a line five feet from the building) for more than 50 percent of the total perimeter or is more than 12 feet above grade, as defined in this section, at any point, such basement, cellar or unused underfloor space shall be considered as a story.

19.08.870 Street.
"Street" means an officially approved public thoroughfare or right-of-way dedicated, deeded or condemned, which has been officially approved by a governmental agency for use as such, other than an alley, which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare, except as excluded in this code. The word "street" shall include all arterial highways, freeways, traffic collector streets and local streets.

19.08.875 Structure.
"Structure" means a combination of materials constructed and erected permanently on the ground or attached to something having a permanent location on the ground. Not included are residential fences less than six feet in height, retaining walls, rockeries and similar improvements of a minor character less than three feet in height.

19.08.880 Structural alteration.
"Structural alteration" means any change in load or stress of the loaded or stressed members of a building or structure.

19.08.885 Surface area or facade.
"Surface area or facade" means the area of that front, side or back elevation, including doors and windows, but excluding any roof area and structures or elevators or air conditioning equipment thereon; provided, that in the case of a roof sign, the surface area or facade shall be the area of that front, side or back immediately beneath the roof, including doors and windows, but excluding the roof area and structures for elevators or air conditioning thereon.

19.08.890 Temporary.
"Temporary" means not having or requiring permanent attachment to the ground, or involving structures which have no required permanent attachment to the ground.

19.08.895 Tree.
"Tree" shall mean any living woody plant characterized by one main stem or trunk and many branches, and having a diameter of six inches or more measured at three feet above the ground level.

19.08.896 Tree cluster, grove or stand.
"Tree cluster, grove or stand" means a group of four or more trees of any species or size, where the leaves and outermost branches touch.

19.08.897 Tree root zone.
"Tree root zone" means a circle described by the outermost branches of a tree projected to the ground, also known as dripline.

19.08.898 Understory.
"Understory" means trees, shrubs or groundcover growing beneath and shaded by a tree.

19.08.900 Tree, ornamental.
"Ornamental tree" means a tree planted primarily for its ornamental value or for screening purposes; tends to be smaller at maturity than a shade tree.

19.08.905 Tree, shade.
"Shade tree" means a deciduous tree, rarely an evergreen, planted primarily for its high crown of foliage or overhead canopy.

19.08.910 Tree, significant.
"Significant tree" means a healthy evergreen or deciduous tree, 12 inches or more in diameter, measured four feet above existing grade. Alder trees of any diameter are not considered a significant tree.

19.08.915 Upholstery shop.
"Upholstery shop" means a business specializing in the recovering of furniture and automobile interiors including springs and padding, and also may include the retail sale of fabric, padding, upholstery tools and other materials used in the upholstery trade.

19.08.920 Use.
"Use" means the purpose land or buildings or structures now serve or for which they are occupied, maintained, arranged, designed or intended.

19.08.925 Use district.
"Use district" means a portion or portions of Oak Harbor designated on official zoning maps as one or more of the categories listed and described in this title.

19.08.930 Used car lot.
"Used car lot" means any place outside a building where two or more automobiles are offered for sale or are displayed.

19.08.935 Uses, prohibited.
A "prohibited use" is any use which is not listed in one of the following categories:
(1) Permitted use for the zone;
(2) A lawfully granted conditional use;
(3) A lawfully granted variance;
(4) A lawfully existing nonconforming use;
(5) A lawfully permitted home occupation.

19.08.940 Variance.
"Variance" means the means by which an adjustment is made in the application of the specific regulations of this title to a particular piece of property, which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the same zone or vicinity and which adjustment remedies disparity in privileges. A variance is a form of special exception.

19.08.945 Vehicular surface area.
"Vehicular surface area" means an open area where motor vehicles are either stored or driven, including private driveways and private streets, parking lots, rental lots, rental depots, but it does not include parking buildings, underground parking areas, or areas which are used exclusively as loading areas and service areas.

19.08.950 Video rental store.
"Video rental store" means an establishment primarily engaged in the retail rental or lease of video tapes, films, CD-ROMs, laser discs, electronic games, cassettes or other electronic media. Sales of film, video tapes, laser discs, CD-ROMs and electronic merchandise associated with VCRs, video cameras and electronic games are permitted accessory uses.

19.08.955 Waste, hazardous.
"Hazardous waste" means all dangerous and extremely hazardous waste as defined in RCW 70.105.010(15), except for moderate risk waste as defined in RCW 70.105.010(17).

19.08.960 Waste, hazardous – Off-site treatment and storage facility.
"Hazardous waste off-site treatment and storage facility" means treatment and storage facilities which treat and store hazardous wastes generated on properties other than those on which the off-site facilities are located.

19.08.965 Waste, hazardous – On-site treatment and storage facility.
"Hazardous waste on-site treatment and storage facility" means treatment and storage facilities which treat and store hazardous wastes generated on the same property.

19.08.970 Waste, hazardous – Storage of.
"Storage of hazardous waste" means the holding of hazardous waste for temporary periods as regulated by the state dangerous waste regulations, Chapter 173-303 WAC.

19.08.975 Waste, hazardous – Treatment of.
"Treatment of hazardous waste" means the physical, chemical or biological processing of hazardous waste for the purpose of rendering these wastes nondangerous or less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage or reduced in volume as regulated by the state dangerous waste regulations, Chapter 173-303 WAC.

19.08.980 Way open to public.
"Way open to public" means any paved or unpaved area on private property open to the general public for driving or parking.

19.08.985 Wireless communications facility, macro.
"Macro wireless communications facility" means an attached wireless communications facility which consists of antennas equal to or less than 15 feet in height or a parabolic antenna up to one meter (39.37 inches) in diameter and with an area not more than 75 square feet in the aggregate as viewed from any one point.

19.08.990 Wireless communications facility, micro.
"Micro wireless communications facility" means an attached wireless communications facility which consists of antennas equal to or less than four feet in height (except omni-directional antennas which may be up to six feet in height) and with an area of not more than 580 square inches in the aggregate (e.g., one-foot diameter parabola or two-foot by one-and-one-half-foot panel) as viewed from any one point. The permitted antenna height includes the wireless communications facility support structure.

19.08.995 Wireless communications facility, mini.
"Mini wireless communications facility" means an attached wireless communications facility which consists of antennas equal to or less than 10 feet in height or a parabolic antenna up to one meter (39.37 inches) in diameter and with an area not more than 50 square feet in the aggregate as viewed from any one point.

19.08.1000 Wireless communications facility, monopole.
"Monopole wireless communications facility" means a wireless communications facility which consists of a wireless communications support structure, erected to support wireless communications antennas and connecting appurtenances.

19.08.1005 Xeriscape.

"Xeriscape" means a landscaping method which conserves water through the use of drought-tolerant plants and planting techniques.

19.08.1010 Yard.

"Yard" means an open space in front, rear or side on the same lot with a building or proposed building.

19.08.1015 Yard, front.

"Front yard" means an open space extending from 30 inches above the general ground level at the principal street line to the building line and including the full width of the lot to its side lines.

19.08.1020 Yard, rear.

"Rear yard" means an open space extending from 30 inches above the general ground level at the rear lot line to the main building line and including the full width of the lot to its side lines.

19.08.1025 Yard, service.

"Service yard" means an open area, usually paved, with access to a street or alley, to allow vehicular access to a building or use for purposes of loading or unloading equipment, freight, livestock or people.

19.08.1030 Yard, side.

"Side yard" means an open space extending from 30 inches above the general ground level at the front yard to the rear yard and from the main building line to the side lot line.

Section Five. Oak Harbor Municipal Code Chapter 19.12 ~~last~~ is hereby re-adopted to read as follows:

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		Zoning District	
PRE	Planned residential estate	PRE	Planned residential estate
R-LD	Low density residential	R-1	Single-family residential
R-MD	Medium density residential	R-2	Limited multiple-family residential
R-MHD	Medium-high density residential	R-3	Multiple-family residential
R-HD	High density residential	R-4	Multiple-family residential
RO	Residential office	RO	Residential office
NC	Neighborhood commercial	C-1	Neighborhood commercial
CC	Community commercial	C-3	Community commercial
CBD	Central business district	CBD	Central business district
AIC	Auto/industrial commercial	C-4	Highway service commercial
HCC	Highway corridor commercial	C-5	Highway corridor commercial
PBP	Planned business park	PBP	Planned business park
PIP	Planned industrial park	PIP	Planned industrial park
I	Industrial	I	Industrial
PF	Public facilities	PF	Public facilities
ORA	Open space, recreation and agriculture	OS	Open space, recreation and agriculture

Section Six. Oak Harbor Municipal Code Chapter 19.16 is hereby re-adopted to read as follows:

Chapter 19.16
DISTRICT BOUNDARIES

Sections:

19.16.010 Official zoning map.
19.16.020 Boundary interpretation.
19.16.030 Application of regulations.

19.16.010 Official zoning map.

The locations and boundaries of the zoning districts shall be as shown on the map accompanying this title and made a part of this title, entitled, "Official Zoning Map – Oak Harbor, Washington." The official zoning map and all the notations, references and amendments thereto and other information shown thereon are made a part of this title, just as if such information set forth on the map were fully described and set out herein. The official zoning map, attested by the signature of the mayor and the city clerk, with the seal of the municipality affixed, shall be kept on file in the office of the planning director, and shall be available for inspection by the public.

19.16.020 Boundary interpretation.

Where uncertainty exists as to boundaries of any district shown on said map, the following rules shall apply:

(1) Unless otherwise specified or shown on the zoning map, district boundaries are lot lines or the centerlines of streets, alleys, and other rights-of-way. Where boundaries are other than lot lines or centerlines of streets, alleys, and other rights-of-way, they shall be determined by dimensions shown on the zoning map giving distances measured from street or other rights-of-way or lot lines, or if no dimensions are shown, by scaling distances on the zoning map. Where actual streets or other features on the ground vary from those shown on the zoning map, interpretations or adjustments shall be made by the planning director.

(2) In subdivided property or where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions, shall be determined by use of the scale appearing on the map. Where a district boundary line, as appearing on the official zoning map, divides a lot in single ownership, which is of record at the time of this enactment, the district requirement shall apply for the whole thereof; provided, that such extension shall not include any part of such lot more than 35 feet beyond the district boundary line.

(3) Where any street, road, or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street, road, or alley added to the property by virtue of such vacation or abandonment.

19.16.030 Application of regulations.

(1) Except as hereinafter provided, no building shall be erected, reconstructed, or structurally altered, nor shall any building or land be used, except in compliance with all the district regulations established by this title for the district in which the

building or land is located.

(2) The minimum yards or other open spaces required by this title, including those provisions regulating intensity of use, for each and every building hereafter erected or structurally altered shall not be encroached upon or considered as meeting the yard or open space requirements or the intensity of use provisions for any other building. In the event of any such unlawful encroachment or reduction, such building shall be deemed to be in violation of the provisions of this title and the certificate of occupancy for such building thereupon shall be null and void.

(3) Where a lot is formed from part of a lot already occupied by a building, such separation shall be affected in such a manner as not to impair any of the requirements of this title with respect to the existing building, and all yards and other open spaces in connection therewith, and no permit shall be issued for the erection of a new building on the new lot thus created unless it complies with the provisions of this title.

Section Seven. Oak Harbor Municipal Code Chapter19.18 is hereby re-adopted to read as follows:

Chapter 19.18
NONCONFORMING USES AND STRUCTURES

Sections:

19.18.010 Purpose.
19.18.020 Review process.
19.18.030 Nonconforming uses.
19.18.040 Nonconforming buildings or structures.

19.18.010 Purpose.

The purpose of this chapter is to provide standards for nonconforming uses and structures, or those structures and uses which, for whatever reason, do not meet the current standards of this title.

19.18.020 Review process.

Any application originating from the requirements of this chapter shall be considered a review process II.

19.18.030 Nonconforming uses.

A nonconforming use is a use of land or buildings which was lawfully established at the time the use was commenced but which no longer conforms to the use regulations for the zoning district in which the use is located.

(1) Continuation of Nonconforming Use. A nonconforming use may be continued subject to the following:

(a) A nonconforming use that ceases occupancy or, in the case of a business, active use, at a location for a continuous period of one year shall not thereafter be permitted to continue at said location. Any subsequent use at said location must conform to the use regulations for the zoning district in which it is located.

(b) A nonconforming use that occupies a building or structure that has been damaged in excess of 50 percent of its real valuation exclusive of foundations shall not be permitted to reoccupy the building or structure. Any subsequent use at that location must conform to the use regulations for the zoning district in which it is located.

(2) Change of Use. A nonconforming use may be changed to a use which is in the same category of uses or to a use which is permitted under a more restrictive zoning classification. However, once a nonconforming use is changed to a more restrictive zoning classification, the original nonconforming use cannot be recommenced.

(3) Change of Tenancy or Ownership. Changes of tenancy, ownership or management of nonconforming uses are permitted provided the change does not involve a modification in the character of the nonconforming use.

(4) Expansion of Use. Under application to the city, the floor area occupied by a nonconforming use may be expanded only in accordance with the following

standards:

(a) A nonconforming use may be expanded one time only to occupy up to an additional 50 percent of the existing floor area occupied by the nonconforming use. Beyond this one-time-only expansion, minor expansions of up to five percent of the existing floor area occupied by the nonconforming use may also be permitted, but no more than once per calendar year. In either case, such expansions must otherwise meet the requirements of the zoning district in which the nonconforming use is located.

(b) A nonconforming use of buildings or land shall not be expanded to occupy additional parcels of land or additional lot area created by boundary line adjustment or lot combination.

(c) A residential use that is nonconforming with respect to permitted density only may be enlarged consistent with the regulations of the zoning district in which the use is located, so long as no additional housing units are created.

(d) A nonconforming use may be expanded as required to comply with federal, state or local regulations. In such cases, the owner shall provide documentation demonstrating the requirement and submit a site plan in accordance with Chapter 19.48 OHMC.

19.18.040 Nonconforming buildings or structures.

A nonconforming building or structure is a building or structure which was lawfully constructed at the time the building or structure was approved but which no longer conforms to the regulations for the zoning district in which the building or structure is located.

(1) Continuation of Nonconforming Building or Structure. A nonconforming building or structure may continue to exist subject to the following:

(a) A nonconforming building or structure that has been damaged or partially destroyed for whatever reason, to an extent not exceeding 50 percent of its real valuation exclusive of foundations, may be restored to the prior level of nonconformity. The restoration work shall be commenced within one year of the partial destruction.

(b) A nonconforming building or structure that has been damaged in excess of 50 percent of its real valuation exclusive of foundations shall not be reconstructed except to conform with all regulations of the zoning district in which the building or structure is located. It shall be treated as a new building.

(2) Maintenance of Nonconforming Building or Structure. A nonconforming building or structure may be repaired and maintained to the limits identified in subsection (1) of this section so long as the repair does not increase the degree of nonconformity of the building or structure.

(3) Additions to Nonconforming Buildings or Structures. A building or structure that is nonconforming with respect to the dimensional requirements of the district in which it is located may be added onto such that the addition extends, but does not increase, the degree of nonconformity in the dimensional requirement. Such additions must otherwise meet the requirements of the zoning district in which the nonconforming use is located.

Section Eight. Oak Harbor Municipal Code Chapter 19.20 is hereby re-adopted and amended to read as follows:

Chapter 19.20
ZONING DISTRICTS

Sections:

Article I. PRE – Planned Residential Estate

19.20.005 Purpose and intent.
19.20.010 Principal permitted uses.
19.20.015 Accessory permitted uses.
19.20.020 Conditional uses permitted.
19.20.025 Density provisions.
19.20.030 Relation to aviation environs overlay zone.
19.20.035 Combined applications.
19.20.040 Preapplication meeting.
19.20.045 Application requirements.
19.20.050 Master plan – Filing requirements.
19.20.055 Master plan – Staff recommendation.
19.20.060 Master plan – Public hearing.
19.20.065 Master plan – Planning commission review.
19.20.070 Master plan – Council review.
19.20.075 Modifications to the plan.
19.20.080 Adherence to approved plan.
19.20.085 Subdivision requirements.
19.20.090 Lots subject to final master plan.
19.20.095 Judicial review.

Article II. R-1 – Single-Family Residential

19.20.100 Purpose and intent.
19.20.105 Principal permitted uses.
19.20.110 Accessory permitted uses.
19.20.115 Conditional uses permitted.
19.20.120 Density provisions.

Article III. R-2 – Limited Multiple-Family Residential

19.20.125 Purpose and intent.
19.20.130 Principal permitted uses.
19.20.135 Accessory permitted uses.
19.20.140 Conditional uses permitted.
19.20.145 Density provisions.
19.20.150 Landscaping requirements.
19.20.155 Site plan review required.

Article IV. R-3 – Multiple-Family Residential

19.20.160 Purpose and intent.
19.20.165 Principal permitted uses.

19.20.170 Accessory permitted uses.
19.20.175 Conditional uses permitted.
19.20.180 Density provisions.
19.20.185 Landscaping requirements.
19.20.190 Site plan review required.

Article V. R-4 – Multiple-Family Residential

19.20.195 Purpose and intent.
19.20.200 Principal permitted uses.
19.20.205 Accessory permitted uses.
19.20.210 Conditional uses permitted.
19.20.215 Density provisions.
19.20.220 Landscaping requirements.
19.20.225 Site plan review required.

Article VI. RO – Residential Office

19.20.230 Purpose and intent.
19.20.235 Principal permitted uses.
19.20.240 Accessory permitted uses.
19.20.245 Conditional uses permitted.
19.20.250 Density provisions.
19.20.255 Landscaping requirements.
19.20.260 Site plan and design review required.

Article VII. C-1 – Neighborhood Commercial

19.20.265 Purpose and intent.
19.20.270 Principal permitted uses.
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Article I. PRE – Planned Residential Estate

19.20.005 Purpose and intent.

The planned residential estate (PRE) district is intended to provide existing rural uses in the areas of the expanded urban growth area which, because of surrounding land uses, noise impacts from the Naval Air Station, environmentally sensitive area, and existing land use patterns, are better planned for preservation of low density uses under a master planned concept.

19.20.010 Principal permitted uses.

In a PRE district, the following are principal permitted buildings and uses:

(1) One single-family detached dwelling structure on each lot.

(2) Development under a planned residential development as per Chapter 19.31 OHMC.

19.20.015 Accessory permitted uses.

In a PRE district, the following are accessory permitted uses:

(1) Accessory uses and structures incidental to any permitted residential uses, such as servants' quarters, garages, greenhouses, or workshops; provided, that none shall be rented or occupied for gain;

(2) All radio, television and microwave receiving antennas, whether variously described as a wire, dish, tower antenna, or otherwise, located within the setback lines of the lot;

(3) Home occupations as regulated in Chapter 19.34 OHMC.

19.20.020 Conditional uses permitted.

The following principal uses and their accessory uses may be permitted in a PRE district when approved in conformance with Chapter 19.67 OHMC:

(1) All radio, television and microwave receiving antennas, whether variously described as a wire, dish, tower antenna, or otherwise, located outside of the setback lines of the lot. The permit may be granted only when:

(a) Reception cannot be obtained when located within the setback lines;

(b) The location in a setback yard does not block the view of Oak Harbor Bay proposed from other property;

(c) The antenna does not cause a danger to adjacent properties.

19.20.025 Density provisions.

Specific densities shall be determined by the planning commission based on the criteria established under the provisions of Chapter 19.48 OHMC.

(1) Minimum density, zero DU/AC; maximum density, three DU/AC.

(2) Minimum front yard, 30 feet; or as established by the master plan.

(3) Minimum side yard setbacks are 10 feet; or as established by the master plan.

(4) Minimum side yard along the flanking street of a corner lot, 20 feet; or as established by the master plan.

(5) Minimum rear yard, 30 feet; or as established by the master plan.

(6) Maximum building height, 35 feet; or as established by the master plan.

(7) Maximum lot coverage, 35 percent of lot area; or less as established by the master plan.

(8) Minimum lot size, 15,000 square feet; or as established by the master plan.

(9) Development as a planned residential development may occur subject to Chapter 19.31 OHMC.

19.20.030 Relation to aviation environs overlay zone.

Property located in an aviation environs overlay zone, as governed in Chapter 19.50 OHMC, shall meet the requirements for noise attenuation in Chapter 17.30 OHMC and the comprehensive plan land use element.

19.20.035 Combined applications.

(1) The preliminary master plan and the final master plan may be combined and together processed through review as a final development plan.

(2) The application may be filed by either of the following:

(a) The Oak Harbor planning department for all or any portion of the district; or

(b) The owner, or owners in a joint application, of more than 10 acres.

(3) A concurrent subdivision application, meeting the requirements of OHMC Titles 21 and 22, may be processed concurrently with the planned residential estate application.

(4) The applicant may file a concurrent rezone application, meeting the requirements where such application is consistent with the Oak Harbor comprehensive plan, which shall proceed concurrently with the planned residential estate application.

(5) In case of conflict between time limits set forth in this title and in other provisions of the Oak Harbor Municipal Code or applicable state law, those provisions requiring public notice to be given the furthest in advance of the pending action shall prevail over conflicting provisions specifying that notice shall be given within a shorter time prior to the action; likewise, any conflict in provisions requiring a specific action on the part of the city, or any body thereof, within a specific time period shall be resolved in favor of those provisions requiring action within the lesser period of time.

19.20.040 Preapplication meeting.

Prior to formal submittal of the application by any owner or owners, the applicant(s) may present to the planning department a master plan, which shall contain in a rough and approximate manner, all of the information required for the application under OHMC 19.20.050. Upon submittal, the planning department shall schedule a meeting with representatives of applicable city departments. The planning director may also invite, because of the nature, size and scope of the development, others outside of the city to participate in the preapplication meeting. The purpose of the meeting is to enable the applicant to obtain the advice of city staff as to the intent, standards and provisions of this code with regard to the proposed plan. Information presented for and at the preapplication meeting shall not be a part of the public record as no applications are submitted for formal review.

19.20.045 Application requirements.

An application by an owner or owners for approval of a proposed planned residential estate shall be made to the planning director upon forms furnished by the city. Application shall be made by the owner or owners of the parcel or parcels intended to be developed as a unit or their duly authorized agent or agents. The ownership of all parcels to be included must be represented in the application.

19.20.050 Master plan – Filing requirements.

Any owner or owners filing an application shall file with the planning director a master plan, including the following:

(1) A legal description of the site and plot plan indicating location of all existing and proposed adjacent streets, private rights-of-way and easements;

(2) Twenty copies of the proposed site plan and/or drawings, which include the following information:

  (a) Topographic contours at a minimum interval of 10 feet;

  (b) The general location of all areas proposed for buildings and structures;

  (c) Location and nature of vehicular and pedestrian circulation features within the site and adjacent streets and alleys;

  (d) The extent, location, arrangement and proposed improvements of all open space, and common areas;

(e) Location, nature and dimension (where applicable) of all utilities including fire protection facilities;

(3) A text describing any conditions or features which cannot be adequately displayed on maps or drawings.

19.20.055 Master plan – Staff recommendation.

After receiving the master plan, the planning director shall route the same to all appropriate city departments, and each department shall submit to the planning director comments and recommendations. After receiving such information from the city departments, the planning director shall present recommendations and conclusions before the planning commission at the public hearing on the master plan.

19.20.060 Master plan – Public hearing.

The master plan shall be considered at a public hearing before the planning commission after notice given in the manner required by Chapter 18.20 OHMC.

19.20.065 Master plan – Planning commission review.

Following the public hearing, the planning commission may approve as proposed, approve with changes or disapprove the application and the accompanying master plan. The commission's action shall be based on the following criteria:

(1) The proposal meets the requirements of this title;

(2) The densities permitted shall be based on:

(a) Potential impacts to and from surrounding land uses, such as noise impacts from the Naval Air Station;

(b) The presence of environmentally sensitive areas; and/or

(c) Existing land use pattern;

(3) The proposal shall not be detrimental to existing or potential surrounding land uses as defined by the Oak Harbor comprehensive plan.

19.20.070 Master plan – Council review.

If and when the commission approves said application or if approval is granted by decree of commission action, the city council shall be informed of such action and shall indicate its concurrence or disapproval. The determination of the council shall become final 10 days after the date of decision unless directed otherwise or appealed to the city council in accordance with OHMC 19.20.580.

19.20.075 Modifications to the plan.

Requests for modifications of the master plan shall be made in writing and shall be submitted to the planning department in the manner and form prescribed by the planning director.

(1) Modifications shall be deemed minor if the proposal does not change any of the following:

(a) Land uses;

(b) General location or number of access points, or general circulation patterns; and

(c) The amount of open space.

(2) Examples of minor modifications include but are not limited to lot line adjustments, minor changes in setbacks and building height (10 percent or less)

and the location of open space.

(3) Minor modifications may be approved by the planning director.

(4) Major modifications are those which, as determined by the planning director, substantially change the basic intent of the master plan or change to overall density greater than 10 percent. Major changes to master plans shall be reviewed by the planning commission and city council under the same process as outlined under OHMC 19.20.540 and 19.20.550.

19.20.080 Adherence to approved plan.

(1) The building official shall only issue building permits for buildings and structures which conform with the approved master plan and with all other applicable city ordinances, regulations, applicable rezone, annexation or development agreements.

(2) No building permit shall be issued on a lot where there is a current violation of the zoning code or a misuse of public easements to the property.

19.20.085 Subdivision requirements.

The approval of a subdivision shall be required of all projects which involve or contemplate the subdivision of land and the procedures set forth in the Oak Harbor subdivision ordinance, codified in OHMC Titles 21 and 22, shall be followed concurrently herewith. The approved final master plan shall be a binding site plan under RCW 58.17.040 (5), so that a lease of land shall be exempt from the subdivision ordinance if the lease conforms to the final master plan.

19.20.090 Lots subject to final master plan.

All lots or other divisions of a subdivided planned residential estates development shall remain subject to compliance with the final master plan regardless of compliance with OHMC Titles 21 and 22, or subsequent conveyance of such individual lots.

19.20.095 Judicial review.

Any legal action to review a decision of the city council or planning commission under this title shall be filed in Island County superior court within 30 days of the decision, notwithstanding the effective date of any ordinance passed or proposed to effectuate said decision.

Article II. R-1 – Single-Family Residential

19.20.100 Purpose and intent.

The R-1 single-family residential district is intended for low density, urban, single-family residential uses, while providing sufficient density to allow the city to effectively provide needed urban services. Manufactured home parks are also allowed in this zone. The densities for this district for single-family residential uses range between a minimum of three units per gross acre and a maximum of six units per gross acre.

19.20.105 Principal permitted uses.

In an R-1 district, the following are principal permitted uses:

(1) One single-family detached dwelling structure on each lot;

(2) Development under a planned residential development as per Chapter 19.31 OHMC.

(3) Manufactured home parks in compliance with Chapter 19.25 OHMC.

19.20.110 Accessory permitted uses.

In an R-1 district, the following are accessory permitted uses:

(1) Accessory uses and structures incidental to any permitted residential uses, such as servants' quarters, garages, greenhouses, or workshops, and barns; provided, that none shall be rented or occupied for gain;

(2) All radio, television and microwave receiving antennas, whether variously described as a wire, dish, tower antenna, or otherwise, located within the setback lines of the lot.

19.20.115 Conditional uses permitted.

The following principal uses and their accessory uses may be permitted in an R-1 district when authorized by the hearing examiner:

(1) All radio, television and microwave receiving antennas, whether variously described as a wire, dish, tower antenna, or otherwise, located outside of the setback lines of the lot when:

(a) Reception cannot be obtained when located within the setback lines;

(b) The location in a setback yard does not block the view of Oak Harbor Bay proposed from other property;

(c) The antenna does not cause a danger to adjacent properties;

(d) The antenna installation complies with all other zoning and building provisions of this code.

(2) Assisted living facility.

(3) Cemetery, mausoleum, or crematorium, but only in connection therewith.

(4) Churches and associated rectories, convents or other similar structures.

(5) Community center building.

(6) Excavations, other than simple foundation.

(7) Garages, for storage only of automobiles as an accessory to a public or quasi-public institution.

(8) Golf course, including club house, but not an independent pitch-and-putt course, golf driving range or miniature golf.

(9) Government buildings for administrative or protective services, government storage yards, treatment plants, well sites, pump stations and sanitary landfills.

(10) Group home.

(11) Home occupations as regulated in Chapter 19.34 OHMC.

(12) Hospital.

(13) Landfills, reclamation to improve steep, low or otherwise unusable land.

(14) Mortuaries.

(15) Nursery and landscape material, including greenhouses.

(16) Private club, lodge, social or recreation building or community assembly hall (except those having a chief activity carried on for monetary gain); provided, that the buildings used for such purpose may require additional front, rear or side yard setback from an adjoining lot in any residential district beyond the established requirements in the parent zoning district.

(17) Private nursery school, foster home, kindergarten, or child day care center, not qualifying as a home occupation, on a legal lot, provided there is established in

connection therewith an outdoor play area having a minimum area of 1,000 square feet plus an additional 50 square feet for each child in excess of eight.

(18) Private park or recreational area operated by a nonprofit community organization or association as a neighborhood playground, or local community recreational area, operated for the benefit of and exclusive use of members and their invited guests. Applications for a conditional use under this section shall state the specific use or uses to which the proposed neighborhood playground or local community recreational area shall be put. Conditional uses granted under this section shall be limited to one or more of the specific use or uses requested. Any use or uses in addition to or different from those specifically permitted by the hearing examiner hereunder shall require the separate approval of the hearing examiner. Included within the generality of the phrase "neighborhood playground, or local community recreational areas," but not limited thereto, are swimming pools, community beaches and tennis courts, together with appurtenances thereto.

(19) Public school.

(20) Public or private college.

(21) Public, private or parochial school and supporting dormitory facilities.

(22) Public or semi-public building serving as a library, museum or other similar purpose.

(23) Public transportation shelter stations.

(24) Public utility and communications facility, such as a branch telephone exchange, static transformer, booster station, or pumping station, provided there shall be no service or storage buildings or yards in connection therewith.

(25) Radio and television broadcasting stations and towers.

(26) Rapid transit terminals.

(27) Skilled nursing facility. (Ord. 1405 § 7, 2004; Ord. 1221 § 1, 2000).

19.20.120 Density provisions.

For single-family dwelling structures, in an R-1 district, the following density provisions apply:

(1) Minimum density, three DU/AC; maximum density, six DU/AC;

(2) Minimum lot area, 7,200 square feet;

(3) Minimum lot width, 60 feet;

(4) Minimum lot depth, 90 feet;

(5) Minimum front yard, 20 feet;

(6) Minimum side yard setbacks are 12 feet and five feet, however, minimum side yard along the flanking street of a corner lot, 15 feet;

(7) Minimum rear yard, 20 feet;

(8) Maximum building height, 35 feet;

(9) Maximum lot coverage, 35 percent of lot area;

(10) A single-story accessory building containing less than 600 square feet of floor area may be constructed within five feet of either sideline or rear property line provided there is six feet of unencumbered space between the principal structure and the accessory building. Accessory buildings shall not have a metal finish except when the finish is listed by the manufacturer or approved by the building department as a nonglare finish. The maximum floor area of an accessory structure shall not exceed 50 percent of the floor area of the primary structure;

(11) Development as a planned residential development may occur subject to Chapter 19.31 OHMC. (Ord. 1221 § 1, 2000).

(12) Development as a manufactured home park is subject to the standards of chapter 19.25 OHMC.

Article III. R-2 – Limited

Multiple-Family Residential

19.20.125 Purpose and intent.

The R-2 limited multiple-family residential district is intended for medium density residential housing. Manufactured home parks are allowed in this zone. The densities for this district range between a minimum density of three units per gross acre and a maximum density of 12 units per gross acre. The R-2 districts are intended only for those areas having safe and convenient access to improved collector or arterial streets and adequate public services.

19.20.130 Principal permitted uses.

In an R-2 district, the following are principal permitted buildings and uses:

(1) Principal use permitted in an R-1 district;

(2) Duplexes, two-family dwelling structures;

(3) Multifamily dwellings;

(4) Development under a planned residential development as per Chapter 19.31 OHMC.

(5) Manufactured home parks in compliance with Chapter 19.25 OHMC.

19.20.135 Accessory permitted uses.

In an R-2 district, the following are accessory permitted uses:

(1) Accessory uses and structures incidental to any permitted residential uses, such as servants' quarters, garages, greenhouses, or workshops; provided, that none shall be rented or occupied for gain;

(2) Television satellite dish reflectors, ground-mounted within required building setback lines.

19.20.140 Conditional uses permitted.

The following principal uses and their accessory uses may be permitted in an R-2 district when authorized by the hearing examiner:

(1) Any conditional use permitted in an R-1 district;

(2) Bed and breakfast inns subject to the following conditions:

  (a) There shall be no more than four guest rooms,

  (b) Service of meals shall be to registered guests only,

  (c) There shall be a full-time manager domiciled on the premises,

  (d) Parking of guest vehicles shall be accommodated on the same site with the main building,

  (e) Only one on-premises sign not exceeding four square feet in area shall be permitted. Maximum height of pole signs shall be 42 inches;

(3) Bed and breakfast rooms subject to the following conditions:

(a) A resident family is domiciled within the structure,
(b) No more than 50 percent of the existing bedrooms are devoted to bed and breakfast,
(c) Parking of guest vehicles shall be accommodated on the premises,
(d) Only one on-premises sign not more than four square feet in area shall be permitted. Maximum height of pole signs shall be 42 inches,
(e) No commercial dining or other hospitality facilities are maintained for the entertainment of guests,
(f) The use of the building as a dwelling is the predominate use.

19.20.145 Density provisions.

In an R-2 district, the following density provisions apply:

(1) Minimum density, three DU/AC; maximum density, 12 DU/AC;
(2) Minimum lot area: 6,000 square feet;
(3) Minimum lot width, 60 feet;
(4) Minimum lot depth, 90 feet;
(5) Minimum front yard setback, 20 feet; see also subsection (6) of this section;
(6) Minimum side yard setbacks are 20 feet, five feet on one side for duplexes and multiple-family dwellings while single-family detached dwelling structures must provide minimum 12 feet and five feet side yard setbacks. For both single-family and multiple-family dwellings, side yard along the flanking street of a corner lot is 15 feet (see also subsection (7) of this section);
(7) Minimum rear yard setbacks where distinguishable from side yards and where required for a platted lot shall not be less than 25 feet for duplexes and multiple-family dwellings, while for single-family detached dwelling structures they shall not be less than 20 feet. In addition to the above, any building of more than two stories in height must provide a minimum of two feet additional front, side and rear yard setback for each additional story;
(8) Maximum building height, 35 feet;
(9) Maximum lot coverage by buildings, 45 percent. A minimum of 20 percent of lot is to be kept free of impervious surfacing;
(10) A single-story accessory building containing less than 600 square feet of floor area may be constructed within five feet of either sideline or rear property line; provided, there is six feet of unencumbered space between the principal structure and the accessory building. Accessory buildings shall not have a metal finish except when the finish is listed by the manufacturer or approved by the building department as a nonglare finish. The maximum floor area of an accessory structure shall not exceed 50 percent of the floor area of the primary structure;
(11) Development may occur as a planned residential development subject to Chapter 19.31 OHMC.
(12) Development as a manufactured home park is subject to the standards of chapter 19.25 OHMC.
(13) Qualified affordable housing projects are eligible for a density bonus pursuant to OHMC 19.25.040(1)(f).

19.20.150 Landscaping requirements.

Except for single-family dwellings and duplexes, landscaping and buffers shall be constructed and maintained in accordance with the provisions of Chapter 19.46 OHMC. Manufactured home parks are subject to the landscaping and buffering requirements of OHMC section 19.25.070.

19.20.155 Site plan review required.
Site plan review shall be required as defined in Chapter 19.48 OHMC.

Article IV. R-3 – Multiple-Family Residential

19.20.160 Purpose and intent.
The R-3 multiple-family residential district is intended to provide for and protect areas for medium to high density multiple-family residential development. The densities for this district range between a minimum density of six units per gross acre and a maximum density of 16 units per gross acre. The R-3 districts are intended only for those areas adjacent to arterials or collector streets, without generation of additional traffic upon residential streets, and with adequate public services.

19.20.165 Principal permitted uses.
In an R-3 district, the following are principal permitted buildings and uses:
(1) Principal uses permitted in an R-2 district, except single-family uses;
(2) Manufactured home park; subject to the provisions of Chapter 19.25 OHMC;
(3) Multifamily dwellings;
(4) Development under a planned residential development as per Chapter 19.31 OHMC.

19.20.170 Accessory permitted uses.
In an R-3 district, the following are accessory permitted uses:
(1) Accessory uses and structures incidental to any permitted residential uses, such as servants' quarters, garages, greenhouses, or workshops; provided, that none shall be rented or occupied for gain;
(2) Television satellite dish reflectors, ground-mounted within required building setback lines.

19.20.175 Conditional uses permitted.
The following principal uses and their accessory uses may be permitted in an R-3 district when authorized by the hearing examiner:
(1) Any conditional use permitted in an R-2 district;
(2) Assembly hall;
(3) Gymnasium or stadium in connection with public or private schools certified by the State of Washington Board of Education.

19.20.180 Density provisions.
In an R-3 district, the following density provisions apply:
(1) Minimum density, six DU/AC; maximum, 16 DU/AC;
(2) Minimum lot area: 6,000 square feet*;
(3) Minimum lot width, 60 feet;
(4) Minimum lot depth, 90 feet;
(5) Minimum front yard setback, 20 feet; see subsection (7) of this section;

(6) Minimum side yard setbacks are 20 feet, five feet on one side. Minimum side yard along flanking street of a corner lot is 15 feet; see subsection (7) of this section;

(7) Minimum rear yard setbacks, where distinguishable from side yards and where required for a platted lot, shall not be less than 25 feet. In addition to the above, any building of more than two stories in height must provide a minimum of two feet additional front, side and rear yard setback for each additional story;

(8) Maximum building height, 35 feet;

(9) Maximum lot coverage by buildings, 45 percent. A minimum of 20 percent of lot area is to be kept free of impervious surfacing;

(10) A single-story accessory building containing less than 600 square feet of floor area may be constructed within five feet of either sideline or rear property line provided there is six feet of unencumbered space between the principal structure and the accessory building. Accessory buildings shall not have a metal finish except when the finish is listed by the manufacturer or approved by the building department as a nonglare finish. The maximum floor area of an accessory structure shall not exceed 50 percent of the floor area of the primary structure;

(11) Development as a planned residential development may occur subject to Chapter 19.31 OHMC.

* Code reviser's note: Ord. 1245, Section 1 provides, "Reductions to density standards under OHMC 19.20.180(2) concerning R-3 zoning which came into effect on August 18, 2000 as provided by Ordinance No. 1221 shall continue in effect; provided, however, that projects with plans densities which meet the previous density standards for R-3 property may be permitted so long as a completed application for development is made by June 1, 2001."

(12) Density and site requirements within a manufactured home park are subject to the standards of OHMC sections 19.25.040 and 19.25.060.

19.20.185 Landscaping requirements.

Landscaping and buffers shall be constructed and maintained in accordance with the provisions of Chapter 19.46 OHMC. Manufactured home parks are subject to the landscaping and buffering requirements of OHMC section 19.25.070.

19.20.190 Site plan review required.

Site plan review shall be required as defined in Chapter 19.48 OHMC.

Article V. R-4 – Multiple-Family Residential

19.20.195 Purpose and intent.

The R-4 multiple-family residential district is intended to provide for and protect areas for high density multiple-family residential development for persons who desire to live in an apartment environment. The densities for this district range between a minimum of 12 units per gross acre and a maximum density of 22 units per gross acre. The R-4 district shall be considered only for those areas adjacent to arterials or collector streets. Safe and convenient streets must be available or developed to the district without generation of additional traffic upon residential streets.

19.20.200 Principal permitted uses.

In an R-4 district, the following are principal permitted buildings and uses:

(1) Principal uses permitted in an R-3 district;

(2) Multifamily dwellings;

(3) Development under a planned residential development as per Chapter 19.31 OHMC.

19.20.205 Accessory permitted uses.

In an R-4 district, the following are accessory permitted uses:

(1) Accessory uses and structures incidental to any permitted residential uses, such as servants' quarters, garages, greenhouses, or workshops; provided, that none shall be rented or occupied for gain;

(2) Television satellite dish reflectors, ground-mounted within required building setback lines.

19.20.210 Conditional uses permitted.

The following principal uses and their accessory uses may be permitted in an R-4 district when authorized by the hearing examiner:

(1) Any conditional use permitted in an R-3 district;

(2) Roller rink;

(3) Dance and music school.

19.20.215 Density provisions.

In an R-4 district, the following density provisions apply:

(1) Minimum density, 12 DU/AC; maximum density, 22 DU/AC;

(2) Minimum lot area: 6,000 square feet;

(3) Minimum lot width, 72 feet;

(4) Minimum lot depth, 90 feet;

(5) Minimum front yard setback, 20 feet; see subsection (7) of this section;

(6) Minimum side yard setbacks are 20 feet, five feet on one side. Minimum side yard along the flanking street of a corner lot is 15 feet;

(7) Minimum rear yard setbacks where distinguishable from side yards and where required for a platted lot shall not be less than 25 feet. In addition to the above, any building of more than two stories in height must provide a minimum of two feet additional front, side and rear yard for each additional story;

(8) Maximum building height, 35 feet;

(9) Maximum lot coverage by buildings, 45 percent. A minimum of 20 percent of lot area is to be kept free of impervious surfacing;

(10) A single-story accessory building containing less than 600 square feet of floor area may be constructed within five feet of either sideline or rear property line provided there is six feet of unencumbered space between the principal structure and the accessory building. Accessory buildings shall not have a metal finish except when the finish is listed by the manufacturer or approved by the building department as a nonglare finish. The maximum area of an accessory structure shall not exceed 50 percent of the floor area of the primary structure;

(11) Development may occur as a planned residential development subject to Chapter 19.31 OHMC.

(12) Density and site requirements within a manufactured home park are subject to the

standards of sections 19.25.040 and 19.25.060.

19.20.220 Landscaping requirements.
Landscaping and buffers shall be constructed and maintained in accordance with the provisions of Chapter 19.46 OHMC.

19.20.225 Site plan review required.
Site plan review shall be required as defined in Chapter 19.48 OHMC.

Article VI. RO – Residential Office

19.20.230 Purpose and intent.
It is the purpose of the RO residential office district to provide for areas appropriate for professional and administrative offices. It is intended that such districts shall buffer residential districts and the development standards are such that office uses should be compatible with residential districts. (Ord. 1221 § 1, 2000).

19.20.235 Principal permitted uses.
In an RO district, the following are principal permitted uses:

(1) Offices for the following:
- (a) Accountants;
- (b) Attorneys;
- (c) Physicians, osteopaths, dentists, optometrists, opticians, chiropractors and others licensed by the state of Washington to practice the healing arts;
- (d) Engineers, architects, surveyors, planners and those engaged in the practice of drafting or graphics;
- (e) Insurance brokers;
- (f) Lumber brokers;
- (g) Real estate sales;
- (h) Stockbrokers;
- (i) Software developers;
- (j) Offices similar to the above but not specifically listed; subject to approval by the planning director;

(2) Principal uses permitted outright in an R-4 district;

(3) Other uses as defined by the planning director to be similar to those identified above and having equal or less impact on the purposes of this section. (Ord. 1221 § 1, 2000).

19.20.240 Accessory permitted uses.

(1) Accessory uses and structures incidental to any permitted residential uses, such as servants' quarters, garages, greenhouses, or workshops; provided, that none shall be rented or occupied for gain;

(2) Gardening and horticultural activities and related structures for noncommercial purposes;

(3) Television satellite dish reflectors, ground-mounted within required building setback lines. (Ord. 1221 § 1, 2000).

19.20.245 Conditional uses permitted.

The following principal uses and their accessory uses may be permitted in an RO district when authorized by the hearing examiner:

(1) Any conditional uses permitted in an R-4 district;

(2) Restaurants, excluding drive-up windows; provided, that any area devoted to a bar must be less than 20 percent of the restaurant seating area.

19.20.250 Density provisions.

In an RO district, the following density provisions apply:

(1) Minimum lot area, 7,200 square feet;

(2) Minimum lot width, 72 feet;

(3) Minimum lot depth, 90 feet;

(4) Minimum front yard, 20 feet; see subsection (6) of this section;

(5) Minimum side yard setbacks are 12 feet and five feet on one side, except on corner lots abutting a public street, then 20 feet;

(6) Minimum rear yard, 20 feet except when abutting a public street, then 35 feet. In addition to the above, any building of more than two stories in height must provide a minimum of two feet additional front, side and rear yard setback for each additional story;

(7) Maximum building height, 35 feet;

(8) Maximum lot coverage by building, 45 percent. A minimum of 20 percent of lot area is to be kept free of impervious surfacing;

(9) A single-story accessory building containing less than 600 square feet of floor area may be constructed within five feet of either sideline or rear property line, provided there is six feet of unencumbered space between the principal structure and the accessory building. Accessory buildings shall not have a metal finish except when the finish is listed by the manufacturer or approved by the building department as a nonglare finish. The maximum floor area of an accessory structure shall not exceed 50 percent of the floor area of the primary structure.

19.20.255 Landscaping requirements.

(1) All nonresidential development shall be in accordance with the provisions of the Oak Harbor design guidelines.

(2) Landscaping and buffers shall be constructed and maintained in accordance with the provisions of Chapter 19.46 OHMC.

19.20.260 Site plan and design review required.

Site plan and design review shall be required as defined in Chapter 19.48 OHMC.

Article VII. C-1 – Neighborhood Commercial

19.20.265 Purpose and intent.

The C-1 neighborhood commercial district is intended to provide for limited commercial facilities serving residents of the surrounding residential district.

19.20.270 Principal permitted uses.

In a C-1 district, the following are principal permitted uses:

(1) Principal uses permitted in an RO district;

(2) Artist's studios and supplies;

(3) Auto convenience market;

(4) Bakery, retail only;
(5) Barber shop or beauty shop;
(6) Book and stationery store;
(7) Clothing store;
(8) Confectionery;
(9) Dairy products, retail only;
(10) Delicatessen;
(11) Dress and millinery shop;
(12) Drug store, including fountain;
(13) Dry cleaners;
(14) Florist shop;
(15) Garden supplies and horticultural nursery, not including greenhouses;
(16) Grocery store;
(17) Hardware store;
(18) Health club;
(19) Laundry, self-service;
(20) Library;
(21) Office supply and equipment store;
(22) Photographic studio and supplies;
(23) Private nursery school, child day care center or kindergarten, provided there is established in connection therewith an outdoor play area having a minimum area of 1,000 square feet plus an additional 50 square feet for each child in excess of eight;
(24) Radio and television sales and service;
(25) Restaurant, including sidewalk cafes;
(26) Service station;
(27) Single-family residential uses when located on the second floor above a permitted use;
(28) Shoe repair shop;
(29) Variety store;
(30) Other uses as defined by the planning director to be similar to those identified above and having equal or less impact on the purposes of this section.

19.20.275 Accessory permitted uses.

In a C-1 district, following are accessory uses permitted outright:

(1) A use customarily incidental and subordinate to a principal use permitted outright;
(2) On-site hazardous waste treatment and storage facilities as an accessory use to any activity generating hazardous waste and lawfully allowed in this zone; provided, that such facilities meet the state siting criteria adopted pursuant to the requirements of RCW 70.105.210;
(3) Television satellite dish reflectors, roof-mounted and within building setback lines not to exceed 35-foot height limitations;
(4) Outdoor storage as an accessory use is not permitted.

19.20.280 Conditional uses permitted.

The following principal uses and their accessory uses may be permitted in a C-1 district when authorized by the hearing examiner:

(1) Church;
(2) Excavations, other than simple foundation;
(3) Garages, for storage only of automobiles as an accessory to a public or quasi-public institution;
(4) Governmental buildings for administrative or protective service, government storage yards, treatment plants, well sites, pump stations and sanitary landfills;
(5) Landfill, reclamation to improve steep, low or otherwise unusable land;
(6) Nursery and landscape material including greenhouses;
(7) Public transportation shelter stations;
(8) Public utility and communications facility, such as a branch telephone exchange, static transformer, booster station, pumping station; provided there shall be no service or storage building or yards in connection therewith, including microwave relay stations;
(9) Rapid transit terminals;
(10) Roller rink;
(11) Swimming pools or beaches, public or private.

19.20.285 Density provisions.

In a C-1 district, the following density provisions apply:

(1) Multifamily dwelling structures shall conform to the requirements of the R-4 district;
(2) Other uses shall conform to the following standards:
    (a) Minimum lot area, 5,000 square feet,
    (b) Minimum lot width, 50 feet,
    (c) Minimum lot depth, 90 feet,
    (d) Minimum front yard, 15 feet,
    (e) Minimum side yard, 10 feet each side,
    (f) Minimum side yard along flanking street of corner lot, 15 feet,
    (g) Minimum rear yard, 20 feet,
    (h) Minimum rear yard abutting a public street, 15 feet,
    (i) Maximum building height, 35 feet,
    (j) Maximum lot coverage, 60 percent of lot area.

19.20.290 Conditions governing permitted uses.

Uses permitted in a C-1 district, except conditional uses and dwellings, shall be subject to the following conditions:

(1) All business, service, repair, processing, storage, or merchandise display shall be conducted within a wholly enclosed building except for the following:
    (a) Off-street parking or loading;
    (b) Drive-in windows, but not including food or drink service;
    (c) Food and drink service in connection with a delicatessen or confectionery;
    (d) Sale of plant materials in connection with a florist shop;
(2) Items produced or wares and merchandise handled shall be limited to those sold at retail on the premises;
(3) The use shall not be objectionable because of odor, dust, smoke, cinders, exhaust fumes, noise, vibration, disturbance to television or radio reception or because of unsightly structure, facilities or use of land;

(4) Design shall be in accordance with the provisions of the design guidelines;
(5) Landscaping and buffers shall be constructed and maintained in accordance with the provisions of Chapter 19.46 OHMC.

19.20.295 Site plan and design review required.

(1) Site plan and design review shall be required as defined in Chapter 19.48 OHMC.
(2) The planning director, under site plan review, may impose the following conditions before a building permit will be issued for the proposed development:
    (a) Limit or prohibit openings to structures on sides within 50 feet of a residential district if the openings will cause glare, excessive traffic, noise or other adverse effects on adjacent residential areas;
    (b) Access shall be limited to streets designated as collector or arterial streets in the comprehensive plan;
    (c) Require additional setbacks and landscaping or screening abutting a residential district if necessary to minimize the detrimental effects of commercial activity such as glare and noise.

Article VIII. CBD – Central Business District

19.20.300 Purpose and intent.

The central business district (CBD) is intended to preserve and enhance the unique harbor location of the city's heritage with the character of the traditional center of social, cultural and retail activity. Mixed-use developments, combining retail and visitor oriented activities on the ground floor with office, retail and residential uses above, are required. Within the district, pedestrian-oriented activity is encouraged. Standards and design guidelines are adopted to enhance and maintain a pedestrian friendly environment. Incentives are also provided to encourage the development of mixed-use projects. Subdistricts CBD-1 and CBD-2 are created in order to provide for flexibility of residential development within specific areas of the central business district. Large surface parking lots are not encouraged. Shared clustered parking areas in the middle of blocks are allowed away from street frontages. Access driveways are to be kept at a minimum to promote safety and convenience of pedestrians.

19.20.305 Principal permitted uses.

In a central business district (CBD, CBD-1 or CBD-2), the following are principal permitted uses (for the purposes of this district only, uses considered to be "retail" are denoted with an (R)):

(1) Antique shop (R);
(2) Artist's studios and supplies (R);
(3) Bakery, retail only (R);
(4) Bank;
(5) Barber and beauty shops;
(6) Bars (R);
(7) Bicycle shop (R);
(8) Billiards and pool hall (R);
(9) Blueprinting;
(10) Bookstore (R);
(11) Brew pub (R);

(12) Camera and supply shop (R);
(13) Clothes and apparel shop (R);
(14) Cocktail lounge (R);
(15) Coffee house (R);
(16) Confectionery store (R);
(17) Conference center;
(18) Data processing facility;
(19) Delicatessen (R);
(20) Department store (R);
(21) Dry cleaners;
(22) Furniture shop (R);
(23) Florist shop (R);
(24) Gift shop (R);
(25) Grocery store, neighborhood, provided gross floor area shall not exceed 12,000 square feet (R);
(26) Hardware store (R);
(27) Hobby shop (R);
(28) Hotel and motel;
(29) Ice cream shop (R);
(30) Interior decorator studio (R);
(31) Jewelry store (R);
(32) Leather goods store (R);
(33) Music store (R);
(34) Offices;
(35) Office supply and equipment store (R);
(36) Pet shop (R);
(37) Pharmacy and drug store (R);
(38) Photographic film processing and associated retail sales (R);
(39) Photographic studio and supplies;
(40) Photocopying;
(41) Post office;
(42) Printing shop;
(43) Residential uses, provided:
    (a) In the CBD district: mixed use sites with multiple street frontages may locate dwelling units on the ground level on any street frontages other than Pioneer Way;
    (b) In subdistricts CBD-1 or CBD-2: dwelling units may be the primary use of the site;
(44) Restaurant, including sidewalk cafe (R);
(45) Schools for the fine arts;
(46) Shoe repair shop (R);
(47) Shoe store (R);
(48) Sporting goods shop (R);
(49) Tailor shop (R);
(50) Tavern (R);
(51) Taxi service;

(52) Theater;
(53) Tobacco shop (R);
(54) Toy store (R);
(55) Travel agencies;
(56) Trophy shop (R);
(57) Upholstery shop;
(58) Variety store (R);
(59) Visitor information center;
(60) Other uses similar to those identified above and having equal or less impact on the purposes of this section.

19.20.310 Accessory permitted uses.

In a central business district (CBD, CBD-1, or CBD-2), the following are accessory permitted uses:

(1) A use customarily incidental and subordinate to a principal use permitted outright;
(2) On-site hazardous waste treatment and storage facilities as an accessory use to any activity generating hazardous waste and lawfully allowed in this zone; provided, that such facilities meet the state siting criteria adopted pursuant to the requirements of RCW 70.105.210;
(3) Television satellite dish reflectors, roof-mounted and within building setback lines not to exceed the height limitations and other standards as set out in OHMC 19.20.320; provided said height limitation may be increased when such height is permitted per OHMC 19.28.040 and 19.28.050.

19.20.315 Conditional uses permitted.

The following principal uses and their accessory uses may be permitted in a central business district (CBD, CBD-1, or CBD-2) when authorized by the hearing examiner:

(1) Coffee kiosk;
(2) Dancehall;
(3) Governmental buildings for administrative or protective services;
(4) Health club;
(5) Land reclamation with water dependent marine development;
(6) Parking lots or garages not in conjunction with permitted uses;
(7) Places of entertainment and amusement, if conducted within a wholly enclosed building;
(8) Private nursery school, kindergarten, or child day care center not qualifying as a home occupation on a legal lot; provided there is established in connection therewith an outdoor play area having a minimum area of 1,000 square feet plus an additional 50 square feet for each child in excess of eight;
(9) Public utility and communications facility;
(10) Transit terminals;
(11) Swimming pools or beaches, public or private;
(12) Other uses similar to uses permitted or conditionally permitted and normally located in the central business district; provided, that there shall be no manufacturing, compounding, processing or treatment of products other than that which is essential to the retail store or business where all such products are sold on the premises.

19.20.320 Density provisions.

In CBD, CBD-1 and CBD-2, the following density provisions apply:

(1) Allowable density:

District	Minimum	Maximum
CBD	None	None
CBD-1	9 du/ac	None
CBD-2	13 du/ac	None

(2) Minimum lot area, no limitation;

(3) Minimum lot width, no limitation;

(4) Minimum lot depth, no limitation;

(5) Minimum front yard, no limitation, except when opposite a residentially zoned property, then a 10-foot front yard is required. Front yard setback may also be increased to 10 feet if needed for traffic safety; front yard setback shall be provided so as to maintain a 12-foot sidewalk measured from the existing curb or future curb line;

(6) Minimum side yard, no limitation except when abutting a residentially zoned property, then 10 feet each. For corner lots, side yard may also be increased to 10 feet if needed for traffic safety;

(7) Minimum rear yard, no limitation except when opposite a residentially zoned property, then 10-foot rear yard is required or except when abutting a public street where the setback may be increased to 10 feet if needed for traffic safety;

(8) Maximum building height; 35 feet; except:

(a) In CBD: building height may be increased to 45 feet if ground floor retail space (as defined in OHMC 19.20.300) is developed in conjunction with a residential use;

(b) In CBD-2: building height may be increased to 45 feet for residential development (without a retail component);

(c) In CBD: building height may be increased to 45 feet for nonresidential uses or mixed-use projects upon approval of the design review board and by providing additional urban amenities as defined in the Oak Harbor commercial and industrial design guidelines;

(d) In CBD: building height may be increased to 55 feet for nonresidential uses or mixed-use projects upon approval of the design review board and by providing additional urban amenities as defined in the Oak Harbor commercial and industrial design guidelines. The design review board shall specifically review the proposed project and building height for its impacts on waterfront and mountain views and require reasonable mitigation as necessary;

(9) Maximum lot coverage, no limitation;

(10) Parking.

(a) Nonresidential Uses. There shall be no required parking for nonresidential uses, except however, if parking is provided it shall meet the parking space size and access requirements of OHMC 19.44.110;

(b) Residential uses shall provide parking per Chapter 19.44 OHMC, except that guest parking need not be provided. If guest parking is provided it shall meet the parking space size and access requirements of OHMC

19.44.110;

(c) Any parking provided beneath a permitted residential use shall be enclosed;

(d) No more than 50 percent of the gross floor area along pedestrian-oriented streets may be used for residential parking;

(11) Design Standards.

(a) Development shall be in accordance with the provisions of the Oak Harbor commercial and industrial design guidelines;

(b) Residential development shall have ground level access independent of nonresidential uses from an inside lobby, elevators and/or corridors, from an enclosed interior court, or from other separate access provisions;

(c) Nonresidential development along Pioneer Way, between SE City Beach Street and SE Midway Boulevard, shall meet the following standards:

(i) Ground-floor, nonretail development shall not comprise more than 50 percent of the lineal street frontage of the lot;

(ii) Window areas for nonresidential portions of a building's facades shall not be less than 40 percent or greater than 60 percent of the total facade area;

(iii) Conformance with the above standards shall be determined by using the design guideline applicability standards established under OHMC 19.48.040;

(d) Residential development in subdistrict CBD-1 or CBD-2 shall be under a planned residential development per Chapter 19.31 OHMC;

(e) Nonresidential development with building heights greater than 45 feet, as approved by the design review board, shall provide a minimum of 450 square feet of pedestrian-oriented space (as defined in the Oak Harbor commercial and industrial design guidelines) plus an additional 25 square feet for each vertical foot of building height above 45 feet;

(f) All buildings in the CBD greater than three stories must set back upper stories by at least 10 feet.

19.20.325 Conditions governing permitted uses.

All principal uses permitted outright in a CBD, CBD-1, or CBD-2 district shall meet the following conditions:

(1) All business, service, repair, storage, or merchandise display shall be conducted within a wholly enclosed building, except for the following:

(a) Off-street parking and loading;

(b) Food and drink service in connection with cafes, restaurants or other eating establishment.

(2) The use of property must not result in the creation of offensive odors or offensive or harmful quantities of dust, smoke, exhaust fumes, noise or vibration.

(3) Landscaping and buffers shall be constructed and maintained in accordance with the provisions of Chapter 19.46 OHMC. (Ord. 1221 § 1, 2000).

19.20.330 Site plan and design review required.

Site plan and design review shall be required as per Chapter 19.48 OHMC.

Article IX. C-3 – Community Commercial

19.20.335 Purpose and intent.

The C-3 community commercial district is intended to provide for those types of retail, wholesale, transportation, and service uses which, because of traffic and other requirements, depend upon particular locations to serve the needs of the community and its trading area. Generally, the permitted uses require large sites and access from either major or minor arterials.

19.20.340 Principal permitted uses.

In a C-3 district, the following are principal uses permitted outright:

(1) Any principal use permitted in a C-1 and CBD district, provided dwelling units are:
   (a) Above and secondary to essential or primary floor uses;
   (b) Ground level access is independent of the business uses from an inside lobby, elevators, and/or corridors, and an enclosed interior court, or other separate access provisions;

(2) Amusement enterprise including bowling alley, roller or ice rink, dancehall, shooting gallery, and trampoline;

(3) Animal hospital when located not closer than 200 feet from a residential zoning district, provided all animals are housed in a completely enclosed building;

(4) Assembly hall;

(5) Automobile or truck service station;

(6) Automobile repair of all kinds, including body and fender work, provided there shall be no wrecking, junking, dismantling, or salvaging operations;

(7) Automobiles sales and service;

(8) Bakery;

(9) Book publishing and binding;

(10) Carwash;

(11) Contractor's plants and storage yards;

(12) Currency exchange;

(13) Extended stay motel;

(14) Feed and seed store, retail or wholesale;

(15) Film processing plant;

(16) Grocery store;

(17) Laboratory for experimental or research work or testing;

(18) Laundry and dry cleaning, dyeing, or rug cleaning plant;

(19) Nursery and landscape material including greenhouses;

(20) Offices;

(21) Plumbing shop;

(22) Places of entertainment;

(23) Recycling of glass and metal cans when conducted within a wholly enclosed building, including scrap paper or rag storage;

(24) Shopping centers;

(25) Sign shop, but not manufacture or assembly of electrically illuminated signs;

(26) Supermarket;

(27) Taxidermist;

(28) Upholstery shop;

(29) Veterinary clinic (hospital) (see animal hospital);

(30) Other uses of similar character, but not including a specific listed industrial use permitted in an I industrial district, subject to approval by the city council;
(31) Other uses as defined by the planning director to be similar to those identified above and having equal or less impact on the purposes of this section.

19.20.345 Accessory permitted uses.
In a C-3 district, the following are accessory uses permitted outright:
(1) A use customarily incidental and subordinate to a principal use permitted outright;
(2) On-site hazardous waste treatment and storage facilities as an accessory use to any activity generating hazardous waste and lawfully allowed in this zone; provided, that such facilities meet the state siting criteria adopted pursuant to the requirements of RCW 70.105.210;
(3) Television satellite dish reflectors, roof-mounted and within building setback lines not to exceed 35-foot height limitations.

19.20.350 Conditional uses permitted.
The following principal uses and their accessory uses may be permitted in a C-3 district when authorized by the hearing examiner:
(1) Conditional uses permitted in a C-1 and CBD district;
(2) Drive-in theater;
(3) Fuel oil distribution, retail and wholesale, provided incidental storage is maintained underground;
(4) Fuel yard;
(5) Go-kart tracks;
(6) Gymnasium;
(7) Lumber yard, retail or wholesale, including building supplies, hardware, and related items;
(8) Mobile home and trailer sales lot;
(9) Mortuary;
(10) Outdoor use, activity or storage only in conjunction with a permitted use. A solid sight-obscuring fence or other appropriate screening approved by the planning director is required around the outside edges of the area devoted to the outdoor use, activity or storage. The height of outdoor storage abutting public streets or residential zones shall not be higher than the height of the screen device approved by the planning director. Outdoor use, activity or storage areas located adjacent to C-3 property may be located in the required interior side and rear setback yards. All outdoor use, activity or storage areas located adjacent to residential zones must meet required setbacks for the primary use. No outdoor use, activity or storage shall be permitted in the front yard setback;
(11) Produce stand;
(12) Schools for drop-out and at-risk students;
(13) Stadium;
(14) Truck terminal;
(15) Wholesale warehouse or storage establishments, but only occupying a completely enclosed building.

19.20.355 Density provisions.
In a C-3 district, the following provisions apply:

(1) Minimum lot area, no limitation;
(2) Minimum lot width, no limitation;
(3) Minimum lot depth, no limitation;
(4) Minimum front yard, 35 feet. The building setback may be reduced to 15 feet if the entire setback area from property line to building is landscaped where reduction occurs;
(5) Minimum side yard, no limitation, except when abutting a residentially zoned property, then 30 feet each. For corner lots, the side yard abutting a public street shall be the same as the front setback;
(6) Minimum rear yard, no limitation, except when abutting a public street, then it shall be the same as the front setback;
(7) Maximum building height, 35 feet;
(8) Maximum lot coverage, no limitation.

19.20.360 Conditions governing permitted uses.

All principal uses permitted outright in a C-3 district shall meet the following requirements:

(1) With the exception of sales lots, outside storage or equipment yard, or yards containing outside industrial operation in connection with a use permitted outright or a conditional use in a C-3 district abutting, adjoining, or located across a street from a residential zoning district, or located along a street designated by the comprehensive plan as a state highway, or a major or secondary arterial, shall be enclosed by a fence. The fence shall be sight-obscuring, obstructing the storage from view on the sides of the property abutting, adjoining, or facing a residential district. The fence shall be of such material and design as will not detract from adjacent residences and shall be built according to plans submitted by the owner or his authorized agent and approved by the planning director. In no case shall the fence be required to have a height in excess of 10 feet;
(2) Automobile, mobile home or trailer sales lots shall be drained and surfaced with crushed rock except in those portions of the lot maintained as landscape areas;
(3) The use of property shall not be objectionable because of odor, dust, smoke, cinders, exhaust fumes, noise, or vibration, or because of unsightly structures, facilities or open storage;
(4) Design shall be in accordance with the provisions of the Oak Harbor design guidelines;
(5) Landscaping and buffers shall be constructed and maintained in accordance with the provisions of Chapter 19.46 OHMC.

19.20.365 Site plan and design review required.

Site plan and design review shall be required as defined in Chapter 19.48 OHMC.

19.20.368 Relation to aviation environs overlay zone.*

Property located in an aviation environs overlay zone, as governed in Chapter 19.50 OHMC, shall meet the requirements for noise attenuation in Chapter 17.30 OHMC and the comprehensive plan land use element.

* Code reviser's note: Ord. 1221 added this section as OHMC 19.20.370. It has been editorially renumbered to avoid duplication of section numbers.

Article X. C-4 – Highway Service Commercial

19.20.370 Purpose and intent.

The C-4 highway service commercial district is intended to permit the establishment of facilities oriented toward uses dependent upon highway location. The district is primarily intended to allow for the concentration of automobile and other motor vehicle sales centers. Other commercial and limited industrial activities are also permitted. The uses permitted by this district are compatible with the NAS Whidbey AICUZ Study. Access to the highway is controlled so as to minimize conflicts and maximize traffic efficiencies.

19.20.375 Principal permitted uses.

The following uses are permitted outright in the C-4 district:

(1) Automobile and truck service stations;
(2) Automobile sales and service;
(3) Boat sales and boat repair;
(4) Car washes;
(5) Coffee kiosks;
(6) Contractor offices and related storage;
(7) Drive-in banks;
(8) Equipment rental;
(9) Farm and garden supplies, plant nurseries;
(10) Furniture manufacturing;
(11) Furniture sales;
(12) Mobile and modular home sales;
(13) Printing and publishing;
(14) Professional and scientific instrument manufacturing;
(15) Real estate sales;
(16) Recreational vehicle sales;
(17) Restaurants;
(18) Retail or wholesale building supplies and hardware;
(19) Self-storage facilities.

19.20.380 Accessory permitted uses.

The following uses are permitted as accessory uses to a permitted use in the C-4 district:

(1) A use customarily incidental and subordinate to a principal use permitted outright;
(2) On-site hazardous waste treatment and storage facilities as an accessory use to any activity generating hazardous waste and lawfully allowed in this zone; provided, that such facilities meet the state siting criteria adopted pursuant to the requirements of RCW 70.105.210;
(3) Television satellite dish reflectors, roof-mounted and within building setback lines not to exceed 35-foot height limitations.

19.20.385 Prohibited uses.

No building, structure or premises, or a portion thereof, established after the effective date of the ordinance codified in this chapter shall be used for human habitation, permanent, transient or temporary, except as quarters for a caretaker, guard or other person whose permanent residency on the premises is required for operational safety or protective purposes.

19.20.390 Conditional uses permitted.

The following principal uses and their accessory uses may be permitted in a C-4 district when authorized by the hearing examiner:

(1) Amateur radio tower and antenna;
(2) Government buildings for administrative or protective services;
(3) Government storage yards, treatment plants, well sites, pump stations;
(4) Public transportation shelter stations;
(5) Public utility and communications facility;
(6) Radio and television broadcasting stations and towers;
(7) Crematorium or mortuary, but only if adjacent to or across the street from a cemetery.

19.20.395 Density provisions.

In a C-4 district, the following density provisions apply:

(1) Minimum Lot Size. There is no minimum lot size for this district; provided, that no residence for a caretaker, guard or other person whose permanent residency on the premises is required for operational safety or protective purposes shall be erected, maintained or enlarged on a lot which is less than 6,000 square feet;
(2) There is no minimum lot depth;
(3) There is no minimum lot width;
(4) Front setback shall be 35 feet;
(5) There is no side setback except as follows:
    (a) Along side lot lines abutting residentially zoned property there shall be a 10-foot setback,
    (b) For corner lots the side setback shall be 15 feet, except that the city council may approve a variable setback of not less than the established building line of the adjoining property after consideration at a public meeting or public hearing;
(6) There is no minimum rear setback except where abutting a street. In the case of a lot where the rear lot line abuts a street, the rear setback shall be 15 feet;
(7) Maximum building height, 35 feet;
(8) Maximum lot coverage, no limitation.

19.20.400 Conditions governing permitted uses.

All principal uses permitted outright in a C-4 district shall meet the following requirements:

(1) Design shall be in accordance with the provisions of the design guidelines;
(2) Landscaping and buffers shall be constructed and maintained in accordance with the provisions of Chapter 19.46 OHMC;
(3) Access to SR 20 is limited to a circulation plan approved under Chapter 19.48 OHMC. Access to individual parcels may be permitted through adjacent parking lots;
(4) Automobile and boat sales lots shall be drained and paved or surfaced with crushed rock except in those portions of the lot maintained as landscaped areas;
(5) The use of property shall not be objectionable because of odor, dust, smoke, cinders, exhaust fumes, noise or vibration, or because of unsightly structures, facilities or open storage;

(6) Outdoor Use, Activity or Storage Only in Conjunction with a Permitted Use. A solid sight-obscuring fence or other appropriate screening approved by the planning department is required around the outside edges of the area devoted to the outdoor use, activity or storage. The height of outdoor storage abutting public streets or residential zones shall not be higher than the height of the screen device approved by the planning department. Outdoor use, activity or storage areas located adjacent to C-4 property may be located in the required interior side and rear setback yards. All outdoor use, activity or storage areas located adjacent to residential zones must meet required setbacks for the primary use. No outdoor use, activity or storage shall be permitted in the front yard setback;

(7) Towers, antennas or other objects exceeding 200 feet above the ground or that penetrate the 100:1 angle slope criteria established in Federal Aviation Regulation (FAR) Part 44 (Sections 77.13(a)(1) and 77.13(a)(2)(I), respectively) shall be reviewed for compatibility with airport operations. No tower, antenna or other object shall constitute a hazard to air navigation, interfere with the safe operation of aircraft or deny the existing operational capability of Ault Field.

19.20.405 Site plan and design review required.

Site plan and design review shall be required as defined in Chapter 19.48 OHMC.

19.20.408 Relation to aviation environs overlay zone.*

Property located in an aviation environs overlay zone shall meet the requirements for land use compatibility in Chapter 19.50 OHMC, noise attenuation in Chapter 17.30 OHMC and the comprehensive plan land use element.

* Code reviser's note: Ord. 1221 added this section as OHMC 19.20.410. It has been editorially renumbered to avoid duplication of section numbers.

Article XI. C-5 – Highway Corridor Commercial

19.20.410 Purpose and intent.

The C-5 highway corridor commercial district is intended to provide for those types of uses which, because of traffic and other requirements, are regional in impact and may be located in the highway corridor. It is intended to provide a means of allowing these uses along the highway corridor but with limited access to SR 20.

19.20.415 Principal permitted uses.

Principal uses permitted outright in a C-5 district are:

(1) Any principal use permitted in a C-1 and CBD district, provided dwelling units are:
   (a) Above and secondary to essential or primary floor uses,
   (b) Ground level access is independent of the business uses from an inside lobby, elevators, and/or corridors, and an enclosed interior court, or other separate access provisions;

(2) Animal hospital when located not closer than 200 feet from a residential district, provided all animals are housed in a completely enclosed building;

(3) Assembly hall;

(4) Automobile service station;

(5) Bakery;

(6) Dry cleaning or laundry establishment, pickup and delivery only;
(7) Feed and seed store, retail or wholesale;
(8) Grocery store;
(9) Gymnasium and sports center;
(10) Movie theater;
(11) Nursery and landscape material including greenhouses;
(12) Offices;
(13) Places of entertainment;
(14) Plumbing shop;
(15) Shopping centers:
(16) Supermarket;
(17) Veterinary clinic (hospital);
(18) Other uses as defined by the planning director to be similar to those identified above and having equal or less impact on the purposes of this section.

19.20.420 Accessory permitted uses.

Accessory uses permitted outright in a C-5 district are:

(1) A use customarily incidental and subordinate to a principal use permitted outright;
(2) On-site hazardous waste treatment and storage facilities as an accessory use to any activity generating hazardous waste and lawfully allowed in this zone; provided, that such facilities meet the state siting criteria adopted pursuant to the requirements of RCW 70.105.210;
(3) Television satellite dish reflectors, roof-mounted and within building setback lines not to exceed 35-foot height limitations.

19.20.425 Conditional uses permitted.

The following principal uses and their accessory uses may be permitted in a C-5 district when authorized by the hearing examiner:

(1) Conditional uses permitted in a C-1 and CBD district;
(2) Home improvement center;
(3) Retail or wholesale building supplies, hardware and related items;
(4) Produce stand. (

19.20.430 Density provisions.

Density provisions in a C-5 district are as follows:

(1) Minimum lot area, no limitation;
(2) Minimum lot width, no limitation;
(3) Minimum lot depth, no limitation;
(4) Minimum front yard, 50 feet from any adjoining public street right-of-way. The building setback may be reduced to 30 feet if the entire setback area from property line to building is landscaped where reduction occurs;
(5) Minimum side yard, 30 feet. For corner lots, the side yard abutting a public street shall be the same as front setback;
(6) Minimum rear yard, 50 feet, except when abutting a public street it shall be the same as front setback;
(7) Maximum building height, 35 feet;
(8) Maximum lot coverage, no limitation.

19.20.435 Conditions governing permitted uses.

All principal uses permitted outright in a C-5 district shall meet the following conditions:

(1) Design shall be in accordance with the provisions of the design guidelines;

(2) Landscaping and buffers shall be constructed and maintained in accordance with the provisions of Chapter 19.46 OHMC;

(3) The use of property shall not be objectionable because of odor, dust, smoke, cinders, exhaust fumes, noise, or vibration, or because of unsightly structures, facilities or open storage;

(4) Access to SR 20 highway is limited to an approved circulation plan. Access to individual parcels may be permitted through adjacent parking lots.

19.20.440 Site plan and design review required.

Site plan and design review shall be required as defined in Chapter 19.48 OHMC.

Article XII. PBP – Planned Business Park

19.20.445 Purpose and intent.

The purpose and intent of the planned business park (PBP) district is to:

(1) Allow the development of larger-scaled master planned developments related to businesses;

(2) Preserve or create environmental amenities superior to those generally found in conventional developments;

(3) Encourage comprehensive planning of large business park sites in order to create a park-like environment;

(4) Preserve to the greatest possible extent the natural characteristics of the land, including topography, significant natural vegetation, waterways, views, etc.;

(5) Establish development standards which provide compatibility with surrounding residential, commercial or other developments and offer protection from blight;

(6) Provide for maximum efficiency in the layout of streets, utility networks, open space, landscaping requirements and other public improvements;

(7) Provide a guide for developers, city officials and the planning commission in meeting the purpose and provisions of this section.

19.20.450 Principal permitted uses.

Primary uses permitted in the planned business park district provide a broad range of activities including research, light assembly and light manufacturing. Specific primary types of uses allowable include:

(1) Assembly, manufacture, packaging, compounding or treatment of articles or merchandise from the following previously prepared materials: cloth, glass, lacquer, leather, paper, plastics, precious or semi-precious metals or stones, wood (excluding sawmills, lumber mills and planing mills), paint, clay, sand, rubber;

(2) Printing, publishing and book binding;

(3) Manufacturing, processing and packaging of food, pharmaceuticals, toiletries, cosmetics, optical goods, scientific instruments and equipment, and precision instruments and equipment;

(4) Scientific research, testing and experimental development laboratories;

(5) Corporate headquarters, regional headquarters and administrative offices of commercial, industrial, financial, charitable or governmental institutions;

(6) Uses similar to, or related to, or compatible with those listed or described in this chapter, are permitted upon a finding by the planning director that a proposed use does not conflict with the intent of this section or the policies of the Oak Harbor comprehensive plan. The criteria for such finding of similarity, relationship or compatibility shall include, but is not limited to the following:
   (a) The proposed use will not unreasonably adversely impact surrounding uses;
   (b) The development standards for permitted uses can be met by the proposed use;
   (c) Impacts, such as traffic, noise and air quality will not be significantly different than those generated by permitted uses.

19.20.455 Accessory permitted uses.

Accessory uses complement but do not conflict with the primary use. Specific secondary types of uses allowable include:

(1) Warehousing and distribution facilities and the storage of goods or products clearly subordinate to, and an integral part of, the primary permitted uses;
(2) Engineering, development, administrative or executive offices which are part of a primary use;
(3) Retail development may be permitted where it can be demonstrated that the business park will be clearly and primarily benefited by the convenience of such retail facilities. The total square footage devoted to retail development shall not exceed 15 percent per phase of the developable floor area of the business park district in which it is located or district cumulative total. The total square footage of a single retail use may not exceed 7,500 square feet and the total square footage of all retail uses may not exceed 25 percent of a building's gross floor area. Signs for retail uses shall be visible only within the business park area and attached to the building wall. Retail uses include:
   (a) Support retail, such as food and drug stores, banks and office supplies;
   (b) Personal services such as barber and beauty shops, dry cleaning, laundry;
   (c) Business services, such as printing and copying, photo processing, postal/mail, word processing, travel agencies;
   (d) Food services, such as delicatessens, restaurants (except drive-through windows), brew pubs;
   (e) Recreation facilities, except mechanical or electronic games centers, theaters (live and movie) and games of skill such as bowling;
(4) Day care centers;
(5) Showrooms and galleries;
(6) Hotels and conference centers; and
(7) Caretaker's quarters.

19.20.460 Prohibited uses.

(1) All uses or activities which would require extraordinary equipment, devices or technology for the control of odors, dust, fumes, smoke, noise or other wastes and/or byproducts which, if uncontrolled, would contaminate the environment to a degree unacceptable by contemporary community standards; or which would exceed the acceptable limits established by competent and recognized public and

quasi-public agencies for the protection of industrial and/or environmental health. Such uses include, but are not limited to the following:

(a) Manufacturing involving outdoor storage;
(b) Manufacture or storage of explosives;
(c) Stockyards, dairies, slaughterhouses, rendering plants, canneries, breweries, wineries and other agricultural industries;
(d) Petroleum refineries;
(e) Bulk fuel storage, unless stored in tanks and accessory to a permitted use occurring on the same lot;
(f) Truck parking, repair and maintenance unless accessory to a permitted use located on the same lot;
(g) Cement manufacturing;
(h) Blast furnaces;
(i) Smelting;
(j) Drop forge industries;
(k) Fertilizer manufacture;
(l) Sanitary landfills;
(m) Waste to energy facilities;
(n) Solid waste transfer stations;
(o) Sewage treatment plants;
(p) Lumber, pulp or paper mills;
(q) Cargo container storage;
(r) Asphalt or concrete batch plant;

(2) Single-family or multifamily residences.

19.20.465 Site requirements.

In a PBP district, the following minimum site requirements shall apply:

(1) Minimum site acreage for the development of a new planned business park district: 20 acres;
(2) Minimum area for an existing lot or for a lot within a planned business park plat district: 2.5 acres unless, as provided in a binding site plan, it may be less;
(3) Minimum lot width: 100 feet;
(4) Minimum lot depth: 200 feet;
(5) Minimum area for a subdivision plat is 10 acres which must be coordinated with the surrounding properties such as circulation, access, pedestrian and bike paths.

19.20.470 Building heights.

Permitted building height is determined by the distance the building is separated from any residential zone, or from any area designated in the Oak Harbor comprehensive plan for residential uses, as follows:

(1) Less than 100 feet: 35 feet in height;
(2) One hundred one feet and above: 50 feet in height;
(3) Two hundred feet and above: 65 feet in height.

19.20.475 Building coverage.

The maximum building coverage shall not exceed 40 percent of the total lot area.

19.20.480 Building setbacks.

In a PBP district, all buildings and structures, except for fencing, shall meet the following minimum setback requirements:

(1) Front yard: 30 feet. In cases where no parking or service occurs between the face of the building and the street, the front yard may be reduced to 15 feet;

(2) Interior side yards: 15 feet or zero as established by master plan;

(3) Corner lot abutting a street: 30 feet. In cases where no parking or service occurs between the face of the building and the street, the side yard may be reduced to 20 feet;

(4) Rear yard: 15 feet or zero as established by master plan;

(5) When abutting any residential zoned property or any area planned for residential uses under the Oak Harbor comprehensive plan, the minimum setback shall be 50 feet.

19.20.485 Loading areas.

(1) Truck loading and maneuvering areas shall not be located within the required building setback areas.

(2) Truck loading and unloading shall not be permitted on streets.

(3) Truck loading and unloading areas, parking and maneuvering areas shall be screened by a sight-obscuring fence eight feet in height, except when stored materials cannot be seen from any public roadway or from surrounding properties.

19.20.490 Off-street parking.

(1) The total required off-street parking facilities shall be in accordance with Chapter 19.44 OHMC.

(2) Parking lots shall be landscaped in accordance with Chapter 19.46 OHMC.

19.20.495 Building design.

(1) Buildings and structures should be designed in accordance with the Oak Harbor commercial and industrial design guidelines.

(2) Buildings shall be sited so as not to project or reflect natural or artificial light or glare into residential zoned areas or areas planned for residential uses under the Oak Harbor comprehensive plan.

(3) Mechanical equipment located on the roof, facade, or external portion of a building shall be architecturally screened by including the equipment in the building or site design so as not to be visible from adjacent properties or public streets.

(4) Equipment or vents which generate noise or air emissions shall be located on the opposite side of the building from adjoining residentially zoned properties.

19.20.500 Landscaping requirements.

(1) The following requirements are in addition to the requirements contained in Chapter 19.46 OHMC:

   (a) A minimum of 10 percent of the site will be retained as open space and/or common recreation area in addition to the minimum landscaping requirements and setbacks;

   (b) Existing natural vegetation and significant stands of trees should be retained in accordance with Chapter 19.46 OHMC.

(2) Additional landscaping may be required in order to protect surrounding uses and

to meet the intent and purpose of this section and the Oak Harbor comprehensive plan.

19.20.505 Environmental performance standards.
It shall be the responsibility of the operator and/or the proprietor of any permitted use to provide such reasonable evidence and technical data as the planning director may require to demonstrate that the use or activity is or will be in compliance with this title and all federal, state and city requirements, codes and standards. Failure of the planning director to require such information shall not be construed as relieving the operator and/or proprietor from compliance with this title and all state, federal and city requirements, codes and standards.

19.20.510 Relation to aviation environs overlay zone.
Property located in an aviation environs overlay zone, as governed in Chapter 19.50 OHMC, shall meet the requirements for noise attenuation in Chapter 17.30 OHMC and the comprehensive plan land use element.

19.20.515 Preapplication meeting.
Prior to formal submittal of the application, the applicant shall present to the planning department a preliminary site plan, which shall contain in a rough and approximate manner, all of the information required for the application under OHMC 19.20.530. Upon submittal, the planning department shall schedule a meeting with representatives of applicable city departments. The planning director may also invite, because of the nature, size and scope of the development, others outside of the city to participate in the preapplication meeting. The purpose of the meeting is to enable the applicant to obtain the advice of city staff as to the intent, standards and provisions of this code with regard to the proposed plan. Information presented for and at the preapplication meeting shall not be a part of the public record as no applications are submitted for formal review.

19.20.520 Application requirements.
An application for approval of a proposed planned business park shall be made to the planning director upon forms furnished by the city. Application shall be made by the owner or owners of the parcel or parcels intended to be developed as a unit or their duly authorized agent or agents. The ownership of all parcels to be included must be represented in the application.

19.20.525 General standards and requirements – Professional design.
(1) The applicant for all proposed planned business park developments shall certify that registered professional personnel will plan, guide and inspect the development and shall list the personnel by name, address and profession on the application. The planning director may direct the applicant, because of the nature, size and scope of the development, to utilize any or all of the following professions:
   (a) An architect licensed by the state of Washington;
   (b) A landscape architect licensed by the state of Washington;
   (c) An urban planner holding a full membership in the American Institute of Certified Planners;
   (d) A registered civil engineer licensed by the state of Washington.

(2) One of the professional persons chosen shall be designated by the applicant as the applicant's representative in conferring with the planning commission and/or the city staff regarding the master plan and the execution thereof.

(3) The selection of the professional coordinator of the design team will not limit the owner or the developer in consulting with the planning staff or the planning commission.

19.20.530 Preliminary master plan – Filing requirements.

The applicant shall file with the planning director a preliminary master plan, including the following:

(1) A legal description of the site and plot plan indicating location of all existing and proposed adjacent streets, private rights-of-way and easements;

(2) The proposed site plan and drawings shall include the following information:

(a) Topographic contours at a minimum interval of five feet;

(b) Individual trees over 12 inches in trunk diameter measured four feet above the base of the trunk in areas to be developed or otherwise disturbed;

(c) Existing and approximate proposed finished grades of the property with conceptual planning level, all drainage features;

(d) Conceptual planning level, location of all proposed structures together with the usage to be contained therein and approximate location of all entrances thereto and heights, and gross floor area thereof;

(e) Conceptual planning level location and nature of vehicular and pedestrian circulation features within the site and adjacent streets and alleys;

(f) The extent, location, arrangement, and proposed improvements of all off-street parking and loading facilities;

(g) The extent, location, arrangement and proposed improvements with conceptual planning level of all open space, landscaping, fences and walls;

(h) Architectural drawings, sketches and typical layouts demonstrating the planning and character of the proposed development;

(3) Proposed conditions, covenants and restrictions, including continuous maintenance provisions for the project;

(4) A text describing conditions or features which cannot be adequately displayed on maps or drawings; and

(5) Proposed phasing.

19.20.535 Preliminary master plan – Staff recommendation.

After receiving the preliminary master plan, the planning director shall route the same to all appropriate city departments, and each department shall submit to the planning director comments and recommendations. After receiving such information from the city departments, the planning director shall present recommendations and conclusions before the planning commission at the public hearing upon the preliminary master plan.

19.20.540 Preliminary master plan – Public hearing.

The preliminary master plan shall be considered at a public hearing before the planning commission after notice given in the manner required in Chapter 18.20 OHMC.

19.20.545 Preliminary master plan – Planning commission review.

Following the public hearing, the planning commission may approve as proposed,

approve with changes or disapprove the application and the accompanying master plan. The commission's action shall be based on the following criteria:

(1) The proposal meets the requirements of this title;

(2) The perimeter of the project shall be compatible with the land use of adjoining properties. Compatibility includes, but is not limited to, size, scale, mass and architectural design;

(3) The proposal shall not be unreasonably detrimental to existing uses or potential surrounding land uses as defined by the Oak Harbor comprehensive plan.

19.20.550 Preliminary master plan – Council review.

If the commission approves said application, the city council shall be informed of such action and shall indicate its concurrence or disapproval. The determination of the council shall become final 10 days after the date of decision unless directed otherwise or appealed to the city council in accordance with OHMC 19.20.580.

19.20.555 Final master plans – Filing requirements.

Within one year after the approval or modified approval of the preliminary master plan, the applicant shall file with the planning director a final plan for the entire development or, when submission in stages has been authorized, for the first phase of development. The final plan shall conform in all major respects with the approved preliminary master plan. The final plan shall include all information included in the preliminary plan plus the following:

(1) The location of water, sewer and drainage facilities;

(2) Detailed building and landscaping plans and elevations;

(3) The character and location of signs;

(4) Plans for street improvements;

(5) Grading or earth moving plans; and

(6) Common lighting for streets, parking and common areas.

The final plan shall be sufficiently detailed to indicate fully the ultimate operation and appearance of the development. Fully drafted, properly executed legal documents are required by the planning commission for dedication or reservation of public facilities.

19.20.560 Final master plan – Staff recommendation.

After receiving the final master plan, the planning director shall route the same to all appropriate city departments, and each department shall submit to the planning director comments regarding the conformance of the final development to the preliminary master plan approval. After receiving such information from the city departments, the planning director shall present recommendations and conclusions to the planning commission.

19.20.565 Final master plan – Planning commission approval.

Upon receipt of the final master plan, the planning commission shall examine such plan and determine whether it conforms to all applicable criteria and standards and whether it conforms in all substantial respects to the previously approved planned business park permit. In the event the planning commission determines that the final master plan does not conform to the previously approved permit, they may require such changes in the proposed development or impose such conditions of approval as are, in its judgment, necessary to ensure conformity to the previous approval.

If the commission does grant final approval, the decision of the commission shall become final 10 days after the date of the final action unless appealed to the city council in accordance with OHMC 19.20.580; provided, that if all other requirements of this title have been met, the permit shall not be granted until the proper drafting, executing and recording (all at applicant's expense) of all documents necessary to fulfill the requirements of this title.

19.20.570 Modifications to the plan.

Requests for modifications of preliminary or final master plans shall be made in writing and shall be submitted to the planning department in the manner and form prescribed by the planning director.

(1) Modifications up to 10 percent shall be deemed minor if the proposal does not change any of the following:
   - (a) Land use;
   - (b) Floor area ratio;
   - (c) General location or number of access points;
   - (d) The amount of open space;
   - (e) The amount of parking;
   - (f) The total square footage of structures;
   - (g) The amount and location of outdoor storage;
   - (h) The general height and character of the structures; and
   - (i) As described in the master plan provide for a percentage of change for modification.

(2) Examples of minor modifications include but are not limited to lot line adjustments, minor relocations of buildings or landscaped areas, minor changes in phasing and timing, minor changes in building design, minor changes to outdoor storage and truck loading area and minor changes in elevations of buildings.

(3) Minor modifications may be approved by the planning director.

(4) Major modifications are those which, as determined by the planning director, substantially change the basic design, floor area ratios, open space or other similar requirements or provisions. Major modifications to the master plans shall be reviewed by the planning commission and city council under the same process as outlined under OHMC 19.20.545 and 19.20.550.

19.20.575 Phased development.

Development of the project may be phased, in which case the preliminary master plan must indicate all phases and indicate how each phase shall relate to other phases. The information appearing in the preliminary master plan shall include how common open space areas, common parking areas, landscaping and buffer areas relate to the development and timing of each phase of development. Each phase may be processed separately as a final master plan review. The binding site plan process may be used if the property is to be subdivided.

19.20.580 Appeals to council.

(1) Within 10 days after the date of decision by the planning commission on an application of approval of a preliminary or final master plan in accordance with OHMC 19.20.545 or 19.20.565 such approval may be appealed to the city council by the applicant, the permit holder or any other interested party. Such appeal shall

be made on a form prescribed by the commission and shall be filed within the prescribed time with the office of the city clerk and must be accompanied by a filing fee of $100.00. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the commission or wherein its decision is not supported by the evidence in the record or where ample consideration of good planning principles have not been made.

(2) Upon receipt of such appeal, together with the filing fee, the city council shall set the time for consideration thereof. The city clerk shall notify the chairman of the planning commission of the receipt of said appeal and of the time set for consideration thereof and the city clerk shall, not less than five days prior to the date set for the hearing on the appeal, give written notice to the appellant and to any known adverse parties or to their representatives of the time and place of the hearing.

(3) In considering the appeal, the city council shall determine whether the proposal conforms to the applicable criteria and standards of the preliminary approval based on the criteria set forth in OHMC 19.20.545 and may refer the matter back to the planning commission for further information or reconsideration or approve or disapprove the proposed development or require such changes therein or impose such reasonable conditions of approval as are, in its judgment, necessary to insure conformity to said preliminary approval. The decision of the city council shall be final.

19.20.585 Adherence to approved plan.

The building official shall issue building permits only for buildings and structures which conform with the approved final master plan for the planned business park and with all other applicable city ordinances, regulations, rezone, annexation or development agreements. The building official shall issue a certificate of occupancy only for completed buildings or structures which conform to the requirements of the approved final master plans and all other applicable city ordinances, regulations, rezone, annexation or development agreements.

19.20.590 Lots subject to final master plan.

All lots or other divisions of a subdivided planned business park shall remain subject to compliance with the final master plan regardless of compliance with OHMC Titles 21 and 22, or subsequent conveyance of such individual lots.

19.20.595 Judicial review.

Any legal action to review a decision of the city council or planning commission under this title shall be filed in Island County superior court within 21 days of the decision, notwithstanding the effective date of any ordinance passed or proposed to effectuate said decision.

Article XIII. PIP – Planned Industrial Park

19.20.600 Purpose and intent.

The purpose and intent of the PIP planned industrial park district is to:

(1) Encourage comprehensive planning of large industrial sites in order to create a park-like environment;

(2) Preserve or create environmental amenities superior to those generally found in conventional industrial developments;
(3) Preserve to the greatest possible extent the natural characteristics of the land, including topography, a portion of significant natural vegetation, waterways, views, etc.;
(4) Establish development standards which provide compatibility with surrounding residential, commercial or other developments and offer protection from industrial blight;
(5) Provide for maximum efficiency in the layout of streets, utility networks, open space, landscaping requirements and other public improvements;
(6) Provide a guide for developers and city officials in meeting the purpose and provisions of this section.

19.20.605 Principal permitted uses.

Primary uses permitted in the PIP district provide a broad range of activities including research, light assembly and light manufacturing. Specific primary types of uses allowable include:

(1) Assembly, manufacture, packaging, compounding or treatment of articles or merchandise from the following previously prepared materials: cloth, glass, lacquer, leather, paper, plastics, precious or semi-precious metals or stones, wood (excluding sawmills, lumber mills and planing mills), paint, clay, sand, rubber;
(2) Printing, publishing and book binding;
(3) Manufacturing, processing and packaging of food, pharmaceuticals, toiletries, cosmetics, optical goods, scientific instruments and equipment, and precision instruments and equipment;
(4) Scientific research, testing and experimental development laboratories;
(5) Corporate headquarters, regional headquarters and administrative offices of commercial, industrial, financial, charitable or governmental institutions;
(6) Upholstery shop;
(7) Auto repair of all kinds, including body and fender work, provided there shall be no wrecking, junking, dismantling, or salvaging operations;
(8) Feed and seed store, retail or wholesale;
(9) Marine craft, equipment and supply sales, and repair and service of small craft;
(10) Nursery and landscape material including greenhouses;
(11) Plumbing shop;
(12) Sign shop;
(13) Lumber yard, retail or wholesale, including building supplies, hardware, and related items;
(14) Mini-storage facilities;
(15) Vocational and technical schools;
(16) Private club, lodge, convent, social or recreational building or community assembly hall (except those having a chief activity carried on for monetary gain);
(17) Training facilities, including but not limited to music, dance, martial arts, photography, health clubs;
(18) Warehousing and distribution centers;
(19) Automobile sales and service;
(20) Uses similar to, or related to, or compatible with those listed or described in this

section, are permitted upon a finding by the planning director that a proposed use does not conflict with the intent of this section or the policies of the Oak Harbor comprehensive plan. The criteria for such finding of similarity, relationship or compatibility shall include, but not limited to the following:

(a) The proposed use will not significantly impact surrounding uses,

(b) The development standards for permitted uses can be met by the proposed use,

(c) Impacts, such as traffic, noise and air quality will not be significantly different than those generated by permitted uses.

19.20.610 Accessory permitted uses.

Accessory uses complement but do not conflict with the primary use. Specific accessory types of uses allowable include:

(1) Warehousing and distribution facilities and the storage of goods or products clearly subordinate to, and an integral part of, the primary permitted uses;

(2) Engineering, development, administrative or executive offices which are part of a primary use;

(3) Retail development may be permitted where it can be demonstrated that the industrial park will be clearly and primarily benefited by the convenience of such retail facilities. The total square footage devoted to retail development shall not exceed 10 percent of the developable floor area of the PIP district in which it is located. The total square footage of a single retail use may not exceed 5,000 square feet and the total square footage of all retail uses may not exceed 25 percent of a building's gross floor area. Signs for retail uses shall be visible only within the planned industrial park area and attached to the building wall. Retail uses include:

(a) Support retail, such as food and drug stores, banks and office supplies;

(b) Personal services such as barber and beauty shops, dry cleaning, laundry;

(c) Business services, such as printing and copying, photo processing, postal/mail, word processing, travel agencies;

(d) Food services, such as delicatessens, restaurants (except drive-ins);

(e) Recreation facilities, except mechanical or electronic games centers, theaters (live and movie) and games of skill, such as bowling;

(f) Day care centers;

(g) Showrooms and galleries; and

(h) Caretakers quarters.

19.20.615 Conditional uses permitted.

The following principal uses and their accessory uses may be permitted in a PIP district when authorized by the board of adjustment under Chapter 19.67 OHMC:

(1) Fuel yards;

(2) Concrete and asphalt batch plants for a defined temporary period of time;

(3) Fuel oil distribution, retail and wholesale, provided incidental storage is maintained underground;

(4) Dog kennels;

(5) Equipment rental businesses;

(6) Excavations, other than simple foundation;

(7) Public transportation transfer stations;
(8) Public utility and communications facility, such as a branch telephone exchange, static transformer, booster station, pumping station; and
(9) Small businesses specializing in the production of chemical products, fertilizers, rodenticide, insecticide, and pesticide, but not including ammonia and explosives, may be permitted where it meets the following criteria:
  (a) The business will meet the environmental performance standards in OHMC 19.20.660;
  (b) There shall be no outside storage of chemicals, ingredients, products or byproducts.

19.20.620 Prohibited uses.

(1) All uses or activities which would require extraordinary equipment, devices or technology for the control of odors, dust, fumes, smoke, noise or other wastes and/or byproducts which, if uncontrolled, would contaminate the environment to a degree unacceptable by contemporary community standards; or which would exceed the acceptable limits established by competent and recognized public and quasi-public agencies for the protection of industrial and/or environmental health. Such uses include, but are not limited to the following:
  (a) Manufacture or storage of explosives;
  (b) Stockyards, dairies, slaughterhouses, rendering plants, canneries, breweries, wineries and other agricultural industries;
  (c) Petroleum refineries;
  (d) Cement manufacturing;
  (e) Blast furnaces;
  (f) Smelting;
  (g) Drop forge industries;
  (h) Sanitary landfills;
  (i) Waste to energy facilities;
  (j) Sewage treatment plants;
  (k) Lumber, pulp or paper mills.
(2) Single-family or multifamily residences.

19.20.625 Density provisions.

(1) In a PIP district, the following minimum site requirements shall apply:
  (a) Minimum site area for the development of a new planned industrial park plat: five acres;
  (b) Minimum lot area: 20,000 square feet, except where there is a binding site plan;
  (c) Minimum lot width: 100 feet;
  (d) Minimum lot depth: 100 feet.
(2) The maximum building coverage shall not exceed 40 percent of the total lot area.
(3) All buildings and structures, except for fencing, shall meet the following minimum setback requirements:
  (a) Front yard: 30 feet. In cases where no parking or service occurs between the face of the building and the street, the front yard may be reduced to 20 feet;

(b) Interior side yards: 15 feet;
(c) Corner lot abutting a street: 30 feet. In cases where no parking or service occurs between the face of the building and the street, the side yard may be reduced to 15 feet;
(d) Rear yard: 15 feet;
(e) When abutting any residential-zoned property or any area planned for residential uses under the Oak Harbor comprehensive plan, the minimum setback shall be 50 feet;
(f) Parking is allowed in setbacks.

19.20.630 Building heights.

Permitted building height is determined by the distance the building is separated from any residential zone, or from any area designated in the Oak Harbor comprehensive plan for residential uses, as follows:

(1) Less than 100 feet: 35 feet in height;
(2) One hundred one feet and above: 50 feet in height plus 10 feet for mechanical equipment;
(3) Two hundred feet and above: 65 feet in height plus 10 feet for mechanical equipment.

19.20.635 Outdoor storage.

(1) Outdoor storage shall not be allowed within the required building setback areas.
(2) All outdoor storage areas shall not be visible from public rights-of-way or private streets.
(3) All outdoor storage areas shall be screened from public view through landscaping, walls, and/or fencing.
(4) In no event shall materials be stacked or stored higher or to exceed the height of the screening wall or fence: eight feet maximum.

19.20.640 Loading areas.

(1) Truck loading and maneuvering areas shall not be located within the required building setback areas.
(2) Truck loading and unloading shall not be permitted on streets.
(3) Truck loading and unloading areas, parking and maneuvering areas shall be designed in accordance with the provisions of the Oak Harbor design guidelines and shall be buffered and screened in accordance with the provisions of Chapter 19.46 OHMC.

19.20.645 Off-street parking.

(1) The total required off-street parking facilities shall be in accordance with Chapter 19.44 OHMC.
(2) Parking lots shall be landscaped in accordance with Chapter 19.46 OHMC.

19.20.650 Building design.

(1) Buildings and structures should be designed in accordance with the Oak Harbor commercial and industrial design guidelines.
(2) Buildings shall be sited so as not to project or reflect natural or artificial light or glare into residential zoned areas or areas planned for residential uses under the

Oak Harbor comprehensive plan.

(3) Mechanical equipment located on the roof, facade, or external portion of a building shall be architecturally screened or mitigated by including the equipment in the building or site design so as not to be visible from public streets.

(4) Equipment or vents which generate noise or air emissions shall be located on the opposite side of the building from adjoining residentially zoned properties.

(5) Buildings within the aviation environs overlay zone shall be built to the standards of OHMC Title 17.

19.20.655 Landscaping requirements.

Landscaping and screening shall be in conformance with the requirements contained in Chapter 19.46 OHMC.

19.20.660 Environmental performance standards.

It shall be the responsibility of the operator and/or proprietor of any permitted use to provide such reasonable evidence and technical data as the planning director may require to demonstrate that the use or activity is or will be in compliance with this title, the Oak Harbor comprehensive plan and all federal, state and city requirements, codes and standards. Failure of the planning director to require such information shall not be construed as relieving the operator and/or proprietor from compliance with this title, the Oak Harbor comprehensive plan, and all federal, state and city requirements, codes and standards.

19.20.665 Relation to aviation environs overlay zone.

Property located in an aviation environs overlay zone, as governed in Chapter 19.50 OHMC shall meet the requirements for noise attenuation in Chapter 17.30 OHMC and the comprehensive plan land use element.

19.20.670 Preapplication meeting.

Prior to formal submittal of any application, the applicant may present to the planning department a preliminary site plan, which shall contain in a rough and approximate manner, all of the information required for the application under OHMC 19.20.680. Upon submittal, the planning department shall schedule a meeting with representatives of applicable city departments. The planning director may also invite, because of the nature, size and scope of the development, others outside of the city to participate in the preapplication meeting. The purpose of the meeting is to enable the applicant to obtain the advice of city staff as to the intent, standards and provisions of this code with regard to the proposed plan. Information presented for and at the preapplication meeting shall not be a part of the public record as no applications are submitted for formal review.

19.20.675 Application requirements.

Site plan review shall be required for any building permit or change in use, as defined in OHMC 19.48.030. Site plan review is not required for regular maintenance activities, or emergency actions to protect the public health, safety or welfare.

For parcels containing between five acres and 20 acres, the site plan review requirements of OHMC 19.20.685 shall apply.

For parcels containing more than 20 acres, the review requirements of OHMC 19.20.690

and 19.20.695 shall apply.

An application for site plan approval of a proposed planned industrial park shall be made to the planning director upon forms furnished by the city. Application shall be made by the owner or owners of the parcel or parcels intended to be developed as a unit or their duly authorized agent or agents. The ownership of all parcels to be included must be represented in the application.

19.20.680 Site plan review – Filing requirements.

For all parcels five acres and over, the applicant shall file with the planning director a site plan, including the following:

(1) A legal description of the site and plot plan indicating location of all existing and proposed adjacent streets, private rights-of-way and easements;

(2) The proposed site plan and drawings for design review shall include the following information:

- (a) Topographic contours at a minimum interval of 10 feet;
- (b) Approximate proposed finished grades of the property with all drainage features;
- (c) Location of all proposed building areas;
- (d) Location and nature of vehicular and pedestrian circulation features within the site and adjacent streets and alleys;
- (e) The extent, location, arrangement, and proposed improvements of all off-street parking and loading facilities;
- (f) The extent, location, arrangement and proposed improvements of all open space and common areas; and
- (g) Proposed future lots.

19.20.685 Site plan review (parcels five to 20 acres) – Staff approval.

After receiving the site plan, the planning director shall route the same to all appropriate city departments, and each department shall submit to the planning director comments and recommendations. After receiving such information from the city departments, the planning director may approve as proposed, approve with changes or disapprove the application and the accompanying site plan. The director's action shall be based on the following criteria:

(1) The proposal meets the requirements of this title;

(2) The perimeter of the project shall be compatible with the land use of adjoining properties. Compatibility includes, but is not limited to, size, scale and mass and architectural design;

(3) The proposal shall not be detrimental to existing or potential surrounding land uses as defined by the Oak Harbor comprehensive plan.

19.20.690 Site plan review (over 20 acres) – Staff recommendation.

For parcels over 20 acres in size, the planning director shall route the application to all appropriate city departments, and each department shall submit to the planning director comments and recommendations. After receiving such information from the city departments, the planning director shall present recommendations and conclusions to the planning commission.

19.20.695 Site plan review (over 20 acres) – Planning commission approval.
After receiving such information from the city departments, the planning commission may approve as proposed, approve with changes or disapprove the application and the accompanying site plan. The planning commission's action shall be based on the following criteria:

(1) The proposal meets the requirements of this title;

(2) The perimeter of the project shall be compatible with the land use of adjoining properties. Compatibility includes, but is not limited to, size, scale and mass and architectural design;

(3) The proposal shall not be detrimental to existing or potential surrounding land uses as defined by the Oak Harbor comprehensive plan.

If the commission does grant final approval, the decision of the commission shall become final 10 days after the date of the final action unless appealed to the city council in accordance with OHMC 19.20.705; provided, that if all other requirements of this title have been met, the permit shall not be granted until the proper drafting, executing and recording (all at applicant's expense) of all documents necessary to fulfill the requirements of this title.

19.20.700 Modifications to the plan.
Requests for modifications of preliminary or final site plans shall be made in writing and shall be submitted to the planning department in the manner and form prescribed by the planning director.

(1) Modifications up to 10 percent shall be deemed minor if the proposal does not change any of the following:
   (a) Land use;
   (b) General location or number of access points;
   (c) The amount of open space;
   (d) The amount of parking;
   (e) General height of the structure;
   (f) Total square footage of structures; and
   (g) Amount and location of outdoor storage.

(2) Examples of minor modifications include but are not limited to lot line adjustments, minor relocations of landscaped areas and buffers, minor changes to outdoor storage and truck loading area and minor changes in circulation patterns.

(3) Minor modifications may be approved by the planning director.

(4) Major modifications are those on lots greater than 20 acres in size and which, as determined by the planning director, substantially change the basic design, floor area ratios, open space or other similar requirements or provisions. Major adjustments to the master plans shall be reviewed by the planning commission under the same process as outlined under this chapter.

19.20.705 Appeals to council.

(1) Within 10 days after the date of decision by the planning commission on an application of approval of a site plan in accordance with OHMC 19.20.695 such approval or revocation shall be taken to the city council by the applicant, the permit holder or any other interested party. Such appeal shall be made on a form prescribed by the commission and shall be filed within the prescribed time with

the office of the city clerk and must be accompanied by a filing fee of $100.00. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the commission or wherein its decision is not supported by the evidence in the record or where ample consideration of good planning principles have not been made.

(2) Upon receipt of such appeal, together with the filing fee, the city council shall set the time for consideration thereof. The city clerk shall notify the chairman of the planning commission of the receipt of said appeal and of the time set for consideration thereof and the city clerk shall, not less than five days prior to the date set for the hearing on the appeal, give written notice to the appellant and to any known adverse parties or to their representatives of the time and place of the hearing.

(3) In considering the appeal, the city council shall determine whether the proposal conforms to the applicable criteria and standards of approval based on the criteria set forth in OHMC 19.20.695 and may refer the matter back to the planning commission for further information or reconsideration or approve or disapprove the proposed development or require such changes therein or impose such reasonable conditions of approval as are, in its judgment, necessary to insure conformity to said preliminary approval. The decision of the city council shall be final.

19.20.710 Adherence to approved plan.

The building official shall issue building permits only for buildings and structures which conform with the approved final master plan for the planned industrial park and with all other applicable city ordinances, regulations, rezone, annexation or development agreements. The building official shall issue a certificate of occupancy only for completed buildings or structures which conform to the requirements of the approved final master plans and all other applicable city ordinances, regulations, rezone, annexation or development agreements.

19.20.715 Lots subject to final site plan.

All lots or other divisions of a subdivided planned industrial park shall remain subject to compliance with the site plan regardless of compliance with OHMC Titles 21 or 22, or subsequent conveyance of such individual lots.

19.20.720 Judicial review.

Any legal action to review a decision of the city council or planning commission under this title shall be filed in Island County superior court within 21 days of the decision, notwithstanding the effective date of any ordinance passed or proposed to effectuate said decision.

Article XIV. I – Industrial

19.20.725 Purpose and intent.

The I industrial district is intended to accommodate certain industrial structures and uses having physical and operational characteristics which might adversely affect the adjoining residential and commercial uses. Regulations are designed to permit those industrial uses which can be operated in a relatively clean, quiet and safe manner

compatible with adjoining land uses.

19.20.730 Principal permitted uses.

In an I district, the following are principal permitted buildings and uses:

(1) Principal uses permitted in a C-3 district except those as specifically prohibited in OHMC 19.20.620;
(2) Automobile sales and service;
(3) Bedding, carpet and pillow manufacture, cleaning and renovating;
(4) Bottling and processing of nonalcoholic beverages, the production of which is devoid of fumes, noxious odors, or waste products;
(5) Cold storage plants;
(6) Food and drug processing;
(7) Manufacture and assembly of light and small items made from previously prepared materials and includes operations which do not create noise, smoke, odor, vibration or other objectionable nuisances to the extent that they are detrimental to surrounding uses;
(8) Public utilities;
(9) Welding and machine shop;
(10) Other uses of similar character, subject to approval by the city council.

19.20.735 Principal uses permitted – Location limited.

The following principal uses are permitted outright if located 200 feet or more from the boundary of any residential zoning district:

(1) Assembly, manufacture, rebuilding, compounding, processing, preparation, or treatment of such articles or products as batteries, bottles, mattresses, furniture, tools, hardware, and paper products, but not the manufacture of paper itself;
(2) Canning, processing and freezing of fruit and vegetables;
(3) Electroplating;
(4) Machine, welding, or metalworking shop, but not including punch presses, drop hammers, or other noise and vibration producing equipment;
(5) Tire retreading;
(6) Woodworking shop.

19.20.740 Accessory permitted uses.

In an I district, the following are accessory uses permitted outright:

(1) A use customarily incidental and subordinate to a principal use permitted outright;
(2) On-site hazardous waste treatment and storage facilities as an accessory use to any activity generating hazardous waste and lawfully allowed in this zone; provided, that such facilities meet the state siting criteria adopted pursuant to the requirements of RCW 70.105.210.

19.20.745 Prohibited uses.

No building, structure or premises or a portion thereof, established after the effective date of this chapter, shall be used for human habitation, permanent, transient or temporary except as quarters for a caretaker, guard or other person whose permanent residency on the premises is required for operational safety or protective purposes.

19.20.750 Conditional uses permitted.

The following principal uses and their accessory uses may be permitted in an I district when authorized by the hearing examiner:

(1) Any conditional use permitted in a C-3 district;
(2) Cement and asphalt plants;
(3) Manufacture or processing of such nondurable goods as chemical and allied products, petroleum products, fertilizers, but excluding explosives and ammonia;
(4) Metal fabrication and boiler or tank works;
(5) Mixing plants for concrete or paving material;
(6) Off-site hazardous waste treatment and storage facilities; provided, that such facilities meet the state siting criteria adopted pursuant to the requirements of RCW 70.105.210;
(7) Oxygen manufacture and/or storage;
(8) Produce stand;
(9) Rodenticide, insecticide and pesticide mixing plants;
(10) Wrecking yard.

19.20.755 Density provisions.

In an I district, the following density provisions apply:

(1) Minimum lot area, no limitation;
(2) Minimum lot width, no limitation;
(3) Minimum lot depth, no limitation;
(4) Minimum front yard, 35 feet;
(5) Minimum side yard, no limitation, except when abutting a residentially zoned property, then 10 feet each. For corner lots, a side yard abutting a public street shall be 35 feet except that the city council may approve a variable setback of not less than 20 feet or the established building line on adjoining property, whichever is greater, after consideration at a public meeting or public hearing;
(6) Minimum rear yard, no limitation except when abutting a public street, then 35 feet;
(7) Maximum building height, 35 feet;
(8) Maximum lot coverage, no limitation.

19.20.760 Conditions governing permitted uses.

(1) Design shall be in accordance with the provisions of the Oak Harbor design guidelines.
(2) Landscaping and buffers shall be constructed and maintained in accordance with the provisions of Chapter 19.46 OHMC.

19.20.765 Site plan and design review required.

Site plan and design review shall be required as defined in Chapter 19.48 OHMC.

19.20.768 Relation to aviation environs overlay zone.*

Property located in an aviation environs overlay zone, as governed in Chapter 19.50 OHMC, shall meet the requirements for noise attenuation in Chapter 17.30 OHMC and the comprehensive plan land use element.

* Code reviser's note: Ord. 1221 added this section as OHMC 19.20.770. It has been editorially renumbered to avoid duplication of section numbers.

Article XV. PF – Public Facilities

19.20.770 Purpose and intent.

The PF public facilities district is intended to accommodate public facilities and institutional land uses, including but not limited to public parks, schools, churches, governmental offices, public works yards, utility structures, hospitals, and other similar public and quasi-public uses. The zone was established to aid the city in planning for public facilities, while preventing conflicts between incompatible land uses.

19.20.775 Principal permitted uses.

In a PF district, the following are principal permitted buildings and uses:

(1) Public parks and recreational facilities, including but not limited to, regional parks, city parks and play fields, public golf courses, historic landmarks, indoor recreation centers, swimming pools and marinas;

(2) Government facilities, including but not limited to, administrative offices, postal stations, police stations, fire stations, parking lots, public water wells, storm drainage facilities, water and sewer pump stations, and family health/resource centers;

(3) Community services, including but not limited to, libraries, museums, community centers and senior centers and adult day care;

(4) Churches and other religious institutions;

(5) Public and private schools providing education at the preschool level or higher, excluding commercial trade schools;

(6) Public utilities, except as regulated in OHMC 19.20.785;

(7) Quarters for a caretaker, guard or the person whose permanent residency on the premises is required for operational safety or protective purposes;

(8) Landfill reclamation to improve steep, low or otherwise unusable land.

19.20.780 Accessory permitted uses.

(1) A use customarily incidental and subordinate to a principal use permitted outright.

(2) On-site hazardous waste treatment and storage facilities as an accessory use to any activity generating hazardous waste and lawfully allowed in this zone; provided, that such facilities meet the state siting criteria adopted pursuant to the requirements of RCW 70.105.210.

(3) Parking areas operated in conjunction with permitted uses.

19.20.785 Conditional uses permitted.

The following principal uses and their accessory uses may be permitted in a PF district when authorized by the board hearing examiner in conformance with Chapter 19.67 OHMC:

(1) Electric substations, treatment plants, public works yards, public telecommunications towers, and other similar uses. Distribution or collection line rights-of-way and easements are exempt from the requirements of the PF district;

(2) Private lodges and clubs, fraternal organizations, and commercial establishments when ancillary to a permitted use;

(3) Child day care when ancillary to a permitted use.

19.20.790 Prohibited uses.

The following uses are expressly prohibited by this chapter:

(1) Permanent, transient and temporary dwelling units, except as allowed under OHMC 19.20.775(7);

(2) Private lodges and clubs, fraternal organizations, private golf courses, and other similar clubs, except as allowed under OHMC 19.20.785;

(3) Private radio, television and communications stations.

19.20.792 Manufactured home structures.

A manufactured home (mobile home) is authorized to be placed within this district for a temporary time period, not to exceed five years, to serve nonresidential uses as provided for in permitted and conditional use code sections (OHMC 19.20.775 and 19.20.785). A two-year extension may be approved by separate application. Development is subject to all other provisions of this code the same as on-site construction. Manufactured homes shall not be authorized for use predominantly as storage. Manufactured homes shall not be permitted in a public facilities district where the public facility zone is adjacent to central business district zones. All applications for manufactured home structures, including time extensions, must be approved by the planning commission.

19.20.795 Density provisions.

(1) Minimum lot area: No limitation.

(2) Minimum lot width: No limitation.

(3) Minimum lot depth: No limitation.

(4) Minimum front yard: 35 feet.

(5) Minimum side yard: No limitation, except when buildings abut a residentially zoned property, then 12 feet each side. For corner lots, a side yard abutting a public street shall be 35 feet.

(6) Minimum rear yard: No limitation except:

(a) When abutting a public street, then 35 feet;

(b) When abutting a residential zone, then 12 feet.

(7) Maximum building height: 35 feet. For manufactured home structures: single story of 25 feet.

(8) Maximum lot coverage: No limitation.

(9) Exemptions. Public parking lots are exempt from the density provisions of the PF zone; provided, that other provisions of this title shall apply.

19.20.800 Landscaping requirements.

(1) Design shall be in accordance with the provisions of the Oak Harbor design guidelines.

(2) Landscaping and buffers shall be constructed and maintained in accordance with the provisions of Chapter 19.46 OHMC.

19.20.805 Site plan and design review required.

Site plan and design review shall be required as defined in Chapter 19.48 OHMC.

Article XVI. OS – Open Space,

Recreation and Agriculture

19.20.810 Purpose and intent.

The OS open space, recreation and agriculture district is intended to allow the retention

of natural, rural character, open space areas within the city of Oak Harbor, and to allow for annexation of lands to the city without forcing immediate development, and generally conserve the land, water and other natural resources of the city. Further, the OS district is intended to help prevent development of special community resources such as golf courses, wetlands, forest land and farming areas having scenic and other environmental value. Except for special circumstances, it is anticipated that this district will be used only for land brought into the city by annexation or for which special tax considerations are already provided by Island County.

19.20.815 Principal permitted uses.

In the OS district, the following are principal permitted buildings and uses:

(1) Agriculture land;

(2) Forest land;

(3) Outdoor recreation lands such as golf courses, shooting ranges left in natural vegetative state;

(4) Wetlands and wildlife habitat dedicated to open space.

19.20.820 Accessory permitted uses.

In the OS district the following are accessory permitted uses:

(1) For an agricultural use, a set of farm buildings including a single-family residence. Nothing herein shall be construed as authorizing the keeping of domestic livestock beyond what is otherwise authorized by ordinance.

(2) For forest land, a storage building in which to store items needed for tree management.

(3) For recreation land, such as a golf course, storage buildings, signs, club house and caretaker's residence.

(4) Single-family residence otherwise permitted by law.

19.20.825 Conditional uses permitted.

The following principal uses and their accessory uses may be permitted in an OS district when authorized by the hearing examiner:

(1) Private club or lodge on tracts or lots of more than four acres. More than 60 percent of the area must not be hard surfaced (paved) in building or both building and hard surfaced area. Areas not hard surfaced must be in natural vegetation;

(2) Campground on tracts or lots of more than two acres. More than 80 percent of the area must not be hard surfaced (paved) or in buildings or both such buildings and hard surfaced areas. Areas not hard surfaced in a building must be in natural vegetation;

(3) Radio or television tower where 80 percent of the area must not be hard surfaced (paved) or in buildings or both such buildings and hard surfaced areas. Areas not hard surfaced in a building must be in natural vegetation.

19.20.830 Density provisions.

In an OS district, the following density provisions apply:

(1) Setbacks for any structure shall be 25 feet from any property line;

(2) One dwelling unit per five acres, where residential use is permitted.

19.20.835 Conditions governing permitted uses.

(1) As a condition to continued designation as "open space," for any use other than agricultural and residential, the owner shall enter into an agreement with the city allowing public or semi-public access under mutually agreed terms and conditions.

(2) Any hard surface parking or roads must be accessory to a permitted use.

19.20.840 Site plan and design review required.

Site plan and design review shall be required as defined in Chapter 19.48 OHMC.

~~Article XVII. M-H – Manufactured Home Overlay~~

~~19.20.850 Purpose and intent.~~

~~The purpose of the manufactured home overlay zone is to provide for the accommodation of manufactured homes on platted lots in R-3 zones in manufactured home subdivisions to allow manufactured home owners the option either of land ownership or leasing space within manufactured home parks, and to bring home ownership within the means of a large proportion of Oak Harbor citizens.~~

~~19.20.860 Principal uses permitted outright.~~

~~The M-H manufactured home overlay zone is a residential zone and may be combined with an R-3 zone. The following principal uses and no others are permitted outright in an M-H overlay zone:~~

~~(1) Permitted uses in the underlying R-3 zone subject to the restrictions of said zone;~~

~~(2) One manufactured home dwelling unit structure on each lot.~~

~~19.20.870 Conditional uses permitted.~~

~~Conditional uses permitted by the hearing examiner shall be as permitted in the underlying R-3 zone.~~

~~19.20.880 Accessory uses permitted outright.~~

~~An accessory use shall be permitted outright in the manufactured home overlay zone when such use is authorized by the Oak Harbor Municipal Code in the underlying R-3 zone.~~

~~19.20.890 Density provisions.~~

~~The following minimum standards apply to manufactured homes on individually platted lots in R-3 overlay zones:~~

~~(1) Minimum lot area, 6,000 square feet;~~

~~(2) Minimum lot width, 60 feet;~~

~~(3) Minimum lot depth, 90 feet;~~

~~(4) Minimum front yard, 20 feet;~~

~~(5) Minimum side yard, five feet;~~

~~(6) Minimum side yard along the flanking street of corner lot, 15 feet;~~

~~(7) Minimum rear yard, 10 feet;~~

~~(8) Maximum lot coverage, 35 percent of the lot area;~~

~~(9) The limitations of use set out in OHMC 19.28.010 through 19.28.020 shall apply to a manufactured home overlay zone where those provisions specifically apply to the underlying R-3 zone.~~

~~19.20.900 Minimum standards for manufactured homes.~~
~~A manufactured home in an R-3, M-H zone shall comply with the National Code developed by the Department of Housing and Urban Development enforced since June 1976.~~

~~19.20.905 Installation.~~
~~Manufactured homes placed in an M-H overlay zone shall have the following improvements:~~
~~(1) The wheel hubs and axles shall be removed and the manufactured home placed on a permanent foundation in accordance with the standards and specifications of the planning department for such permanent foundation;~~
~~(2) The tongue of the manufactured home shall be removed;~~
~~(3) All utility services shall be underground.~~

~~19.20.910 Off-street parking.~~
~~Each manufactured home lot shall provide paved off-street parking area for two automobiles and not less than 400 square feet in area. If such area is not provided for in a covered garage, such area shall be so located that it later may be covered by a garage structure and meet the setback requirements of OHMC 19.20.890.~~

~~19.20.920 Application.~~
~~Application for a manufactured home overlay M-H zone designation shall be made pursuant to Chapter 19.31 OHMC.~~

~~19.20.930 Minimum size manufactured home overlay zone.~~
~~A manufactured home overlay zone shall be a minimum of five acres.~~

Section Nine. Oak Harbor Municipal Code Chapter 19.25 is hereby re-adopted and amended to read as follows:

Chapter 19.25
MANUFACTURED HOME PARKS

Sections:

19.25.010 Purpose and intent.
19.25.020 General standards and requirements – Location.
~~**19.25.030 General standards and requirements – Manufactured home standards.**~~
19.25.030 General standards and requirements – Open space.
19.25.040 General standards and requirements – Density.
19.25.050 General standards and requirements – Allowed uses.
19.25.0~~7~~60 General standards and requirements – Site requirements.
19.25.0~~8~~70 General standards and requirements – Landscaping, buffering and screening.
19.25.0~~9~~80 General standards and requirements – Utilities and other services.
19.25.~~90~~100 General standards and requirements – Permissive variations in requirements.
19.25.~~100~~110 General standards and requirements – Distance between buildings.
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19.25.1~~2~~30 Manufactured Home Park Development Plan Required ~~Application requirements.~~
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19.25.~~190~~220 Lots subject to final development plan.
19.25.~~200~~230 Termination of manufactured home park.
19.25.2~~1~~40 Extension of time for construction.

19.25.010 Purpose and intent.
19.25.010 Purpose and intent.

The purpose of this section ~~the manufactured home park zone~~ is to provide for the accommodation of manufactured homes in planned developments in order to:

(1) Provide more affordable housing with the option of either land ownership or leasing space in a quality environment;

(2) Allow the flexibility of design in placement of buildings, open spaces, circulation facilities and off-street parking areas and to more efficiently utilize potentials of sites characterized by special features of geography, topography, size and shape;

(3) Preserve property values.

19.25.020 General standards and requirements – Location.

(1) Manufactured home parks may be established in the R-1, R-2, R-3 and R-4 residential districts ~~the R-3 residential district~~ on parcels of land which are suitable for and of sufficient size to be planned and developed in a manner consistent with the purposes and objectives of this chapter. The site shall include not less than three acres of contiguous land.

(2) Except as authorized under Title 16 of the Oak Harbor Municipal Code, ~~elsewhere under this code~~, all manufactured homes must be located in a manufactured home ~~development or~~ park approved in accordance with the provisions of this chapter.

~~**19.25.030 General standards and requirements – Manufactured home standards.**~~

~~(1) All designated manufactured homes must be installed in accordance with this code. The areas between the sides of all permanent mobile homes and the ground shall be covered with skirting of a noncombustible material. The skirt shall be removable.~~

~~(2) All designated manufactured homes must be constructed in conformance with state and federal requirements for manufactured homes and meet or exceed the Washington State Energy Code.~~

19.25.0304~~0~~ General standards and requirements – Open space.

The proposal shall provide open space as follows:

(1) Common open space shall comprise at least 10 percent of the gross area of the manufactured home park, and shall be used as a recreational, park or environmental amenity for collective enjoyment by occupants of the development. Common open space shall not include public or private streets, driveways, parking areas, or the required yards for buildings or structures. However, a portion (maximum of 25%) of the 10% percent open space requirement may be perimeter setback areas as required by OHMC section 19.25.~~080~~070 (1). ~~or the required yards for buildings or structures;~~

(2) Common open space may not be computed to include any existing submerged lands;

(3) At least 50 percent of the common open space area must be usable for active or passive recreation.

19.25.0405~~0~~ General standards and requirements – Density.

In addition to or as a greater requirement of the regulations normally found in the underlying ~~R-3~~ zoning district, the following regulations shall govern:

(1) Increases in density over that permitted in the underlying zone are permitted as follows:

(a) Provisions for open space which is arranged as to be an integrated part of the project and meets the requirements of OHMC 19.25.0340: 10 percent increase;

(b) Preservation of a natural feature such as, but not limited to, a wetland, stream corridor, unique geological feature, substantial overstory

vegetation, etc.: 10 percent increase;

(c) Unique landscaping, architectural design and site planning: 10 percent increase;

(d) Additional open space: one percent increase in density for each one percent increase in open space over the minimum required under OHMC 19.25.0340;

(e) The total allowable maximum density increase shall not exceed 20 percent.

(f) Qualified affordable housing projects as defined in 19.08.690 are permitted to have a maximum density of eight (8) units per gross acre in the R-1 zone.

19.25.0505060 General standards and requirements – Allowed uses.

(1) Manufactured home used for dwelling purposes;

(2) Buildings and structures necessary for the operation and maintenance of the manufactured home park, or providing customary accessory uses of manufactured home parks, including laundry facilities, park office and equipment storage buildings;

(3) Buildings and structures necessary for the operation of a public utility, subject to the requirements of OHMC 19.25.0890;

(4) Community recreation facilities, for residents of the manufactured home park and their guests, including swimming pools;

(5) Residences for the use of a manager and/or caretaker responsible for maintaining or operating the manufactured home park which may be either a conventional one-family dwelling or a manufactured home;

(6) Home occupations subject to the requirements of Chapter 19.34 OHMC.

19.25.0606070 General standards and requirements – Site requirements.

(1) The minimum size and setback requirements are as follows:

(a) For an individual space designed to accommodate a manufactured home not exceeding 14 feet in width:

(i) Area: 3,000 square feet,

(ii) Width: 40 feet,

(iii) Depth: 70 feet,

(iv) Front yard setback: 20 feet from a public right-of-way, 10 feet from a private street;

(b) For an individual space designed to accommodate a manufactured home exceeding 14 feet in width:

(i) Area: 4,500 square feet,

(ii) Width: 50 feet,

(iii) Depth: 90 feet,

(iv) Front yard setback: 20 feet from a public right-of-way, 10 feet from a private street;

(2) No manufactured home shall be located closer than 15 feet from any other manufactured home unit or permanent park building. An attached accessory

building shall be considered part of the manufactured home for separation purposes. If not attached to the manufactured home, an accessory structure shall not be located closer than five feet from such manufactured home.

(3) The cumulative occupied area of the manufactured home and its accessory buildings on a manufactured home site shall not exceed two-thirds of the respective lot area.

(4) Interior streets, driveways and other access ways within a manufactured home park shall be constructed and maintained by the owner and/or developer of the park in accordance with the standards provided by the city engineer. Interior park access ways shall not be dedicated as a public right-of-way unless otherwise approved or required by the ~~planning commission~~ city council.

(a) Interior park streets shall observe the following minimums:

(i) One-way traffic streets: 20~~18~~ feet in width;

(ii) Two-way traffic streets: 24~~8~~ feet in width;

(iii) Cul-de-sac streets and streets designed to have one end permanently closed must have a minimum turning radius of 50 feet, or otherwise be adequately designed to permit ease of turning.

(b) Parking Requirements.

(i) A minimum of two off-street parking spaces shall be provided adjacent to, or conveniently near, each manufactured home lot;

(ii) A minimum of one parking space shall be provided per each eight manufactured home lots to accommodate guest parking and may be distributed throughout the manufactured home park.

(4) A common walkway system shall be provided and maintained between locations where pedestrian traffic is expected to be concentrated and might interfere with automobile traffic. Such common walks shall be constructed in accordance with standards provided by the city engineer.

(5) Adequate street lighting shall be provided to illuminate streets, driveways, walkways and buildings for the safe movement of pedestrians and vehicles and for the safe nighttime use of such facilities. Street lighting shall be designed to not create glare on adjoining properties. Installation of all street lighting shall be in accordance with the approved site plan.

(6) There shall be no minimum lot or space size or setbacks for manufactured home park projects meeting the definition of qualified affordable housing in 19.08.690 and which use public funds for capital construction costs or to artificially suppress rents. An applicant who uses the flexibility in lot sizes afforded by this provision must submit documentation showing that the proposed project will be affordable to households with 80 percent of the area median family income or less and that public funds (tax credits, grants, etc.) will be used in the construction or operation of the project.

19.25.07~~080~~ General standards and requirements – Landscaping, buffering and screening.

(1) The requirements for front yards for the zone in which the manufactured home park is located shall apply to all exterior boundary lines of the site, in the form of a perimeter setback, and shall be landscaped in accordance with the standards of Chapter 19.46 OHMC. ~~Sides of manufactured home parks which abut other properties shall be enclosed with a permanently maintained natural or artificial~~

~~barrier, 20 feet in width, in accordance with the standards of Chapter 19.46 OHMC.~~

~~(2) Sides of manufactured home parks which abut public rights of way shall be buffered with a perimeter landscape strip not less than 15 feet wide. Such landscape strip shall be planted or installed in accordance with the standards of Chapter 19.46 OHMC.~~

~~(3) The planning commission may waive all or part of the perimeter landscaping requirements if, due to the nature of the existing topography or other existing conditions, it is unnecessary to require a wall, fence or screen.~~

(4) No manufactured home lot shall be occupied unless or until adequate storage areas and facilities for bulk storage of boats, campers, trailers, and other similar items are properly installed or developed. A maximum of 15 percent of the gross site area may be used for said storage.

19.25.08~~090~~ General standards and requirements – Utilities and other services.

(1) All utilities shall be underground.

(2) The construction and maintenance of all water, sewer, electrical, communications and miscellaneous (gas, television cable, etc.) service lines shall be under the supervision of the department or utility agency having jurisdiction in accordance with all applicable state and local codes, policies and regulations.

(3) The location of all underground utility and service lines shall be indicated by an aboveground sign (or signs) identifying the proximity of the lines to the manufactured home stand to facilitate service connection and to avoid damage to such underground services by the use of ground anchors, installation of skirting, etc.

(4) Solid waste collection stands shall be provided for all waste containers. Solid waste collection stands, whether individual or grouped, shall be screened from view with appropriate landscaping and/or screening as required under Chapter 19.46 OHMC and the approved landscaping plans.

19.25.09~~100~~ General standards and requirements – Permissive variations in requirements.

In considering a proposed manufactured home park project, the approval thereof may involve modifications of up to fifty percent (50%) in the regulations, requirements and standards of the zone in which the project is located and the subdivision ordinance so as to appropriately apply such regulations, requirements and standards to the project site. Unless otherwise provided by this chapter the density and perimeter setbacks shall not be subject to variation under this section.

~~**19.25.100110 General standards and requirements – Distance between buildings.**~~

~~The planning commission may set minimum distances between structures greater than those required by this chapter to assure adequate sunlight and open space; provided, that minimum distances required by the building code and fire code shall be met.~~

~~the building code and fire code shall be met.~~

19.25.110 Application process and phasing.

All applicants for manufactured home parks, shall submit a "manufactured home park development plan" which shall be reviewed under a Review Process IV as described in 18.20.260 and shall contain the elements listed in 19.25.120.

The approval of a subdivision shall be required of all projects which involve or contemplate the subdivision of land and the procedures set forth in the Oak Harbor subdivision ordinance, codified in OHMC Title 21. The manufactured home park development plan and subdivision application may be reviewed concurrently.

Development of the project may be phased, in which case each complete phase may be processed separately. The Director may require a phasing plan showing infrastructure and other improvements necessary to support all phases of a project.

19.25.120 Manufactured home park development plan required ~~Combined applications~~.

(1) A manufactured home park development plan is required for all proposals submitted under the provisions of Chapter 19.25. The development plan shall contain the following information:

All applicants for manufactured home parks are required to submit a manufactured home park development plan containing the following information:

(a) Topographic contours at a minimum interval of five feet,

(b) Existing individual trees over 12 inches in trunk diameter measured four feet above the base,

(c) Existing and proposed finished grades of the property with all drainage features,

(d) Location of all proposed structures together with the usage to be contained therein and approximate location of all entrances thereto and heights, and gross floor area thereof (building envelopes for manufactured homes),

(e) Location and nature of vehicular and pedestrian circulation features within the site and adjacent streets and alleys,

(f) The extent, location, arrangement and proposed improvements of all open space, landscaping, fences and walls,

(h) Location, nature and dimension (where applicable) of water, sewer, and storm sewer utilities including fire protection facilities,

(i) Number of units proposed

~~The preliminary development plan and the final development plan may be combined and together, processed through review as a final development plan.~~

~~(2) The applicant may file a concurrent subdivision application, meeting the requirements of OHMC Title 21, which shall be processed concurrently with the manufactured home park application.~~

~~(3) In case of conflict between time limits set forth in this title and in other provisions of the Oak Harbor Municipal Code or applicable state law, those provisions~~

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~~requiring public notice to be given the furthest in advance of the pending action shall prevail over conflicting provisions specifying that notice shall be given within a shorter time prior to the action; likewise, any conflict in provisions requiring a specific action on the part of the city, or any body thereof, within a specific time period shall be resolved in favor of those provisions requiring action within the lesser period of time.~~

~~**19.25.130 Application requirements.**~~

~~An application for approval of a proposed manufactured home park shall be made to the planning director upon forms furnished by the city in accordance with the provisions of Chapter 19.48 OHMC.~~

~~**19.25.140 Phased development.**~~

~~Development of the project may be phased, in which case each complete phase may be processed separately through both preliminary development plan review and final development plan review. A map shall be submitted showing all property owned or controlled by the developer which is contiguous to the development site, or which is within the area determined by the planning director to be relevant for comprehensive planning and environmental assessment purposes, together with a conceptual plan of said properties submitted with the application for the first phase. The conceptual plan shall conform to the purposes of this chapter and shall be used by the city to review all phases of the development.~~

19.25.13~~50~~ ~~Dedication and m~~Maintenance of facilities.

Applicants for a manufactured home park project are required to make provision for the maintenance of common areas such as (but not limited to) parks, playgrounds, landscaping, vehicular parking areas, and club houses through an association of owners or tenants organized as a nonprofit corporation under the laws of the state of Washington, or another similar mechanism. ~~The planning commission may require that portions of the tract or tracts under consideration be conveyed and/or dedicated for the following uses:~~

~~(1) Whenever private outdoor living areas, including parks or playgrounds, are to be provided, the planning commission shall require the at an association of owners or tenants organized as a nonprofit corporation under the laws of the state of Washington. which shall adopt such articles of incorporation and bylaws and adopt, impose and record such declaration of covenants and restrictions on such outdoor living areas and/or common areas that are acceptable to the planning commission.~~

~~Said association shall be formed and continued for the purpose of maintaining such outdoor living area. Such an association, if required, may undertake other functions. It shall be created in such a manner that owners of property shall automatically be members and shall be subject to assessments levied to adequately maintain said outdoor living area for the purposes intended. The period of existence of such association shall be not less than 20 years and it shall continue thereafter and until the members terminate it. Provisions shall be made by the association for the disposition of such outdoor living area upon any termination of the arrangement hereinabove provided for.~~

~~(2) The planning commission may require that the rights of way designated by city code be dedicated or deeded to the city. Such other streets necessary to the proper development of adjacent properties may also be required.~~

~~(3) Easements to the city required for the orderly extension, maintenance, repair or replacement of public utilities may be required as a condition precedent to the issuance of a manufactured home park permit~~.

19.25.14~~60~~ Mapping.

Whenever a manufactured home park permit has been granted and so long as the permit is in effect, the boundary of the manufactured home park shall be indicated on the zoning map of the city of Oak Harbor as overlay district "MHP."

19.25.15~~70~~ Limitation on resubmission.

Whenever an application for a manufactured home park permit has been denied, no application for the same area or any portion thereof shall be filed by the same applicant within one year after the date of denial.

19.25.16~~80~~ Adherence to approved plan.

The building official shall issue building permits only for buildings and structures which conform with the approved ~~final~~ development plan for the manufactured home park and with all other applicable city ordinances, regulations, and rezone, annexation and development agreements. The building official shall issue a certificate of occupancy only for completed buildings or structures which conform to the requirements of the approved ~~final~~ development plans and all other applicable city ordinances and regulations. The construction and development of all the open spaces and public and recreation facilities of each project phase must be completed or bonded before any certificate of occupancy will be issued.

19.25.17~~90~~ Revocation.

In the event of a failure to comply with the approved plan or any prescribed condition of approval, including failure to comply with the stage development schedule, the ~~planning commission~~ city council may, ~~after notice and hearing~~, revoke the manufactured home park development plan. ~~permit.~~ The revocation process shall follow the review process IV procedures, with the planning commission conducting the public hearing and the decision by the city council. ~~The determination of the planning commission shall become final 25 days after the date of decision unless appealed to the city council.~~ Decisions of the city council shall be final and subject only to review by the Island County superior court pursuant to Chapter 36.70C RCW.

~~**19.25.200 Subdivision requirements.**~~

~~The approval of a subdivision shall be required of all projects which involve or contemplate the subdivision of land and the procedures set forth in the Oak Harbor subdivision ordinance, codified in OHMC Title 21, shall be followed concurrently herewith. The approved final development plan shall be a binding site plan under RCW 58.17.040 (5). If a manufactured home park is divided it shall be through a binding site plan.~~

19.25.180~~210~~ Sale of lots.
Lots in a platted manufactured home park may be sold to separate owners and according to the separate lots as shown in the plat filed and approved in connection therewith. No sale shall be permitted which subdivides a lot in such a manner as will create a new lot line, except as provided in this chapter.

19.25.190~~220~~ Lots subject to approved, final development plan.
All lots or other divisions of a subdivided manufactured home park shall remain subject to compliance with the final development plan regardless of the fact of subdivision in compliance with OHMC Title 21, or subsequent conveyance of such individual lots or divisions.

19.25.200~~30~~ Termination of manufactured home park development plan.
If the construction has not been started within two years from the date of approval of a final development plan, or if construction has been commenced but the work has been abandoned for a period of one year or more, and if no extension of time has been granted as provided in OHMC 19.25.21~~4~~0, the authorization granted for the manufactured home park project shall terminate and all permits and approvals issued pursuant to such authorization shall expire and be null and void.

~~The time period of commencing or continuing construction shall not include periods of time during which commencement of construction or continuation of construction was reasonably halted or reasonably delayed due to the filing of a pendency of legal action challenging an approval granted by the city pursuant to this chapter; provided, that in all cases, when more than two years have elapsed subsequent to the date of approval of the final development plan, whether due to pendency of litigation, city-approved extensions of time for development, or otherwise, the permittee shall be required to comply with all current building, construction, subdivision and other applicable standards of the city; provided further, that a change in zoning classification enacted subsequent to approval of the final development plan shall not affect the project.~~

19.25.210~~40~~ Extension of time for construction.
For good cause shown, the Director~~city council~~, in his or her~~its~~ discretion, may grant an extension of time for commencement or continuation of construction subsequent to approval of the final development plan.

Section Ten. Oak Harbor Municipal Code Chapter 19.26 is hereby re-adopted to read as follows:

Chapter 19.26
RELATIONSHIP TO THE OAK HARBOR COMPREHENSIVE PLAN

Sections:

19.26.010 Intent.

19.26.020 Comprehensive plan relationship.

19.26.010 Intent.

It is the intent of this chapter to provide a direct relationship between the provisions of this zoning code, its administration and enforcement, and the adopted Oak Harbor comprehensive plan.

19.26.020 Comprehensive plan relationship.

The following identifies the relationship between each zoning classification and the applicable policies within the comprehensive plan. All development, uses and activities governed by this title shall be in conformance with the policies of the Oak Harbor comprehensive plan.

Policy	Description	PRE	R-1	R-2	R-3	R-4	RO	C-1	C-3	CBD	C-4	C-5	PBP	PIP	I	PF	OS	PRD	MHP
1a-H	Provide land use policies and zoning regulations which allow for a variety of housing types and residential lifestyles.																		
1a-LU	Develop, preserve and enhance a pedestrian-oriented character in Old Town.																		
1b-LU	Preserve and enhance the streetscape with more sidewalks, landscaping and buffers to the highway.						1	1	1		1	1							
1c-H	Encourage alternative housing types from the standard single-family including apartments, condominiums, small lot, zero lot line, attached patio, townhouse, and manufactured housing.																		
1c-LU	Encourage future commercial development, in coordination to prevent strip or patchwork development to decrease auto-oriented shopping.																		
1d-LU	Update standards to control signage.						1	1	1	1	1	1	1	1	1	1			
1d-UDE	Plans for development on sites which contain significant forest areas or a portion thereof shall include a forestry report to evaluate trees for retention.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
1e-H	Disperse subsidized units throughout the community to diversify neighborhoods and ensure best use of public transportation.																		
1e-LU	Support the "Harbor Watch" Plan for Downtown and Waterfront redevelopment to improve the appearance of downtown Oak Harbor.																		
1e-UDE	Priorities for tree retention and replanting should be given to buffers along arterial streets, riparian areas and ridge lines as well as between different land uses and groupings of trees within developments and on rear lot lines.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
1i-H	Plan for development and preservation of manufactured home communities.																		
1n-H	Consider adopting development regulations which allow accessory units to address housing needs while providing safeguards for established neighborhoods.	1	1															1	
2a-H	Provide development regulations which allow for the needs of the elderly, disabled, and infirm.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1		1	1

2a-LU	Encourage planned unit development (PUDs) with performance based standards.																		
2b-x	Encourage tree retention in new development, where feasible.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1		1
2c-LU	Consider view corridors when planning for development.									1									
2c-UDE	Pedestrian facilities should be maintained and enhanced, as consistent with the Transportation Element, to promote a pedestrian-friendly character.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
2d-LU	Require compatible tree planting with all new development.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
2d-UDE	Consideration should be given to recognizing and visually expressing separate commercial and residential districts in an effort to promote a sense of community.																		
3a-UDE	Strongly discourage design standards which locate large parking lots at corners of arterial intersections.						1	1	1	1	1	1	1	1	1	1			
3b-UDE	Establish design standards which promote a trend for buildings, rather than parking lots, to dominate street fronts for commercial uses.						1	1	1	1	1	1	1	1	1	1			
3c-UDE	Implement stricter landscaping requirements for parking areas located between the street and the building, such as vegetation buffers.				1	1	1	1	1	1	1	1	1	1	1	1		1	1
3d-UDE	Incorporate wooded, open, and other natural areas into development designs to promote the area's natural setting.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
3e-UDE	Adopt maintenance standards for new landscaping in developments along major corridors.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
3f-UDE	Apply strict requirements for vegetative buffers screening property lines of commercial uses adjacent to single and multiple-family residentially zoned properties.							1	1	1	1	1	1	1	1	1			
3g-UDE	Develop mandatory architectural and site design guidelines and performance standards with which all new retail development must comply.							1	1	1	1	1							
4a-LU	Support, through incentives, the upgrading of Oak Harbor's downtown and enhancement of its identity.																		
4b-LU	Enhance and protect the waterfront as an asset to future economic development, as outlined in the "Harbor Watch Downtown Redevelopment Plan."																		
4b-U	Mitigate impacts on environmentally sensitive areas, as required by the Environmental Element and Environmentally Sensitive Areas Ordinance.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
4b-UDE	Landscape buffers shall be required along major arterials, retaining existing vegetation where possible.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
4c-UDE	Freestanding business signs should be consistent with the speed limit of roadways, and the character of land use districts.						1	1	1	1	1	1	1	1	1	1		1	1
4d-UDE	Developments along Oak Harbor's waterfront should enhance the area's natural and physical aesthetics.		1			1				1									
4e-T	Bike racks should be provided in both commercial and public uses.				1	1	1	1	1	1	1	1	1	1		1			
5a-UDE	The historic character of Old Town should be encouraged through the establishment of design guidelines and a design review process.									1									
5b-UDE	Building heights should be coordinated in the Old Town vicinity to enhance the area's view of the harbor.																		
5f-U	Require preservation and/or replanting of landscaping in developments to support energy conservation goals.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1		1	1
6a-LU	Require residential development to occur outside of high aircraft noise level areas (above 70 Ldn).	1	1	1	1	1	1	1		1								1	1

6a-UDE	Mitigate the visual and traffic impacts of industrial uses on adjacent properties and street corridors.												1	1	1				
6b-LU	Residential development shall be encouraged to locate outside of moderate aircraft noise areas (60 to 70 Ldn), allowing for residential development where a demonstrated need exists and compliance is met with policy 6.e.	1	1	1	1	1	1			1								1	1
6b-UDE	Require design standards for all development. These development standards could include: retaining wooded buffers to screen adjacent nonindustrial uses; protecting sensitive natural areas; buffering service areas, loading docks and storage yards.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1		1	1
6c-LU	Ensure that land use and population densities in Accident Potential Zones remain low to conserve the highest degree of public heath, safety, and welfare.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1		1	1
6d-LU	Ensure that no new land use proposals, structures or objects interfere with the safe operation of aircraft or deny the existing operational capability of Ault Field. Land use proposals, structures, or objects that may create an obstruction to air navigation will be reviewed for compatibility with airport operations. Hazards to air navigation will not be permitted.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1		1	1
6e-LU	Ensure that new structures built for human occupancy in designated noise impacted areas, as identified in the aviation environs section of the city code, are constructed to a noise level reducing standard that is appropriate for the outdoor noise levels that will be experienced by the inhabitants. In addition to indoor noise level reducing construction design standards, outdoor noise level reducing measures should be considered in site planning, building location and alignment, and site design.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1		1	1
6f-LU	Ensure the disclosure of potential noise and accident potential impacts on prospective buyers, renters, or lessees of property or structures they intend to purchase, rent, lease, or otherwise occupy.	1	1	1	1	1	1	1										1	1
5b-T	Provide an uninterrupted system of sidewalks, pathways, and crosswalks, prioritizing streets used frequently by school children, senior citizens, and handicapped people, and streets in heavily congested areas.			1	1	1	1	1	1	1	1	1	1	1	1	1		1	1
8c-LU	Create a mix of housing types within the price range of young families.																		
8f-LU	Establish and preserve residential districts that consolidate residential activities into uniform neighborhood types.																		
8h-LU	Require the planting of Garry Oak trees in new neighborhoods that have compatible soils and surroundings.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1		1	1
9b-LU	Promote master planning of large contiguously owned properties to provide a variety of sizes of sites for industrial and business park development.																		
9c-LU	Encourage the assembly of small properties in order to provide planned parcels large enough for industrial development.																		
9e-LU	Encourage industrial activities to incorporate landscaping, decorative fencing, native vegetation and architectural sensitivity to design, color and materials into the facilities in order to ensure that such industries are attractive and complementary to the community.												1	1	1				
9f-LU	Industrial development shall be compatible with the sensitive island environment.												1	1	1				
9h-LU	Encourage through zoning, light manufacturing and business park uses along Goldie Road and along the northern section of Oak Harbor Road.																		

9i-LU	Larger vacant parcels should be planned for new high quality research and business parks.																		
12e-LU	Preparation of master plans shall be a condition of granting the PF zone classification.															1			
12j-LU	Provide adequate parking, circulation and landscape buffers to ensure that public uses do not have a significant adverse impact on residential areas.																		
13f-LU	Consider establishing an "Open Space" zone district as a means of conserving park lands and parcels containing critical resource areas.																		
14d-LU	The city should establish design criteria for public facilities to promote neighborhood and jurisdictional compatibility.																		
14e-LU	The city should establish a public use category to site facilities that may not otherwise be permitted.																		
14f-LU	Essential public facilities that are county-wide or statewide in nature must meet existing state law and regulations requiring specific siting and permitting requirements.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
10a-LU	Require business parks, which cluster uses into a master planned campus-type development, to include interior landscaping and site design controls.													1					
10c-LU	Encourage business parks to provide coordinated landscaped buffers around the perimeter of the park.													1					
11b-LU	Promote the development of clustered commercial facilities which will accommodate high traffic generating uses. Large single sites are preferred over ad hoc strip commercialization.								1	1	1	1	1						
11c-LU	Allow neighborhood services which are compatible with residential areas.																		
11d-LU	Include consideration of architectural quality and good site planning in the design of commercial developments.							1	1	1	1	1	1	1					
11f-LU	Retain and enhance the character of historic commercial districts.																		
11g-LU	Promote commercial infill development.																		
12d-LU	Encourage the preparation of master plans for large-scale public and quasi-public campuses.															1			
2e-U	The city shall prepare and address a landscape ordinance for inclusion with development regulations.		1	1	1	1	1	1	1	1	1	1	1	1	1	1		1	1
9d-LU	Develop regulatory guidelines and standards for light industrial research and office uses.												1	1					
1c-UDE	A new landscaping ordinance shall be prepared which includes replacement of trees lost through land development.		1	1	1	1	1	1	1	1	1	1	1	1	1	1		1	1
2g-H	Update codes to state and national standards for group homes and family day care facilities.		1	1	1	1				1									
1f-T	New developments should provide adequate on- and off-street parking for the traffic they generate. Consolidated parking facilities should be encouraged. Maintain a pedestrian-oriented atmosphere in Old Town. Preservation of natural vegetation in the construction and repair of streets should be encouraged, particularly regarding the city's trademark Garry Oak trees in transportation rights-of-way. Protect and/or mitigate environmentally sensitive areas and resource lands when planning for future streets.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
1a-E	Preserve and protect critical areas by regulating development within and adjacent to them.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
6e-E	Require planting or retention of trees and shrubs with new development and substantial redevelopment projects.			1	1	1	1	1	1	1	1	1	1	1	1	1		1	1

6g-B	The city shall require developers to submit and receive city approval of erosion control and limits- of-clearing plans, as applicable, prior to release of Forest Practices Permits and land clearing. Adopt a land clearing and grading ordinance to prevent indiscriminate removal or destruction of trees and ground cover on undeveloped and partially developed property.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
2e-CF	Promote high quality design and site planning in the construction of capital facilities.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1		1	1
8d-GS	The city should provide timely and effective public notification of land use actions.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
9a-GS	The city should combine review and notification procedures for multiple permits, whenever possible, to eliminate unnecessary delay in review of development applications.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
9b-GS	The city should consider streamlining procedures under the State Environmental Policy Act and Shoreline Management Act, as such programs may be developed by the State of Washington.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
9c-OS	The city shall process development applications within the legal time frames established by state law.	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1

1 Indicates that other sections of this title respond to the identified Oak Harbor comprehensive plan policies. These include: Chapter 19.34 OHMC, Home Occupations; Chapter 19.36 OHMC, Sign Code; Chapter 19.38 OHMC, Essential Public Facilities; Chapter 19.42 OHMC, Accessory Dwelling Units; Chapter 19.44 OHMC, Parking; Chapter 19.46 OHMC, Landscape and Screening; Chapter 19.47 OHMC, Land Clearing; Chapter 19.48 OHMC, Site Plan Review Procedures; and Chapter 19.50 OHMC, Aviation Environs Overlay Zone. OHMC Title 18, Planning, and OHMC Title 20, Environment, also respond to these policies.

Section Eleven. Oak Harbor Municipal Code Chapter 19.28 is hereby re-adopted to read as follows:

Chapter 19.28
LIMITATIONS OF USES

Sections:

19.28.010 Limitations of uses.
19.28.020 Roof equipment.
19.28.030 Height limits – Exceptions.
19.28.040 Height limits – Roof structures.
19.28.050 Height limits – Flagpoles.
19.28.060 Conditional use permits for height limitation structures.

19.28.010 Limitations of uses.

Those permitted uses located in the several districts shall be subject to the following limitations:

(1) All sites in a commercially classified district or designated for commercial uses in the Oak Harbor comprehensive plan having a common boundary with a residentially classified property or property designated for residential uses in the Oak Harbor comprehensive plan shall erect and maintain a view-obscuring fence and/or screen buffer in conformance with Chapter 19.46 OHMC;

(2) All sites in an industrially classified district or designated for industrial uses in the Oak Harbor comprehensive plan having a common boundary with any residentially classified property or property designated for residential uses in the Oak Harbor comprehensive plan shall erect and maintain a view-obscuring fence and/or screen buffer in conformance with Chapter 19.46 OHMC;

(3) All permitted uses established after the effective date of this title or enlargements amounting to an increase of 20 percent in gross floor area of a use established prior to the effective date of this title shall provide off-street parking and loading areas for each use and enlargement in accordance with the provisions of Chapter 19.44 OHMC;

(4) Where lighted signs and illuminated areas are permitted, such illuminating devices shall be shaded and directed so as not to be visible from any residentially classified property or property designated for residential uses in the Oak Harbor comprehensive plan;

(5) Industrial uses shall be subject to the following conditions:

(a) In all industrial districts, the noise emanating from the premises used for industrial activities shall be muffled so as to not become objectionable due to intermittent beat, frequency or shrillness, and where an industrial district adjoins a residential district the noise loudness measured at the boundary line shall not exceed 40 decibels between the hours of 9:00 p.m. and 7:00 a.m. and 60 decibels at other hours,

(b) Industrial and exterior lighting shall not be used in such a manner that produces glare on public highways and neighboring property. Arc welding, acetylene torch cutting or similar processes shall be performed so as not to be seen from any point beyond the outside of the property,

(c) In terms of fire and safety hazards, the storage and handling of

inflammable liquids, liquefied petroleum gases and explosives shall comply with rules and regulations falling under the jurisdiction of the city fire chief, the laws of the state and other local ordinances. Bulk storage of inflammable liquids below ground shall be permitted, and the tank shall be located not closer to the property line than the greatest dimension (diameter, length, or height) of the tank,

(d) Provisions must be made for necessary shielding or other preventive measures against the interferences occasioned by mechanical, electrical, and nuclear equipment, uses or processes with electrical apparatus in nearby buildings or land uses,

(e) Liquid and solid wastes, storage of animal or vegetable waste which attract insects or rodents or otherwise create a health hazard shall be prohibited. No waste products shall be exposed to view from eye level from any property line in an industrial district.

19.28.020 Roof equipment.

All roof equipment used for heating, cooling or hood ventilation shall have a sight-obscuring screen in accordance with the Oak Harbor design guidelines.

19.28.030 Height limits – Exceptions.

Buildings and structures shall not exceed the height limitations as specified for the use district in which they are located unless specifically excepted as set out in OHMC 19.28.040 and 19.28.050.

19.28.040 Height limits – Roof structures.

Roof structures for the housing of elevators, stairways, tanks, ventilating fans and similar equipment to operate and maintain buildings; fire and parapet walls; skylights; towers, chimneys, smokestacks, wireless masts, television antennas, steeples and similar structures may be erected above the height limits prescribed in this title so long as the following conditions are met:

(1) Such portion of building or structure above the prescribed height limit shall not be allowed or used for the purpose of providing additional floor space;

(2) Structures specified in this section may not extend more than 10 feet above the height limit of the district, whether it is attached or freestanding, unless approved as a conditional use by the hearing examiner;

(3) Freestanding structures exceeding the height limit must be more than 10 feet from the nearest property line or point thereon;

(4) No sign is affixed to the structures above the height limit for the district.

19.28.050 Height limits – Flagpoles.

(1) There is no height limitation for flagpoles in commercial and industrial districts. Flagpoles must be placed at least 10 feet from the nearest lot line. Lighting of flagpoles is allowed in commercial and industrial districts subject to the following conditions:

(a) The flagpole is located at least 50 feet away from the nearest point of a residential district;

(b) Lighting shall be toward the flagpole, and not create safety hazards for aircraft and automobile traffic.

(2) In residential and residential/office districts, flagpoles shall not exceed 35 feet. Lighting shall be toward the flagpole and not create a nuisance to adjacent property owners.

(3) There is no height limitation for flagpoles permitted under conditional uses and in manufactured home parks. Flagpoles must be located at least 10 feet from a property line. Lighting of flagpoles is allowed subject to the following conditions:

(a) The flagpole is located at least 50 feet away from the nearest point of a residential district;

(b) Lighting shall be toward the flagpole, and not create safety hazards for aircraft and automobile traffic.

(4) Along with all other structures, building permits shall be required for flagpoles prior to construction. In addition, the planning director may require installation of flagpoles in excess of 50 feet to be designed and certified by a registered professional engineer. The city engineer may waive the 10-foot setback when the flagpole is designed so that the subsoil lateral support is essentially on the property where the flagpole is located. The standards of the building code, now in effect or as hereafter amended, shall apply to flagpoles.

19.28.060 Conditional use permits for height limitation structures.

(1) Conditional use permits for buildings or structures enumerated in OHMC 19.28.040 and exceeding 10 feet above the height limitation of the district may be granted so long as the following conditions are met:

(a) It is reasonably necessary for the use of the property;

(b) It is located more than 30 feet from the nearest property line or point thereon;

(c) It can be demonstrated to be safe;

(d) It does not materially impair the view of surrounding properties;

(e) It does not materially increase fire or other safety risks for the property or surrounding area;

(f) It complies with OHMC 19.28.040(1), (3) and (4).

(2) The hearing examiner may require reasonable conditions to be met for granting a conditional use permit to exceed the height limitations, including but not limited to specifying the location, design, lighting, construction and use.

Section Twelve. Oak Harbor Municipal Code Chapter 19.29 is hereby re-adopted to read as follows:

Chapter 19.29
WIRELESS COMMUNICATIONS FACILITIES

Sections:

19.29.010 Purpose.
19.29.020 Development standards for micro facilities.
19.29.030 Development standards for mini facilities.
19.29.040 Development standards for macro facilities.
19.29.050 Development standards for monopole I.
19.29.060 Development standards for monopole II.
19.29.070 Additional permit criteria for monopole I and monopole II.
19.29.080 Exemption.
19.29.090 Obsolescence.

19.29.010 Purpose.

In addition to the general purposes of the comprehensive plan and this title, this chapter is included in order to provide for a wide range of locations and options for wireless communications providers while minimizing the unsightly characteristics associated with wireless communications facilities and to encourage creative approaches in locating wireless communications facilities which will blend in with the surroundings of such facilities.

19.29.020 Development standards for micro facilities.

(1) Micro facilities are permitted in all zones.

(2) A micro facility shall be located on existing buildings, poles or other existing support structures. A micro facility may locate on buildings and structures; provided, that the interior wall or ceiling immediately adjacent to the facility is not designated residential space.

(3) Antennas equal to or less than four feet in height (except omni-directional antennas which can be up to six feet in height) and with an area of not more than 580 square inches in the aggregate (e.g., one-foot diameter parabola or two-foot by one and one-half-foot panel as viewed from any one point) are exempt from the height limitation of the zone in which they are located. Structures which are nonconforming with respect to height may be used for the placement of omni-directional antennas providing they do not extend more than six feet above the existing structure. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.

(4) The micro facility shall be exempt from design review if the antenna and related components are the same color as the existing building, pole or support structure on which it is proposed to be located.

(5) The shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground.

(6) In single-family residential (PRE, R-1 and R-2) zones, micro facilities for a specific wireless provider shall be separated by a distance equal to or greater than

1,320 linear feet from other micro facilities of the same wireless provider.

19.29.030 Development standards for mini facilities.

(1) Mini facilities are permitted in all zones except single-family residential (PRE, R-1 and R-2) zones.

(2) The mini facility may be located on buildings and structures; provided, that the immediate interior wall or ceiling adjacent to the facility is not a designated residential space.

(3) The mini facility shall be exempt from design review if the antenna and related components are the same color as the existing building, pole or support structure on which it is proposed to be located.

(4) The shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground.

(5) Mini facilities shall comply with the height limitation specified for all zones except as follows: Omni-directional antennas may exceed the height limitation by 10 feet or, in the case of nonconforming structures, the antennas may extend 10 feet above the existing structure. Panel antennas may exceed the height limitation if affixed to the side of an existing nonconforming building and they blend in architecturally with the building. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.

19.29.040 Development standards for macro facilities.

(1) Macro facilities are permitted in all zones except single-family residential (PRE, R-1 and R-2) zones.

(2) Macro facilities may be located on buildings and structures; provided, that the immediate interior wall or ceiling adjacent to the facility is not a designated residential space.

(3) The macro facility shall be exempt from design review if the antenna and related components are the same color as the existing building, pole or support structure on which it is proposed to be located.

(4) The shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground.

(5) Macro facilities shall comply with the height limitation specified for all zones, except as follows: Omni-directional antennas may exceed the height limitation by 15 feet, or, in the case of nonconforming structures, the antennas may extend 15 feet above the existing structure. Panel antennas may exceed the height limitation if affixed to the side of an existing building and architecturally blends in with the building. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.

19.29.050 Development standards for monopole I.

(1) Monopole I facilities are only permitted in the industrial (I) zone.

(2) Monopole I facilities are permitted in community commercial (C-3), highway service commercial (C-4), highway corridor commercial (C-5), planned business park (PBP), planned industrial park (PIP), and public facilities (PF) zones with a

conditional use permit.

(3) Monopole I facilities are not permitted in residential (PRE, R-1, R-2, R-3 and R-4), residential office (RO), neighborhood commercial (C-1) or central business district (CBD) zones, except when expressly provided for in this chapter.

(4) Antennas equal to or less than 15 feet in height or up to four inches in diameter may be a component of a monopole I facility. Antennas which extend above the wireless communications support structure shall not be calculated as part of the height of the monopole I wireless communications support structure. For example, the maximum height for a monopole I shall be 60 feet and the maximum height of antennas which may be installed on the support structure could be 15 feet, making the maximum permitted height of the support structure and antennas 75 feet (60 feet plus 15 feet).

(5) Co-location on an existing support structure shall be permitted. Macro facilities are the largest wireless communications facilities allowed on monopole I.

(6) The shelter or cabinet used to house radio electronics equipment and the associated cabling connecting the equipment shelter or cabinet to the monopole I facilities shall be concealed, camouflaged or placed underground. Monopole I facilities shall be subject to review by the planning commission using the procedures and review criteria specified in Chapter 19.48 OHMC and this chapter.

(7) Monopole I facilities shall be landscaped in conformance with Chapter 19.46 OHMC.

(8) Monopole I facilities adjacent to a single-family zone shall be set back a distance equal to the height of the wireless communications support structure from the nearest single-family lot line.

19.29.060 Development standards for monopole II.

(1) Monopole II facilities are only permitted in the industrial (I) zone; provided the wireless communications support structure shall be designed to accommodate two or more wireless communications facilities.

(2) Monopole II facilities are permitted in highway service commercial (C-4), planned business park (PBP), planned industrial park (PIP), and public facilities (PF) zones with a conditional use permit.

(3) Monopole II facilities are not permitted in residential (PRE, R-1, R-2, R-3 and R-4), residential office (RO), neighborhood commercial (C-1) or central business district (CBD) zones, except when expressly provided for in this chapter.

(4) Monopole II facilities which exceed 60 feet in height or are located within 300 feet of a residential zone shall require a conditional use permit.

(5) Co-location of wireless communications facilities on an existing support structure shall be permitted.

(6) Macro facilities are the largest permitted wireless communications facilities allowed on a monopole II facility. Antennas which extend above the monopole II wireless communications support structure shall not be calculated as part of the height of the wireless communications support structure. For example, the maximum height for a monopole II facility shall be 150 feet and the maximum height of antennas which may be installed on the support structure could be 15 feet, making the maximum permitted height of the support structure and antennas

165 feet (150 feet plus 15 feet).

(7) The shelter or cabinet used to house radio electronics equipment and the associated cabling connecting the equipment shelter or cabinet to the monopole I facilities shall be concealed, camouflaged or placed underground. Monopole I facilities shall be subject to review by the planning commission using the procedures and review criteria specified in Chapter 19.48 OHMC and this chapter.

(8) Monopole II facilities shall be landscaped in conformance with Chapter 19.46 OHMC.

(9) Monopole II facilities adjacent to a single-family zone shall be set back a distance equal to the height of the wireless communications support structure from the nearest single-family lot line.

(10) Monopole II facilities shall be separated from each other by a distance equal or greater than 1,320 feet.

19.29.070 Additional permit criteria for monopole I and monopole II.

In addition to the permit criteria specified in Chapters 19.48 and 19.67 OHMC, the following specific criteria shall be met before a site plan review or conditional use permit can be granted:

(1) Antennas may not extend more than 15 feet above their supporting structure, monopole, building or other structure.

(2) Site location and development shall preserve the pre-existing character of the surrounding buildings and land uses and the zone district to the extent consistent with the function of the communications equipment. Wireless communications towers shall be integrated through location and design to blend in with the existing characteristics of the site to the extent practical. Existing on-site vegetation shall be preserved or improved, and disturbance of the existing topography shall be minimized, unless such disturbance would result in less visual impact of the site to the surrounding area.

(3) Accessory equipment facilities used to house wireless communications equipment should be located within buildings or placed underground when possible. When they cannot be located in buildings, equipment shelters or cabinets shall be screened and landscaped in conformance with Chapter 19.46 OHMC.

(4) No equipment shall be operated so as to produce noise in levels above 45 dB as measured from the nearest property line on which the attached wireless communications facility is located.

(5) In any proceeding regarding the issuance of site plan review or a conditional use permit under the terms of this chapter, federal law prohibits consideration of environmental effects of radio frequency emissions to the extent that the proposed facilities comply with the Federal Communications Commission regulations concerning such emission.

(6) Towers, antennas or other objects that penetrate the 100:1 angle slope criteria established in Federal Aviation Regulation (FAR) Part 44 (§§ 77.13(a)(1) and 77.13(a)(2)(I), respectively) shall be reviewed for compatibility with airport operations. No tower, antenna or other object shall constitute a hazard to air navigation, interfere with the safe operation of aircraft or deny the existing operational capability of Ault Field.

19.29.080 Exemption.

The following are exempt from the requirement of a conditional use permit, and shall be considered a permitted use in all zones where wireless and attached wireless communications facilities are permitted: Minor modifications of existing wireless communications facilities and attached wireless communications facilities, whether emergency or routine, so long as there is little or no change in the visual appearance. Minor modifications are those modifications, including the addition of antennas, to conforming wireless and attached wireless communications facilities that meet the performance standards set forth in this chapter.

19.29.090 Obsolescence.

A wireless communications facility or attached wireless communications facility shall be removed by the facility owner within six months of the date it ceases to be operational or if the facility falls into disrepair.

Section Thirteen. Oak Harbor Municipal Code Chapter 19.31 is hereby re-adopted to read as follows:

Chapter 19.31
PLANNED RESIDENTIAL DEVELOPMENTS

Sections:

19.31.010 Purpose and intent.
19.31.020 General standards and requirements – Open space.
19.31.030 General standards and requirements – Density.
19.31.040 General standards and requirements – Parcel size.
19.31.050 General standards and requirements – Mandatory application of standards.
19.31.060 General standards and requirements – Uses permitted.
19.31.070 General standards and requirements – Access to development.
19.31.080 General standards and requirements – Permissive variations in requirements.
19.31.090 General standards and requirements – Yards.
19.31.100 General standards and requirements – Distance between buildings.
19.31.110 General standards and requirements – Building height.
19.31.120 General standards and requirements – Professional design.
19.31.130 General standards and requirements – Multiple zones.
19.31.140 General standards and requirements – Off-street parking.
19.31.150 General standards and requirements – Common walls.
19.31.160 Combined applications.
19.31.170 Preapplication meeting.
19.31.180 Application requirements.
19.31.190 Preliminary development plan – Filing requirements.
19.31.200 Preliminary development plan – Staff recommendation.
19.31.210 Preliminary development plan – Public hearing.
19.31.220 Preliminary development plan – Planning commission review.
19.31.230 Preliminary development plan – Council review.
19.31.240 Final development plan – Filing requirements.
19.31.250 Final development plan – Staff recommendation.
19.31.260 Final development plan – Planning commission approval.
19.31.270 Appeal to council.
19.31.280 Modifications to the plan.
19.31.290 Phased development.
19.31.300 Distribution of facilities.
19.31.310 Dedication and maintenance of facilities.
19.31.320 Mapping.
19.31.330 Limitation on resubmission.
19.31.340 Adherence to approved plan.
19.31.350 Revocation.
19.31.360 Mitigation agreement.
19.31.370 Subdivision requirements.
19.31.380 Sale of lots.

19.31.390 Lots subject to final development plan.
19.31.400 Termination of planned residential development.
19.31.410 Extension of time for construction.
19.31.420 Judicial review.
19.31.430 Planned unit development conformity.

19.31.010 Purpose and intent.

The purpose and intent of the planned residential development (PRD) is to create a process to promote diversity and creativity in site design, and to protect and enhance natural and community features. The intent of the process is to encourage unique developments which may combine a variety of residential densities to create open space, protect natural vegetation, watercourses, wetlands, historic buildings and places, and provide community recreation. By using flexibility in the application of development standards, this process will promote developments that will provide more efficient street and utility systems, and compatible architectural and landscape designs.

19.31.020 General standards and requirements – Open space.

The proposal shall provide open space as follows:

(1) Common open space shall comprise at least 10 percent of the gross area of the PRD, and shall be used as a recreational, park or environmental amenity for collective enjoyment by occupants of the development. Common open space shall not include public or private streets, driveways, detention ponds, buffers, screens, perimeter landscaping, parking areas or the required or provided yards for buildings or structures;

(2) Common open space may not be computed to include any existing submerged lands;

(3) At least five percent of the gross developable area, excluding wetlands, must be usable for active or passive recreation.

19.31.030 General standards and requirements – Density.

In addition to or as a greater requirement to the regulations normally found in the underlying zoning district, the following regulations shall govern:

(1) Increases in density over that permitted in the underlying zone are allowed at the discretion of the planning commission as follows:

(a) Provisions for open space which is arranged as to be an integrated part of the project and meets the requirements of OHMC 19.31.020 – 10 percent increase,

(b) Preservation of a natural feature such as, but not limited to, a wetland, stream corridor, unique geological feature, substantial overstory vegetation, etc. – 10 percent increase,

(c) Unique landscaping, architectural design and site planning – 10 percent increase,

(d) Additional open space – one percent increase in density for each one percent increase in open space over the minimum required under OHMC 19.31.020,

(e) Preservation of scenic vista corridor(s) within and off the site – 10 percent increase,

(f) Retention of significant trees in excess of 25 percent, as defined in OHMC

19.46.045, Tree retention – 10 percent increase.

(2) The total allowable maximum density increase shall not exceed 30 percent.

19.31.040 General standards and requirements – Parcel size.

No PRD application shall be made for an area of less than two acres unless the city makes the following findings:

(1) An unusual physical or topographical feature of importance exists on the site or in the neighborhood which can be conserved and still leave the applicant equivalent use of the land by the use of a PRD;

(2) The property or its neighborhood has a historical or visual character of importance to the community that will be protected by the use of a PRD;

(3) The property adjacent to or across the street from property which has been developed or redeveloped under a PRD, and a PRD will contribute to the maintenance of the amenities and values of the neighboring PRD.

19.31.050 General standards and requirements – Mandatory application of standards.

This chapter shall apply to any residential development proposal encompassing more than 20 acres. Development proposals encompassing five acres or more which have 20 percent or more of such lands covered in sensitive or forested lands on the woodlands map, shall be developed under the requirements of this chapter.

In the event that a property owner can present information that a PRD is not in the best interest of the neighborhood and the comprehensive plan policies can be met, the planning commission may waive this requirement when it is determined in the best interest of the community. Examples include hazardous situations for tree removal or buffer instability.

19.31.060 General standards and requirements – Uses permitted.

Notwithstanding any other provision of this section, accessory incidental, and other nonresidential uses may be specifically and selectively authorized as to exact type and size to be integrated into a PRD; provided, that such accessory incidental uses shall be designed to serve only as a convenience to the inhabitants of the PRD. Building permits or occupancy permits for such uses shall not be issued until one-half of the total project is completed unless otherwise approved by the planning commission. The access for such uses shall be functionally connected to at least one minor arterial or collector street.

19.31.070 General standards and requirements – Access to development.

The streets connecting with any PRD must be of sufficient size and character to accommodate the traffic to be produced by the project without significantly altering the character of existing residential neighborhoods. Evaluation of the proposal pursuant to this section shall include consideration of the following criteria:

(1) The increase in traffic which will be generated by the development;

(2) The present width and condition of streets to be affected;

(3) Presence or absence of improved sidewalks;

(4) Anticipated effect upon availability of parking; and

(5) Existence of a particular conflict between vehicular and pedestrian traffic.

19.31.080 General standards and requirements – Permissive variations in

requirements.
In considering a proposed planned residential development project, the approval thereof may involve modifications in the regulations, requirements and standards of the zone in which the project is located and the subdivision ordinance so as to appropriately apply such regulations, requirements and standards to the larger site.
In modifying such regulations and requirements as they may apply to a PRD project, the limitations set forth in this chapter shall apply. The applicant shall bear the burden of supporting any change in requirements. The city may increase any requirement necessary to make the project conform to the purpose and intent of this code.

19.31.090 General standards and requirements – Yards.
The requirements for front yards for the zone in which the PRD is located shall apply to all exterior boundary lines of the site.

19.31.100 General standards and requirements – Distance between buildings.
The planning commission shall set minimum distances between structures to assure adequate sunlight and open space; provided, that minimum distances required by the building code and fire code shall be met.

19.31.110 General standards and requirements – Building height.
Building height shall be governed by the requirements of the underlying zone.

19.31.120 General standards and requirements – Professional design.
The applicant for all proposed planned residential developments shall certify that registered professional personnel will plan, guide and inspect the development and shall list the personnel by name, address and profession on the application. The planning director may direct the applicant, because of the nature, size and scope of the development, to utilize any or all of the following professions:
(1) An architect licensed by the state of Washington;
(2) A landscape architect licensed by the state of Washington;
(3) An urban planner holding a full membership in the American Institute of Certified Planners;
(4) A registered civil engineer licensed by the state of Washington; and/or
(5) A registered land surveyor licensed by the state of Washington.
One of the professional persons chosen shall be designated by the applicant as the applicant's representative in conferring with the planning commission and/or the city staff regarding the development plans and the execution thereof.
The selection of the professional coordinator of the design team will not limit the owner or the developer in consulting with the planning staff or the planning commission.

19.31.130 General standards and requirements – Multiple zones.
For any planned residential development located in more than one zone, the total number of dwelling units allowed may be determined by totaling the number of dwelling units allowed to be located on each portion of the planned residential development area located in each separate zone according to the regulations of that zone. The number of units arrived at by this method may be located anywhere within the PRD, subject to the normal development plan approval process set forth in this chapter.

For any planned residential development located in more than one zone, the permitted percentage of coverage by buildings and structures may be determined by calculating the percentage of coverage allowed upon each portion of the PRD located in a separate zone, pursuant to the regulation applicable to that zone, and calculating the average of said percentages.

19.31.140 General standards and requirements – Off-street parking.
The total required off-street parking facilities shall meet the requirements of Chapter 19.44 OHMC.

19.31.150 General standards and requirements – Common walls.
In planned residential development projects receiving final approval, where units will have common walls, the building department may issue building permits for construction of those units prior to approval of final lot lines.

19.31.160 Combined applications.

(1) The preliminary planned residential development plan and the final planned residential development plan may be combined and together processed through review as a final planned residential development plan.

(2) The applicant may file a concurrent subdivision application with the final planned residential development application, meeting the requirements of OHMC Titles 21 and 22, which shall be processed concurrently with the final planned residential development application.

(3) The applicant may file a concurrent rezone application with the preliminary planned residential development application, meeting the requirements where such application is consistent with the Oak Harbor comprehensive plan, which shall proceed concurrently with the preliminary planned residential development application.

(4) In case of conflict between time limits set forth in this chapter and in other provisions of the Oak Harbor Municipal code or applicable state law, those provisions requiring public notice to be given the furthest in advance of the pending action shall prevail over conflicting provisions specifying that notice shall be given within a shorter time prior to the action.

19.31.170 Preapplication meeting.
Prior to formal submittal of the application, the applicant shall present to the planning department a preliminary site plan, which shall contain in a rough and approximate manner, all of the information required for the application under OHMC 19.31.190. Upon submittal, the planning department shall schedule a meeting with representatives of applicable city departments. The planning director may also invite, because of the nature, size and scope of the development, other interested agencies or public utilities to participate in the preapplication meeting. The purpose of the meeting is to enable the applicant to obtain the advice of city staff as to the intent, standards and provisions of this code with regard to the proposed plan. Information presented for and at the preapplication meeting shall not be part of the public record as no applications are submitted for formal review.

19.31.180 Application requirements.

An application for approval of a proposed planned residential development shall be made to the planning director upon forms furnished by the city. Application shall be made by the owner or owners of the parcel or parcels intended to be developed as a unit or their duly authorized agent or agents. The ownership of all parcels to be included must be represented in the application.

19.31.190 Preliminary development plan – Filing requirements.

The applicant shall file with the planning director a preliminary development plan, including the following:

(1) A legal description of the site and plot plan indicating location of all existing and proposed adjacent streets, private rights-of-way and easements;

(2) Twenty copies of the proposed site plan and/or drawings, which include the following information:

- (a) Topographic contours at a minimum interval of five feet,
- (b) Individual trees over 12 inches in trunk diameter measured four feet above the base of the trunk in areas to be developed or otherwise disturbed,
- (c) Existing and proposed finished grades of the property with all drainage features,
- (d) Location of all proposed structures together with the usage to be contained therein and approximate location of all entrances thereto and heights, and gross floor area thereof (building envelope on single-family),
- (e) Location and nature of vehicular and pedestrian circulation features within the site and adjacent streets and alleys,
- (f) The extent, location, arrangement, and proposed improvements of all off-street parking and loading facilities,
- (g) The extent, location, arrangement and proposed improvements of all open space, landscaping, fences and walls,
- (h) Location, nature and dimension (where applicable) of water, sewer, and storm sewer utilities including fire protection facilities,
- (i) Architectural drawings and sketches demonstrating the planning and character of the proposed development; narrative statement for single-family in lieu of sketches,
- (j) Number of units proposed;

(3) Proposed conditions, covenants and restrictions, including continuous maintenance provisions for the project;

(4) A text describing conditions or features which cannot be adequately displayed on maps or drawings.

19.31.200 Preliminary development plan – Staff recommendation.

After receiving the preliminary development plan, the planning director shall route the same to all appropriate city departments, and each department shall submit to the planning director comments and recommendations. After receiving such information from the city departments, the planning director shall present recommendations and conclusions before the planning commission at the public hearing upon the preliminary development plan.

19.31.210 Preliminary development plan – Public hearing.

The preliminary development plan shall be considered at a public hearing before the

planning commission. Notice of such public hearing by publication in the official newspaper of the city of Oak Harbor shall be given by the planning commission at least 10 days prior to the date of hearing.

19.31.220 Preliminary development plan – Planning commission review.

Following the public hearing, the planning commission may approve as proposed, approve with changes or disapprove the application and the accompanying development plan. The commission's action shall be based on the following criteria:

(1) The proposal meets the requirements of this title;

(2) The perimeter of the project shall be compatible with the land use of adjoining properties. Compatibility includes, but is not limited to, size, scale, mass and architectural design;

(3) The proposal shall not be detrimental to existing or potential surrounding land uses as defined by the Oak Harbor comprehensive plan;

(4) The applicant is providing two or more of the following benefits to the city as part of the proposal:

(a) The applicant is providing public facilities that could not be required by the city for development of the subject property without a planned residential development;

(b) The proposal will preserve, enhance or rehabilitate natural features of the subject property such as significant woodlands, wildlife habitats or streams that the city could not require the applicant to preserve, enhance or rehabilitate through development of the subject property without a planned residential development;

(c) The design of the proposed planned residential development is superior in one or more of the following ways to the design that would result from development of the subject property without a planned residential development:

(i) Increased provision of open space or recreational facilities;

(ii) Superior circulation patterns or location or screening of parking facilities;

(iii) Superior landscaping, buffering, or screening in or around the proposed planned residential development;

(iv) Superior architectural design, placement, relationship or orientation of structure; and/or

(v) Minimum use of impervious surfacing materials;

(5) Any planned residential development which is proposed as special needs housing shall be reviewed for its proximity to existing or planned services (i.e., shopping centers, medical centers, churches, parks, entertainment, senior centers, public transit, etc.).

19.31.230 Preliminary development plan – Council review.

The planning commission decision shall be forwarded to the city council for concurrence or disapproval. The determination of the city council shall become final 10 days after the date of decision, unless directed otherwise or appealed to the city council in accordance with OHMC 19.31.270.

19.31.240 Final development plan – Filing requirements.

Within one year after the approval or modified approval of the preliminary development plan, the applicant shall file with the planning director a final plan for the entire development or when submission in stages has been authorized pursuant to OHMC 19.31.290 for the first unit of development. The final development plan shall conform in all major respects with the approved preliminary development plan. Binding site plans or final plats for land subdivision purposes will be reviewed for consistency with the final development plan. The final development plan shall include all information included in the preliminary plan plus the following:

(1) The location of water, sewer and drainage facilities;
(2) Detailed building and landscaping plans and elevations;
(3) The character and location of signs;
(4) Plans for street improvements; and
(5) Grading or earth moving plans.

The final development plan shall be sufficiently detailed to indicate fully the ultimate operation and appearance of the development. Fully drafted, properly executed legal documents required by the planning commission for dedication or reservation of public facilities and/or for the creation of a nonprofit homeowners' association shall also be submitted.

19.31.250 Final development plan – Staff recommendation.

After receiving the final development plan, the planning director shall route the same to all appropriate city departments, and each department shall submit to the planning director comments regarding the conformance of the final development to the preliminary development plan approval. After receiving such information from the city departments, the planning director shall present recommendations and conclusions to the planning commission.

19.31.260 Final development plan – Planning commission approval.

Upon receipt of the final development plan, the planning commission shall examine such plan and determine whether it conforms to all applicable criteria and standards and whether it conforms in all substantial respects to the previously approved planned residential development permit. In the event the planning commission determines that the final development plan does not conform to the previously approved permit, they may require such changes in the proposed development or impose such conditions of approval as are, in its judgment, necessary to ensure conformity to the previous approval.

If the commission does grant final approval, the decision of the commission shall become final 10 days after the date of the final action unless appealed to the city council in accordance with OHMC 19.31.270; provided, that if all other requirements of this title have been met, the permit shall not be granted until the completion of the formation of a nonprofit association and the proper drafting, executing and recording (all at applicant's expense) of all documents necessary to fulfill the requirements of this title.

19.31.270 Appeal to council.

(1) Within 10 days after the date of decision by the planning commission on an application of approval of a preliminary development plan or on revocation of any such plan in accordance with OHMC 19.31.350, such approval or revocation shall be taken to the city council by the applicant, the permit holder or any other interested party. Such appeal shall be made on a form prescribed by the planning

department and shall be filed within the prescribed time with the office of the city clerk and must be accompanied by a filing fee of $100.00. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the commission or wherein its decision is not supported by the evidence in the record, based on the criteria set forth in OHMC 19.31.010 through 19.31.220.

(2) Upon receipt of such appeal, together with the filing fee, the city council shall set the time for consideration thereof. The city clerk shall notify the planning director of the receipt of said appeal and of the time set for consideration thereof. The planning director shall give written notice to the appellant and to any known adverse parties or to their representatives of the time and place of the hearing not less than five days prior to the date set for the hearing of the appeal.

(3) In considering the appeal, the city council may refer the matter back to the planning commission for further information or reconsideration or approve or disapprove the proposed development or require such changes therein or impose such reasonable conditions of approval as are, in its judgment, necessary to insure conformity to said criteria and standards. The decision of the city council shall be final.

19.31.280 Modifications to the plan.

Requests for modifications of preliminary or final development plans shall be made in writing and shall be submitted to the planning department in the manner and form prescribed by the planning director.

(1) Modifications shall be deemed minor if the proposal does not change any of the following:

(a) Land use;

(b) Density, number of dwelling units or lots;

(c) General location or number of access points;

(d) The amount of open space;

(e) The amount of parking;

(f) The total square footage of structures; and

(g) The general height of structures.

Examples of minor modifications include but are not limited to lot line adjustments, minor relocations of buildings or landscaped areas, minor changes in phasing and timing, minor changes in building design, and minor changes in elevations of buildings.

Minor modifications may be approved by the planning director.

(2) Major modifications are those which, as determined by the planning director, substantially change the basic design, density, open space or other similar requirements or provisions. Major adjustments to the development plans shall be reviewed by the planning commission under the same process as outlined under OHMC 19.31.220 and 19.31.230.

19.31.290 Phased development.

Development of the project may be phased, in which case each complete phase may be processed separately through both preliminary development plan review and final development plan review. A map showing all property owned or controlled by the developer which is contiguous to the development site or which is within the area determined by the planning director to be relevant for comprehensive planning and

environmental assessment purposes, together with a conceptual plan of said properties, shall be submitted with the application for the first phase. The conceptual plan shall conform to the purposes of this title and shall be used by the city to review all phases of the development.

19.31.300 Distribution of facilities.

Individual buildings, accessory buildings, off-street parking and building facilities, open space and landscaping and screening may be located without reference to lot lines except as established under OHMC 19.31.100, except that required parking spaces serving residential uses shall be located within 200 feet of the building containing the living units served.

19.31.310 Dedication and maintenance of facilities.

The planning commission may require that portions of the tract or tracts under consideration be conveyed and/or dedicated for the following uses:

(1) Whenever private open space, including parks or playgrounds, are to be provided, the planning commission shall require that an association of owners or tenants be organized as a nonprofit corporation under the laws of the state of Washington, which shall adopt such articles of incorporation and bylaws and adopt, impose and record such declaration of covenants and restrictions on such open space and/or common areas that are acceptable to the planning commission.

Said association shall be formed and continued for the purpose of maintaining such open space. Such an association, if required, may undertake other functions. It shall be created in such a manner that owners of property shall automatically be members and shall be subject to assessments levied to adequately maintain said open space for the purposes intended. The period of existence of such association shall be not less than 20 years and it shall continue thereafter and until the members terminate it. Provisions shall be made by the association for the disposition of such open space upon any termination of the arrangement hereinabove provided for;

(2) The planning commission may require that the rights-of-way designated by city code be dedicated or deeded to the city. Such other streets necessary to the proper development of adjacent properties may also be required;

(3) Easements to the city required for the orderly extension, maintenance, repair or replacement of public utilities may be required as a condition precedent to the issuance of a planned residential development permit.

19.31.320 Mapping.

Whenever a planned residential development permit has been granted and so long as the permit is in effect, the boundary of the planned residential development shall be indicated on the zoning map of the city of Oak Harbor as subdistrict PRD.

19.31.330 Limitation on resubmission.

Whenever an application for a planned residential development permit has been denied, no application using the same area or any portion thereof shall be filed by the same applicant within one year after the date of denial unless there is a substantial change in the plan.

19.31.340 Adherence to approved plan.

The building official shall only issue building permits for buildings and structures which conform with the approved final development plan for the planned residential development and with all other applicable city ordinances, regulations, rezone, annexation and development agreements. The building official shall issue a certificate of occupancy only for completed buildings or structures which conform to the requirements of the approved final development plans and all other applicable city ordinances and regulations. The construction and development of all the open spaces and public and recreation facilities of each project phase must be completed or bonded before any certificate of occupancy will be issued.

19.31.350 Revocation.

In the event of a failure to comply with the approved plan or any prescribed condition of approval, including failure to comply with the phased development schedule, the planning commission may, after notice and hearing, revoke the planned residential development permit. The determination of the planning commission shall become final 30 days after the date of decision unless appealed to the city council.

19.31.360 Mitigation agreement.

The applicant shall provide for methods to mitigate development impacts as set forth in OHMC Title 20. Any fees voluntarily proposed or required as mitigation to such development impacts shall be made prior to the issuance of any development permits.

19.31.370 Subdivision requirements.

The approval of a subdivision shall be required of all projects which involve or contemplate the subdivision of land and the procedures set forth in OHMC Titles 21 and 22 shall be followed concurrently herewith. The approved final development plan shall be a binding site plan under RCW 58.17.040(5), so that a lease of land not involving a residential structure shall be exempt from the subdivision ordinance if the lease conforms to the final development plan.

19.31.380 Sale of lots.

Lots in a platted planned residential development may be sold to separate owners and according to the separate lots as shown in the plat filed and approved in connection therewith. No sale shall be permitted which subdivides a lot in such a manner as will create a new lot line, except as provided in OHMC Titles 21 and 22.

19.31.390 Lots subject to final development plan.

All lots or other divisions of a subdivided planned residential development shall remain subject to compliance with the final development plan regardless of the fact of subdivision in compliance with OHMC Titles 21 and 22, or subsequent conveyance of such individual lots or divisions.

19.31.400 Termination of planned residential development.

If the construction has not been started within two years from the date of approval of a final development plan, or if construction has been commenced but the work has been abandoned for a period of one year or more, and if no extension of time has been granted as provided in OHMC 19.31.410, the authorization granted for the planned residential development project shall terminate and all permits and approvals issued pursuant to such authorization shall expire and be null and void.

The time period of commencing or continuing construction shall not include periods of time during which commencement of construction or continuation of construction was reasonably halted or reasonably delayed due to the filing of a pendency of legal action challenging an approval granted by the city pursuant to this title; provided, that in all cases, when more than two years have elapsed subsequent to the date of approval of the final development plan, whether due to pendency of litigation, city-approved extensions of time for development, or otherwise, the permittee shall be required to comply with all current building, construction, subdivision and other applicable standards of the city; provided, further, that a change in zoning classification enacted subsequent to approval of the final development plan shall not affect the project.

19.31.410 Extension of time for construction.
For good cause shown, the city council, in its discretion, may grant an extension of time for commencement or continuation of construction subsequent to approval of the final development plan.

19.31.420 Judicial review.
Any legal action to review a decision of the city council or planning commission under this title shall be filed in Island County superior court within 21 days of the decision, notwithstanding the effective date of any ordinance passed or proposed to effectuate said decision.

19.31.430 Planned unit development conformity.
As of the date of adoption of this chapter, all existing, legally established planned unit developments (PUD), shall be deemed conforming uses under this chapter.

Section Fourteen. Oak Harbor Municipal Code Chapter 19.34 is hereby re-adopted to read as follows:

Chapter 19.34
HOME OCCUPATIONS

Sections:

19.34.010 Purpose.
19.34.020 Criteria.
19.34.030 Nonconforming home occupations.

19.34.010 Purpose.

It is the purpose of this chapter to:

(1) Protect residential areas from potential adverse impact of activities defined as home occupations;

(2) Permit residents of the community a broad choice in the use of their homes as a place of livelihood and the production or supplementing of personal/family income;

(3) Establish criteria and development standards for the use of residential structures or dwelling units for home occupations.

19.34.020 Criteria.

All home occupations shall meet the following criteria:

(1) Such home occupations shall be conducted in such a manner as not to give any outward appearance nor manifest any characteristics of a business in the ordinary meaning of the term that would infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes and shall not infringe upon or change the intent of the residential zone;

(2) The activity is conducted in a manner that will not alter the normal residential character of the premises and in no way be a nuisance to adjoining residences. This means there should be no outside storage or window display and no noise, dust, odors, noxious fumes or vibrations emanating from the premises which would exceed that normally produced by a single residence. Mechanical or electronic equipment which is incidental to the home occupation may be used provided it will not create visible or audible interference in radio or television receivers or cause fluctuations in the line voltage off the premises;

(3) The home occupation does not generate greater traffic volumes than would normally be expected in a residential neighborhood. This means that delivery of materials or commodities to and from the premises by commercial vehicle shall not normally exceed two per week. Only one commercial vehicle owned by the practitioner and related to the occupation may be parked on street near the premises at any time;

(4) Any materials used in conducting the business shall be stored entirely within the residence or in an accessory building;

(5) The home occupation does not increase water or sewer use so that combined total use for the dwelling and home occupation is significantly more than the average for residences in the neighborhood;

(6) The home occupation shall be conducted only by members of the family residing

in the dwelling plus no more than one nonresident assistant or employee; provided, that additional nonresident assistants may be permitted but shall require a conditional use permit. Persons in building trades or similar fields using their homes or apartments as an office for business activities carried on off the premises may have other employees provided they are not employed on the premises and they do not routinely visit the residence during the normal course of business;

(7) A family child day care home as defined herein may have up to eight children at any one time including the children living in the dwelling. The care of additional children shall require a conditional use permit;

(8) If the home occupation is a type in which classes are held or instruction given, there shall be no more than four students or pupils at any one time. The planning director may approve up to six students if he finds that the additional students will not generate additional automobile traffic. More than six students shall require a conditional use permit; provided, that this requirement shall not be construed to prohibit occasional exceptions (for example, recitals) which are in no way a nuisance to adjoining residences. All classes with four or more students shall be scheduled at least 30 minutes apart to mitigate traffic congestion;

(9) The total number of home occupations conducted within a dwelling unit shall not be regulated. However, the cumulative impact of all home occupations conducted within the dwelling unit shall not be greater than for one home occupation;

(10) Home occupations shall comply with all other local, state or federal regulations pertinent to the activity pursued and the requirements or permission granted or implied by this chapter shall not be construed as an exemption of such regulations.

19.34.030 Nonconforming home occupations.

(1) A nonconforming home occupation is one which was lawfully established and maintained prior to the effective date of this chapter or in the amendment thereto but is no longer allowed because of the application of this chapter or in the amendment thereto.

(2) Any nonconforming home occupation shall be discontinued or comply with all provisions of this chapter within one year after the home occupation first became nonconforming.

Section Fifteen. Oak Harbor Municipal Code Chapter 19.35 is hereby re-adopted to read as follows:

Chapter 19.35
TEMPORARY USE PERMITS

Sections:

19.35.010 Purpose.
19.35.020 Applicability.
19.35.030 Criteria for granting a temporary use permit.
19.35.035 Seasonal product display.
19.35.040 Frequency and duration of the temporary use.
19.35.050 Application and procedures for temporary use permits.

19.35.010 Purpose.

(1) This chapter is intended to permit certain inherently temporary uses, such as community festivals, fresh vegetable stands and temporary promotions by permanent businesses.

(2) The proposed temporary use must be compatible in terms of location, access, traffic, noise, nuisance, dust control and hours of operation with existing land uses in the immediate vicinity.

19.35.020 Applicability.

This chapter applies to each application for a temporary use permit whether located on private property or on the public right-of-way. Mobile food sales and caterers which locate for a short period of time of two hours or less, and carwashes and food sales which are operated as nonprofit community fund raisers are exempt.

19.35.030 Criteria for granting a temporary use permit.

(1) The temporary use will not be materially detrimental to the public health, safety, or welfare, nor injurious to property or improvements in the immediate vicinity of the temporary use.

(2) The temporary use is compatible with the purpose and intent of this title and the specific land use district in which it will be located.

(3) The temporary use is compatible in intensity and appearance with existing land uses in the immediate vicinity of the temporary use.

(4) Access is provided such that on-street parking for the temporary use is not required.

(5) The temporary use has adequate off-street parking but does not use off-street parking or loading areas which are necessary for the permanent uses to continue normal operation.

(6) Hours of operation of the temporary use shall be specified.

(7) The temporary use will not cause noise, light or glare which adversely impacts surrounding uses.

(8) The temporary use shall not be on public right-of-way unless the applicant first obtains approval for the use from the city engineer.

(9) The temporary use must conform to setbacks of zone where it is located.

(10) No temporary use shall utilize any handicap parking stalls.

(11) Seasonal product display requests shall not utilize more than five percent of the total parking for said business. Total parking for those businesses located in shopping centers with common parking lots shall be calculated using current parking standards per Chapter 19.44 OHMC.

19.35.035 Seasonal product display.

Seasonal product displays shall be all products associated with lawn care, landscaping, patio furniture, and children's outside play equipment which are displayed outdoors for the purposes of promoting retail sales of said items. The city may grant a temporary use permit for businesses selling these products to utilize a portion of their parking lot area for display.

19.35.040 Frequency and duration of the temporary use.

(1) The city may grant a temporary use permit to the same property owner for up to 60 consecutive or nonconsecutive days in every 180-day period. The temporary use permit shall specify a date by which the use shall be terminated. The planning director may establish a shorter time frame.

(2) As part of the temporary use permit, the city shall establish a time within which the use and all physical evidence of the use must be removed by the applicant. If the temporary use and all physical evidence of the use are not removed within the time specified, it will constitute a violation of this title. Further, the city is authorized to abate the temporary use in accordance with OHMC 19.100.010.

(3) A temporary use permit for seasonal displays in parking lots shall only be issued for the period between March 1st and September 30th of each year. The permit shall be renewed each year and fees paid as established in Chapter 3.64 OHMC.

(4) With the exception of Fourth of July fireworks sales, no additional temporary use permits shall be granted for businesses which have approved seasonal temporary use permits.

19.35.050 Application and procedures for temporary use permits.

(1) The applicant shall provide the following information to the planning director:

(a) A completed application on the form provided by the city, along with all information requested in that form;

(b) An irrevocable, signed and notarized statement granting the city permission to summarily abate the temporary use and all physical evidence of that use if it is not removed by the applicant within the period specified in the permits, and agreeing to reimburse the city for any expenses incurred by the city in abating the temporary use.

(2) Who May Apply. The property owner may apply for a temporary use permit on private property. Any person may apply for a temporary use permit on public right-of-way.

(3) The planning director may consult with other city departments as appropriate in the evaluation of an application for a temporary use permit.

(4) The planning director may establish performance standards as part of the approval of each temporary use permit based on the characteristics of the use and the features of the proposed location.

(5) The decision may be appealed to the city planning commission.

Section Sixteen. Oak Harbor Municipal Code Chapter 19.36 is hereby re-adopted to read as follows:

Chapter 19.36
SIGN CODE

Sections:

19.36.010 General provisions.
19.36.020 Definitions.
19.36.030 Business district signs – Zones CBD, CBD-1, CBD-2, C-3, C-4 and C-5.
19.36.040 Residential/office district and neighborhood commercial district signs – RO and C-1 zones.
19.36.050 Industrial, planned industrial park and planned business park district signs – I, PIP, and PBP zones.
19.36.060 Multifamily residential district and public facilities district signs – Zones R-2, R-3, R-4 and PF.
19.36.070 Single-family residential signs – R-1 zones.
19.36.080 Temporary and special signs.
19.36.090 Street right-of-way signs.
19.36.100 Exempt signs or displays.
19.36.110 Requirements applicable to all signs.
19.36.120 Prohibited signs.
19.36.130 Permits and fees.
19.36.140 Administration, enforcement and sign removal.
19.36.150 Nonconforming signs.
19.36.160 Hearing examiner jurisdiction and power.
19.36.170 Conflicting provisions.

19.36.010 General provisions.

(1) Title. This chapter shall be known as the Oak Harbor sign code, may be cited as such, and will be referred to herein as "this code."

(2) Purpose and Scope. The purpose of this code is to protect the health, safety, property and welfare of the citizens of the city of Oak Harbor (hereafter "city"), by establishing standards for the design, placement, size and maintenance of all exterior signs and sign structures in the city. Furthermore, it is the purpose of the regulations, standards and criteria of this code to permit and encourage the design of signs which are responsive to the needs of the public in locating a business establishment by identification, address and product and/or services information.

(3) It is recognized that the businessman's right to identify his business contributes to the economic well-being of the community. However, it is felt that this right can be exercised in such a way as to bring great benefit to the public without affecting the welfare of the businessman. The responsible regulation of signs may, in fact, improve business opportunity as a result of the increased attractiveness of the city's environment.

19.36.020 Definitions.

(1) "Abandoned sign" means a sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity, and/or for which no

legal owner can be found.

(2) "Area or surface area of sign" means the greatest area of a sign, on which copy or artwork can be placed and not just the portion of which is covered by letters or symbols, enclosed within not more than three circles, rectangles or squares, or any combination of these forms which produces the smallest area. Sign structure, architectural embellishments, framework and decorative features which contain no written or advertising copy and are not internally lighted shall not be included.

(3) "Architectural blade" means a projecting sign with no exposed legs or braces, designed to look as though it could have been part of the building structure rather than something suspended from the building.

(4) "Banner" means a flexible material (i.e., cloth, paper, vinyl, etc.) on which a sign is painted or printed.

(5) "Billboard" means outdoor advertising signs containing a message, commercial or otherwise, unrelated to any use or activity on the property on which the sign is located, but not including directional signs as defined herein.

(6) "Building line" means a line established by ordinance defining the limits of buildings in relation to streets. A building line in some instances may coincide with the property line. "Building line" is sometimes referred to as "required setback line."

(7) "Building-mounted sign" means a single or multiple-faced sign attached to the face of a building or marquee.

(8) "Canopy" means a freestanding structure affording protection from the elements to persons or property thereunder.

(9) "Canopy sign" means any sign erected upon, against or directly above a canopy.

(10) "Construction sign" means an information sign which identifies the architect, engineers, contractors and other individuals, or firms involved with the construction of a building, or announcing the character of the building or enterprise, which is erected during the building construction period.

(11) "Freestanding sign" means a single or multiple-faced sign supported from the ground by one or more columns, uprights or braces. Freestanding signs include monument, pylon and pole signs.

(12) "General promotions" means events which occur on a regular basis in retail business for the purpose of boosting sales, attracting new business, selling of certain items (i.e., year end, seasonal sales, civic events, etc.).

(13) "Grade" means the elevation or level of the street closest to the sign to which reference is made, as measured at the street's centerline, or the relative ground level in the immediate vicinity of the sign.

(14) "Grand openings and anniversaries" means events that are held on a "once per year" basis for the purpose of advertising grand openings, ownership changes, or anniversaries.

(15) "Height" or "height of sign" means the vertical distance from the grade to the highest point of a sign or any vertical projection thereof, including its supporting columns, or the vertical distance from the relative ground level in the immediate vicinity of the sign.

(16) "Incidental sign" means a single or double-faced sign not exceeding four square feet in surface area of a noncommercial nature, intended primarily for the

convenience of the public. Included are signs designating restrooms, address numbers, hours of operation, public telephone, etc. Also included are signs designed to guide pedestrian or vehicular traffic to an area or place on the premises of a business, building or development. Also included are building directories with the letters not to exceed four inches in height. (See OHMC 19.36.100.)

(17) "Marquee" means a covering structure projecting horizontally from and attached to a building, affording protection from the elements to persons or property thereunder.

(18) "Monument sign" means a primary freestanding sign, generally mounted on a solid base. Monument signs shall not contain or include reader boards.

(19) "Multiple-occupancy building" means a single structure housing more than one type of retail business office or commercial venture.

(20) "Multiple-occupancy complex" means a group of structures housing more than one type of retail business, office or commercial venture and generally under one ownership and control.

(21) "Noncommercial public service sign" means noncommercial signs devoted to religious, charitable, cultural, governmental or educational messages, including, but not limited to the advertising of events sponsored by a governmental agency, a school, church, civic or fraternal organization or other organizations engaged in activities for profit.

(22) "Occupant" means the person, firm or corporation that occupies the land or building.

(23) "Office building" means an office building in the commercial and residential-office land use districts as defined by the Oak Harbor zoning ordinance.

(24) "Parapet" means that portion of a building wall which extends above the roof of the building.

(25) "Penthouse" means a structure on top of a building roof such as houses an elevator shaft or similar form.

(26) "Pole sign" means a primary freestanding sign where the sign is supported by a pole or other similar structural element that is substantially narrower than the width of the sign.

(27) "Political sign" means signs advertising a candidate or candidates for public elective office, or a political party, or signs urging a particular vote on a public issue decided by ballot.

(28) "Primary sign or signs" means all signs, including freestanding signs, of a user which are not exempt (see OHMC 19.36.100), or which do not come within the category incidental signs (see OHMC 19.36.030 and subsection (16) of this section). The term "primary sign" is intended to include virtually all signs of a commercial nature.

(29) "Property line" means the line denoting the limits of legal ownership of property.

(30) "Pylon sign" means a primary freestanding sign other than a pole sign with the appearance of a solid base. The base of a pylon sign shall be distinctive in appearance from the sign area.

(31) "Reader board" means a sign or part of a sign on which the letters are readily replaceable such that the copy can be changed from time to time at will.

(32) "Roof sign" means any sign erected upon, against or directly above a roof or on top of or above the parapet of a building, including a sign affixed to any structure erected upon a roof, including a structure housing building equipment.

(33) "Sign" means any letters, figures, design, symbol, trademark or device intended to attract attention to any activity, service, place, subject, person, firm, corporation, public performance, article, machine or merchandise whatsoever. Sources of light used primarily to illuminate a sign, or a building, or ground surrounding the building, shall not be considered signs themselves; provided however, that sources of light used primarily to attract attention to the light itself or as a decorative feature of the display shall be considered as part of the sign. Lighted canopies, with the exception of the signed portion, shall not be considered signs themselves. Excluded from the definition are official traffic signs or signals, sheriff's notices, court notices or official public notices and the flag of a government or noncommercial institution, and signs not visible from the street or sidewalk (see OHMC 19.36.100 for more detailed treatment of exempt signs), and religious symbols.

(34) "Single-occupancy building" means a commercial building or structure with one major enterprise, generally under one ownership. A building is classified as single occupancy only if:

(a) It has only one occupant;

(b) It has no wall in common with another building;

(c) No part of its roof in common with another building.

(35) Special Signs. See "temporary and special signs."

(36) "Special projection signs" means a sign no larger than six square feet projecting out from the side of a building.

(37) "Street" means any automobile thoroughfare so designated by city ordinance. "Street" includes portions thereof used for parking.

(38) "Subdivision signs" means signs used to identify a land development which is to be or was accomplished at essentially one time.

(39) Surface Area. See "area or surface area of sign."

(40) "Surface area of facade" means the area of that front, side or back elevation, including doors and windows, but excluding any roof area and structures or elevators or air conditioning equipment thereon; provided, that in the case of a roof sign, the surface area of facade shall be the area of that front, side or back immediately beneath the roof, including doors and windows, but excluding the roof area and structures for elevators or air conditioning thereon.

(41) Temporary and Special Signs. Different types of temporary and special signs included in this category are limited to construction signs, grand opening displays, real estate signs, open house signs, residential land subdivision signs and subdivision directional signs (see OHMC 19.36.080).

(42) "Way open to public" means any paved or unpaved area on private property open to the general public for driving or parking.

(43) "Window sign" means all signs located inside and affixed to or within three feet of windows of a building, whether temporary or permanent, except lighted signs of a commercial advertisement nature which may be viewed from the exterior of the building. The term does not include merchandise located within three feet of a

window. Lighted window signs shall be included in determining the number of primary signs and in determining the permissible sign area for each facade. Does not include incidental signs. (See OHMC 19.36.030.)

19.36.030 Business district signs – Zones CBD, CBD-1, CBD-2, C-3, C-4 and C-5.

(1) General.

(a) In general, this city takes the view that signs should be scaled to the building to which the sign is related. Accordingly, in the following sections will be found regulations on the area, number and height of signs, which are a function of the size of the building to which the sign is related.

(b) Any single-occupancy building in the business district shall be permitted the primary signs described in subsections (2) through (6) of this section. No more than one freestanding sign is permitted per single-occupancy building unless the building faces on more than one street (see subsection (4) of this section), and is not a part of a multiple-building complex.

(c) Each occupant in a multiple-occupancy building in the business district shall be permitted the primary signs described in subsections (2) through (5) of this section and the incidental signs described in subsection (6) except that no more than one freestanding sign is permitted per multiple-occupancy building unless the building faces more than one street (see subsection (4) of this section), and is not part of a multiple-building complex.

(d) Each occupant in a multiple-building complex in the business districts, which is composed of single and/or multiple-occupancy buildings, shall be permitted the primary signs described in subsections (2) through (5) of this section and the incidental signs described in subsection (6) except that no more than one freestanding sign is permitted per multiple building complex, unless the building faces on more than one street. (See subsection (4) of this section.)

(e) Each enterprise shall display and maintain on-premises street address number identification. (See subsection (6) of this section.)

(f) A multiple-building complex encompassing at least five acres may display one complex identification sign along with each right-of-way which provides direct access to the complex. Each sign may not exceed 75 square feet in surface area and 25 feet in height. Each sign is subject to the sight distance requirements of the zoning ordinance.

(2) Setback Limitations – Freestanding Signs. Except as otherwise provided in this section the size of any freestanding sign shall not exceed the following limits, based on the setback of the sign from the front property line:

Minimum Setback:	5 feet from front property line
Maximum Area:	100 square feet (per side)

(a) Sign Height – Freestanding Signs. Except as otherwise provided in this section the height of any freestanding sign shall not exceed the following

limits, based on the sign setback of the sign:

Maximum Height: 25 feet

A minimum height of eight feet from grade to the bottom of the sign is required, for signs greater than 48 square feet, to ensure adequate sight lines for signs closer than 10 feet to the front property line.

(b) Facade Limitations, Building-Mounted Signs, Roof or Canopy-Mounted Signs. The surface area of any building-mounted sign and roof or canopy-mounted sign shall not exceed the figures derived from the following schedule:

Relevant Surface Area of Facade as Determined Pursuant to OHMC 19.36.020(40) (sq. ft.)	**Maximum Sign Surface Area for that Facade**
Below 100	25 percent of facade
100 – 199	26 sq. ft. + 11 percent of facade area over 100 sq. ft.
200 – 499	38 sq. ft. + 12 percent of facade area over 200 sq. ft.
500 – 999	75 sq. ft. + 11 percent of facade area over 500 sq. ft.
1,000 – 1,499	131 sq. ft. + 7.5 percent of facade area over 1,000 sq. ft.
1,500 – 2,999	169 sq. ft. + 2.5 percent of facade area over 1,500 sq. ft.
Over 3,000	206 sq. ft. + 1.5 percent of facade area over 3,000 sq. ft. to a maximum of 300 sq. ft.

In multiple-occupancy buildings the facade area for each occupant is derived by measuring only the surface area of the exterior facade of the premises actually used by the occupant, and the sign displayed by the occupant must be located on the facade used to determine the size of the sign, except as provided in this section.

Unused sign surface area for a facade may be used by any tenant or user within the same multiple-occupancy building, if:

(i) The applicant files with the city a written statement signed by the tenant or user permitted to utilize that sign area under this code permitting the applicant to utilize the unused sign surface area;

(ii) The display of a sign on that facade by the nondependent sign user will not create a significant adverse impact on dependent sign users of that facade;

(iii) The display of the nondependent sign is necessary to reasonably identify the use, and the provisions of this code do not provide the use with adequate sign display options.

In no case may the maximum sign surface area permitted on a building facade be

exceeded.

(c) Sign Height – Building-Mounted Signs. The height of any building-mounted sign shall not extend above the highest exterior wall of the building to which the sign relates.

(3) Number of Primary Signs. The permissible number of signs for each occupant is dependent upon the surface area of the largest single facade of the building that is under his control. The permitted number of signs is as follows (not including incidental signs):

Surface Area of Largest Facade	Maximum Number of Signs
Less than 999 sq. ft.	3
1,000 – 2,999	4
3,000 and over	5

Buildings or occupants with more than 3,000 square feet on any face, with several clearly differentiated departments, each with separate exterior entrances, are permitted one sign for each different department with a separate exterior entrance, in addition to the five allotted.

(4) Buildings on More Than One Street. Buildings facing on more than one street are entitled to a bonus in primary signage, depending on whether the building is on two intersecting streets or whether it extends through a block so as to face on two different parallel streets, as defined in subsections (4)(a) and (4)(b) following.

(a) Buildings on Intersecting Streets. When a building is located on intersecting streets, two freestanding signs are permitted if they are located on two different streets and are separated more than 100 feet measured in a straight line between signs. Otherwise, only one freestanding sign is permitted and must meet the setback limitation under subsection (2) of this section.

(b) Buildings Facing on Two Parallel Streets. Single occupancy buildings that extend through a block to face on two parallel streets with customer entrances on each street are permitted the sign area allowed under subsections (2)(a) and (2)(b) of this section, and the sign number under subsection (3) for each end of the building facing on a street; provided, however, that no more than one freestanding sign is permitted per building unless such signs are located on two different streets and are separated more than 100 feet measured in a straight line between the signs. No more than two freestanding signs are permitted in such case.

(5) Types and Placement of Primary Signs. The permissible types of primary signs, their placement and other limitations are as follows:

(a) Freestanding Signs.

(i) Freestanding signs shall be wholly located within the center two-thirds of the frontage of the property on the street or 15 feet from the adjacent property line, whichever provides the longer distance from the closest part of the sign to the adjacent property line; provided, however, that a freestanding sign may be located within

five feet of the property line with the written consent of the title holder of the adjacent property. If such consent is obtained, the consenting party or his successors or assigns may not place a freestanding sign on his property within 20 feet of the first freestanding sign.

(ii) A freestanding sign located five feet from the property line shall be wholly behind the five-foot setback, and a freestanding sign located at the building line shall be wholly behind the building line.

(iii) Any freestanding sign must be "integrated." That is, all elements of the sign must be incorporated in a single design. Auxiliary projections or attachments not a part of a single design are prohibited.

(b) Building-Mounted Signs.

(i) Any building-mounted sign shall not project more than five feet from the face of the building to which the sign is attached. Any structural supports shall be an integral part of the design or concealed from view.

(ii) Any building-mounted signs shall be limited in content and message to identifying the building and the name of the firm, or the major enterprise, and principal product and/or service information.

(iii) Special projection signs are permitted within the CBD and are allowed in addition to permitted signage. Special projection signs are limited to one per business and shall be attached to the building. The bottom of the sign shall be at least seven feet above the sidewalk.

(c) Roof Signs.

(i) All such signs must be manufactured in such a way that they appear as an architectural blade or penthouse and are finished in such a manner that the visual appearance from all sides is such that they appear to be a part of the building itself.

(ii) All roof signs shall be installed or erected in such a manner that there shall be no visible angle-iron support structure.

(d) Canopy Signs.

(i) All such signs shall be manufactured in such a way that they appear as an architectural blade or penthouse and are finished in such a manner that the visual appearance from all sides is such that they appear to be part of the building itself.

(ii) All canopy signs shall be installed or erected in such a manner that there shall be no visible angle-iron support structure.

(e) Monument Signs. Monument signs shall not exceed eight feet in height measured from the finished grade to top of the sign and not exceed 32 square feet in area. Monument signs shall be located within the center two-thirds of street frontage. Signs may be located up to the front property line when there is no sight visibility obstruction from driveways or

intersections caused by placement of the sign.

(f) Pylon Signs.

(i) Pylon signs shall not exceed 10 feet in height measured from the finished grade to top of the sign and not exceed 48 square feet in area. Pylon signs shall be located within the center two-thirds of street frontage. Signs may be located up to the property line when there is no sight visibility obstruction from driveways or intersections caused by placement of the sign.

(ii) If a pylon sign is used instead of a pole sign an additional 15 percent of wall signage area over that than otherwise permitted shall be allowed. The additional square footage may be used on any facade that permits wall signage.

(6) Incidental Signs. Incidental signs means signs less than four square feet in surface area, of a noncommercial nature, intended primarily for the convenience of the public. Included are signs designed to guide or direct pedestrian or vehicular traffic to an area, place or convenience; designating restrooms, address numbers, hours of operation, entrances to a building, directions, help wanted, public telephone, etc. Also included in this group of signs are those designed to guide or direct pedestrians or vehicular traffic to an area or place on the premises of a business, building or development by means of a directory designating names and addresses only.

(7) Directional Signs. Directional signs to give the traveling public specific information as to gas, food or lodging available on a crossroad with the state highway may be erected in accordance with RCW 47.42.046 and 47.42.047.

(8) Gasoline Price Signs. Gasoline price signs shall be located greater than five feet from the property line and must be permanently anchored. Such signs may be freestanding, may be attached to marquees or canopy columns, or may be reader boards. The sign area shall not exceed 20 square feet, and no more than one such sign for each street frontage is permitted. Gasoline price signs shall not be included in determining the number of primary signs, nor in determining the permissible number of freestanding signs.

(9) Window Signs. The total surface area of all window signs excluding lighted signs shall not exceed 50 percent of the window area, whichever is greater. Such signs shall not be included in determining the number of primary signs, nor in determining the permissible sign area for each facade. Window signs do not require permits.

(10) Signs for Nonconforming Buildings or Uses. There remain in the city some buildings which were built prior to enactment of Oak Harbor's present zoning ordinance. Generally, under the city zoning ordinances, these legal nonconforming buildings or uses are allowed to remain unless they are altered or improved. As few of these nonconforming buildings are located behind the building line as determined by ordinances currently in effect almost no signing would be possible under the foregoing sign code provisions. Therefore, this section provides for a partial relaxation of the standard sign requirements for signs on legal nonconforming buildings, only so long as the buildings or uses remain legally nonconforming under provisions of the Oak Harbor zoning code.

(11) Permitted Signs on Legally Nonconforming Buildings. All provisions of the sign code for business district signs apply to signs on nonconforming buildings or uses with the following exceptions:

(a) Building-mounted signs may project over the building line, but shall not approach a street closer than five feet. Such signs may extend five feet from the face of the building to which attached and shall have a maximum clearance over sidewalk below of eight feet, six inches.

(b) Legally nonconforming buildings are allowed the same sign area as other buildings zoned as commercial districts, as per this section.

19.36.040 Residential/office district and neighborhood commercial district signs – RO and C-1 zones.

(1) General. This section applies only to office and apartment buildings in RO and buildings in C-1 zones of the city. Such buildings in other zones are governed by the sign regulations of the applicable zone. As the RO and C-1 zones are primarily placed as a buffer between CBD, C-3, C-4 and C-5 business district zones and residential zones, the permissible signs are scaled down from those allowed in business districts.

(2) Setback Limitations – Freestanding Signs. The size of any freestanding sign in an RO or C-1 district shall not exceed the following limits, based on the sign setback of the sign:

Minimum Setback: 5 feet from front property line

Maximum Area: 35 square feet (per side)

(a) Sign Height – Freestanding Signs. The height of any freestanding sign in an RO or C-1 district shall not exceed the following limits, based on the sign setback of the sign:

Maximum Height: 15 feet

(b) Facade Limitations – Building-Mounted Signs, Roof and Canopy-Mounted Signs. The surface area of any building-mounted sign and roof or canopy-mounted sign in the RO and C-1 districts shall not exceed the figures derived from the following schedule:

Relevant Surface Area of Facade as Determined Pursuant to OHMC 19.36.020(40) (sq. ft.)	Maximum Sign Surface Area for that Facade
Below 100	20 percent of the sign area
100 – 199	21 sq. ft. + 9 percent of facade area over 100 sq. ft.
200 – 499	30 sq. ft. + 10 percent of facade area over 200 sq. ft.
500 – 999	60 sq. ft. + 9 percent of

	facade area over 500 sq. ft.
Over 1,000	105 sq. ft. maximum

In multiple-occupancy buildings the facade area for each occupant is derived by measuring only the surface area of the exterior facade of the premises actually used by the tenant or user, and the sign displayed by that tenant or user must be located on the facade used to determine the size of the sign, except as provided in this section.

Unused sign surface area for a facade may be used by any tenant or user within the same multiple occupancy building, if:

(i) The applicant files with the city a written statement signed by the tenant or user permitted to utilize that sign area under this code permitting the applicant to utilize the unused sign surface area;

(ii) The display of a sign on that facade by the nondependent sign user will not create a significant adverse impact on dependent sign users of that facade;

(iii) The display of the nondependent sign is necessary to reasonably identify the use, and the provisions of this code do not provide the use with adequate sign display options.

In no case may the maximum sign surface area permitted on a building facade be exceeded.

(c) Sign Height – Building-Mounted Signs. No building-mounted sign in the RO or C-1 district, regardless of type, shall exceed a height of 20 feet above grade, or above the height of the building to which it is attached, whichever is less.

(d) Limitation. Any freestanding or building-mounted sign located in these districts shall be limited in content and message to identify the building and the name of the firm, or the major enterprise, and the principal service or product of the business without references to prices or the characteristics of the product or services offered.

(3) Number of Signs. In the RO and C-1 districts no more than two primary signs are permitted for buildings facing on one street, only one of which may be freestanding. Buildings or building complexes on street corner locations may have two freestanding signs only if they are located on two different streets and are separated more than 100 feet, measured in a straight line between the signs.

Buildings or building complexes which extend a block to face on two parallel streets are permitted two primary signs on each street, only one of which may be freestanding for each street.

For purposes of determining the limit on number of signs for apartments, a single apartment complex, regardless of the number of buildings, shall be considered one building.

(4) Types and Placement. Within RO and C-1 districts the permissible types of signs, their placement and other limitations are as follows:

(a) Freestanding Signs. Requirements are identical to OHMC 19.36.030(5)(a), except that advertising shall not be permitted.

(b) Building-Mounted Signs. Requirements are identical to OHMC 19.36.030(5)(b), except that advertising shall not be permitted.

(c) Incidental Signs. In addition to the permitted primary signs, each building or complex of buildings is permitted the incidental signs as described and limited in OHMC 19.36.030(6).

(d) Street Address Identification. Each building or complex of buildings shall display and maintain on-premises street address number identification.

(e) Signs or portions of signs indicating premises for rent (e.g., "Apartment for Rent," "Apartment Available," "Vacancy," "Now Renting," "Free Rent," etc.) shall not exceed a surface area of six square feet and many remain up until the premises are sold or rented.

(f) The illumination of any sign in the RO and C-1 districts shall be shaded, shielded, directed or reduced so that it is not visible from a public street or adjoining residential property.

(g) Legal nonconforming signs same as 19.36.030(10) and (11).

(h) Monument signs shall not exceed six feet in height measured from the finished grade to top of the sign and not exceed 32 square feet in area. Monument signs shall be located within the center two-thirds of street frontage. Signs may be located up to the property line when there is no sight visibility obstruction from driveways or intersections caused by placement of the sign.

19.36.050 Industrial, planned industrial park and planned business park district signs – I, PIP, and PBP zones.

Permissible signs and their limitation in the industrial district (Zone I), shall be identical to those in the commercial districts CBD, CBD-1, CBD-2, C-3, C-4 and C-5 (OHMC 19.36.030).

19.36.060 Multifamily residential district and public facilities district signs – Zones R-2, R-3, R-4 and PF.

Requirements for signs in multifamily residential districts and public facilities districts shall be identical to those for the R-O residential office district and the C-1 neighborhood commercial district zones as set forth in OHMC 19.36.040.

(1) Exceptions. In the public facilities zoning district, a single freestanding or wall mounted changing general electronic reader board is allowed with the following restrictions:

(a) Freestanding signs are limited to 35 square feet in sign area, no more than 15 feet in height and must be set back five feet from the property line;

(b) Wall mounted signs are limited to 35 square feet in sign area and no more than 20 feet in height;

(c) Lettering shall not be more than 12 inches in height;

(d) The electronic message shall be limited to those allowed on noncommercial signs as defined in OHMC 19.36.020(21) and shall not change more frequently than every four seconds;

(e) The sign's lights shall be limited to a warm-toned, off-white color or other similar color as approved by the development services director;

(f) An electronic reader board counts as one of the allowed primary signs; and

(g) The hours of operation for reader board signs shall be limited to be from 6:00 a.m. to 10:00 p.m., Sunday through Thursday, and to be from 6:00

a.m. to 12:00 midnight on Fridays and Saturdays.

19.36.070 Single-family residential signs – R-1 zones.

(1) General. Two categories of sign uses are covered by this section:

(a) Existing, Legal Nonconforming Commercial Uses. The provisions herein for signs for commercial uses apply only to legal nonconforming uses which have been approved under applicable zoning ordinances prior to the enactment of this code.

(b) Noncommercial uses such as schools, churches, fire stations and house number identification.

(2) Signs for Existing Legal Nonconforming Uses. No more than one primary sign is permitted for each use in this category so long as the building remains legally nonconforming under provisions of OHMC Title 19 as follows:

(a) Such sign may be either freestanding or building-mounted.

(b) If freestanding, the sign shall conform to the requirements of OHMC 19.36.030(5)(a) in regard to placement and OHMC 19.36.040(2)(a) in regard to size and height.

(c) A building-mounted sign shall conform to the requirements of OHMC 19.36.030(5)(b); provided, however, that no sign shall exceed 20 square feet in surface area.

(3) Signs for Noncommercial Uses.

(a) On-premises signs for churches, schools, golf courses, fire stations, police stations, noncommercial use or public service, or other similar noncommercial uses:

(i) Signs shall be unobtrusive, in keeping with the character of the neighborhood and constructed of quality materials, as approved in advance by the administrator of this code. No building-mounted signs shall exceed 20 feet in height and 50 square feet in surface area and no freestanding sign located between the building line and the property line shall exceed five feet in height and 25 square feet in surface area. A freestanding sign located at the building line or behind it shall not exceed 15 feet in height or 35 square feet in area. No more than one freestanding sign and one building-mounted sign is permitted from the above uses per street frontage.

(ii) Off-premises signs for nonconforming uses may be approved by the site plan review committee subject to the following conditions:

(A) The sign is to identify current events or activities;

(B) The sign or message is for a temporary period of time sufficient to inform the public of the event or activity with a maximum of two weeks;

(C) The sign shall not be located on street right-of-way except when a part of a permanent subdivision or neighborhood designation sign (see subsection (3)(d) below);

(D) The sign shall not exceed 15 square feet in area nor five feet in height;

(E) Not more than two such signs shall be permitted.

(b) Illumination. Illumination from or upon any signs in single-family

residential districts shall be shaded, shielded, directed or reduced so that the light intensity or brightness does not affect the enjoyment of residential property in the vicinity in any substantial way.

(c) House Numbers. All houses in the single-family residential district shall display house numbers visible from the street and letters or numbers shall be a minimum of five inches in height.

(d) Permanent Subdivision or Neighborhood Designation Signs. Signs shall be unobtrusive, in keeping with the character of the neighborhood, and constructed of quality materials, as approved in advance by the administrator of this code. Signs shall not exceed five feet in height and 25 square feet in surface area, and shall be located between the building line and property line unless a location of excess city right-of-way is approved by the superintendent of public works. Responsibility for the future maintenance or removal of these signs must be determined prior to their construction.

19.36.080 Temporary and special signs.

Temporary and special signs or displays are nonpermanent in nature and are intended for use only for a short period of time. The category includes any banner, pennant or advertising display constructed of canvas, fabric, wood, plastic or other semi-durable material, with or without frame. Permissible signs, with applicable limitations, are as follows:

(1) Construction Signs.

(a) These signs identify the architects, engineers, contractors or other individuals or firms involved with the construction of a building and announce the character of the building, or the purpose for which the building is intended. Such signs may be displayed only after a building permit is obtained and during the period of construction on the construction site. Only one such sign (which may be double faced) is permitted per construction project for each public street upon which the project fronts.

(b) In all zones other than single-family residential zones, no construction sign shall exceed 32 square feet in surface area or 10 feet in height, nor be located closer than 10 feet from the property line or closer than 30 feet from the property line of the abutting owner. Further, such signs must be removed by the date of first occupancy of the premises, or one year after placement of the sign, whichever first occurs.

(c) In single-family residential zones, no construction sign shall exceed eight square feet in surface area, or be located closer than 10 feet from the property line of the abutting owner. Such signs shall be removed by the date of first occupancy of the premises or six months after first placement of the sign, whichever first occurs.

(2) General Promotions.

(a) General promotions are those events which occur on a regular basis in retail businesses for the purpose of boosting sales, attracting new business, selling of certain items (i.e., year end, etc.), seasonal sales and the like.

(b) Allowed temporary signage for these types of events consists of posters in

windows, posters under motor vehicle hoods, glass painting, small balloons of less than 12 inches in diameter and a maximum of one banner per street frontage placed on the exterior of the building on the space that the particular business occupies. The size of the banners will be limited to a maximum of four feet in height and a maximum length of either 50 percent of the length of the side of the building on which the banner is located or 30 feet. Businesses with a facade of less than 24 feet in length may have banners of up to 12 feet in length. Each separate business is permitted to have one banner on the building.

(c) No clusters of flags or pennants, ribbons, streamers, shimmering discs, spinners, twirlers, or propellers, strings of lights, moving, flashing, rotating or blinking lights, chasing or scintillating lights, flares, or large balloons, bubble machines and similar devices of a carnival nature, or containing elements creating sound or smell may be used for these types of promotions with the exception of Christmas when flashing Christmas type lights will be allowed.

(d) The duration of these promotions will be 30 days maximum (except banners) and no permit will be required. Banners have no time restrictions but shall be placed solely on the building for which the banner is advertising. In the event that the banner becomes dilapidated or otherwise ruined it must be removed or replaced. Such promotions are permitted only in districts where the enterprise so advertised is allowed under district zoning regulations. Banners shall be allowed in addition to primary signage and shall not be used as primary signs. When no primary sign is installed the duration of a banner shall be no more than 30 days.

(3) Light Pole Banners.

(a) Businesses may have light pole banners on 100 percent of the total number of poles located in privately owned parking lots.

(b) Size of banners shall be limited to three feet by seven feet free flying or two feet by six feet when attached by brackets.

(c) There shall be at least eight feet of clearance between the bottom of the banner and the ground. No banner shall extend over a public sidewalk or street.

(d) There is no time limit for light pole banners. However, when the banners become dilapidated or otherwise ruined they must be removed or replaced.

(e) No other signage of any type shall be permitted on light poles where light pole banners are displayed.

(4) Grand Openings and Anniversaries.

(a) Businesses may have one grand opening or anniversary promotion per year. One additional such promotion may be held if the business changes ownership or management, should this occur less than one year after a particular grand opening or anniversary promotion.

(b) In addition to those items allowed in general promotions (above) the business may also use flags, pennants, ribbons, streamers, various types of balloons (including large "hot air" types), and strings of lights.

(c) These promotions will be no more than 30 days in length.

(5) Grandfathered Commercial Promotions Signage. No existing temporary or special signage will be grandfathered. Businesses will have 60 days from the date of enactment of the ordinance codified in this chapter in which to comply.

(6) Real Estate Signs. All exterior real estate signs must be of wood or plastic or other durable material. The permitted signs, with applicable limits, are as follows:

(a) Residential "For Sale" or "For Rent" Signs. Signs advertising residential property "For Sale" or "For Rent" shall be limited to one single or double-faced sign per street frontage. Sign to be installed 30 days prior to becoming available or during a vacancy only. The sign may not exceed four square feet in surface area, and must be placed wholly on the property for sale or rent. The "For Sale" or "For Rent" sign may remain up until the property is sold or rented.

(b) Residential Directions "Open House" Signs. Signs advertising "Open House" and the directions to a residence for sale shall be limited to one single or double-faced on-premises for sale and three single or double-faced off-premises signs. However, if a realtor has more than one house open for inspection in a single development or subdivision, off-premises signs are limited to four for the entire development or subdivision. Such signs are permitted only during daylight hours and when the realtor or seller or an agent is in attendance at the property for sale. No such sign shall exceed four square feet in surface area. The sign may be placed along the periphery of a public right-of-way.

(c) Residential Condominiums, Condominium Conversions, Apartments, Mobile Home Parks and New Subdivisions.

(i) Temporary Real Estate Signs. Temporary signs, posters and banners may be used for the grand opening and ongoing promotion of new residential projects having five or more units. These signs and banners may be used in a particular project for a period not exceeding one year after the date of issuance of the final occupancy permit for that project or at such time as the project is 90 percent occupied, whichever occurs first, or in the case of subdivision and mobile home parks, one year after final plat approval. In the event that the project consists of more than one phase, as in a "phased" condominium project, the signs and banners promoting one phase must be removed prior to installing the signs and banners for the next phase. A time extension may be granted for up to one year in length by the building official where 90 percent occupancy has not been obtained. Justification for the extension includes:

(A) Certification of vacant units; and

(B) Statement of reason for lack of occupancy.

(ii) Allowable Number and Sizes of Signs.

(A) One banner of not more than 30 feet in length and four feet in height advertising the project for sale or rent;

(B) Banners or signs of not more than 18 square feet each on each model unit with a maximum of three of these types allowed per project or phase;

(C) "A-frame" and other signs used internally within the

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project as needed for the purpose of directing traffic to model units or open house functions;

(D) One sign per road frontage of not more than 32 square feet per side advertising the project for rent or sale. These signs may be installed only after the construction sign has been removed.

(d) Undeveloped Commercial or Industrial Property "For Sale or Rent" Signs. Signs advertising undeveloped commercial or industrial property "For Sale or Rent" shall be limited to one single or double-faced sign per street frontage. Signs may be displayed while the property is actually for sale or rent. The sign may not exceed 16 square feet in surface area. If freestanding, the sign may not exceed five feet in height, and shall be located more than 15 feet from any abutting interior property line and wholly on the property for sale or rent.

(e) Developed Commercial or Industrial Property "For Sale or Rent" Signs. Signs advertising developed commercial or industrial property "For Sale or Rent" shall be limited to one single or double-faced sign per street frontage. Signs may be displayed while the building is actually for rent or sale. The sign may not exceed 16 feet in surface area. If freestanding, the sign may not exceed five feet in height and shall be located more than 15 feet from any abutting side or rear property line, and wholly on the property for sale or rent.

(f) Residential Land Subdivision Signs. Signs advertising residential subdivisions shall be limited to one single or double-faced sign not exceeding a total of 32 square feet in surface area placed at a right angle to the street, or two signs not exceeding a total of 32 square feet in surface area facing the street, which shall be at least 200 feet apart. No sign shall project beyond the building line. Such signs must be placed more than 30 feet from the abutting owner's property line and may not exceed a height of 12 feet. Such signs shall be removed by the end of one year or when 75 percent of the houses in the subdivision are sold or occupied, whichever first occurs. Permanent subdivision or neighborhood designation signs shall be approved by the administrator of this code as set forth in OHMC 19.36.070.

(g) Subdivision Directional Signs Designating New Development. Signs advertising the direction to a subdivision shall be furnished and placed only by the developer or residents of the subdivision, but at locations designated by the city. Signs shall be of the dimensions 12 inches by 36 inches, shall bear only the name of the subdivision and a directional arrow (no name or realtor permitted), and be limited in number to four. The city will designate placement of the signs at street intersections a maximum of one mile from the nearest subdivision entrance. The signs shall be maintained by the developer and removed at the end of one year or when 75 percent of the subdivision is occupied, whichever first occurs, unless a variance is granted by the hearing examiner.

(h) Undeveloped Multifamily Property "For Sale" Signs. Permissible signs

and their limitations for undeveloped multifamily zoned property shall be identical to those for undeveloped commercial and industrial property "For Sale" signs as set forth in subsection (6)(d) of this section.

(i) Undeveloped Single-Family Acreage "For Sale" Signs. Permissible signs and their limitations for undeveloped, unsubdivided single-family property which may be legally divided into four or more single lots shall be identical to those for undeveloped commercial and industrial property "For Sale" signs as set forth in subsection (6)(d) of this section.

(7) Political Headquarters Signs.

(a) Party Headquarters. On-premises political signs are permitted on the premises of political headquarters located in the business districts (OHMC 19.36.030), on office buildings in the residential/office and neighborhood commercial districts (OHMC 19.36.040), and in the industrial district (OHMC 19.36.050), so long as the signs meet the requirements of those districts.

(b) Headquarters for Candidate or Ballot Issue. On-premises political signs are permitted on the premises of the headquarters of a candidate for public elective office (whether partisan or nonpartisan) or on the headquarters of persons supporting or opposing a public issue decided by ballot, when such headquarters are located in the commercial districts (OHMC 19.36.030), on office buildings in the residential/office and neighborhood commercial districts (OHMC 19.36.040), and in the industrial district (OHMC 19.36.050), so long as the signs meet the requirements of those districts and so long as the signs remain for a period no longer than six months. Such signs shall be removed within seven days after the general election.

(8) Political Signs on Private Property Not a Headquarters.

(a) Signs, posters or bills promoting or publicizing candidates for public office or issues that are to be voted upon in a general or special election may be displayed on private property. Such signs, posters or bills shall be permitted only for a period of 60 days preceding the election and for a period of seven days following such election; provided, that signs, posters or bills promoting successful candidates in a primary election may remain displayed on private property until seven days following the immediately subsequent general election.

(b) Sign Dimension and Location. Political signs shall not exceed 32 square feet in surface area per side or 10 feet in height, or be located closer than five feet from the property line or closer than 15 feet from the property line of an abutting owner. Signs must be located so as not to restrict sight distances on approaches to intersections. A-frame type political signs are not permitted. Political signs located along SR-20 within the city limits of Oak Harbor must be located on private property. Signs installed within the SR-20 right-of-way will be removed by the city or State Highway Department personnel.

(c) Removal of Signs Following Election. Any such sign, poster or bill shall be removed within seven days following an election. It shall be the

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responsibility of the above campaign officer or responsible official to have the signs, posters or bills removed.

(d) Political Signs Not Allowed on Public Property. It is unlawful for any person to paste, paint, affix or fasten on any utility pole or on the sidewalk, roadway, or on any public building or structure any such sign, poster, bill or other advertising device when such facilities are located on public property or within public easements.

(e) Public Notices Unaffected. Nothing in this section shall be construed to prohibit the placement of public notices required by law.

(f) The display of any political sign in violation of this section, or any portion thereof, shall be presumed to have been done at the direction and request of the campaign officer or responsible official.

(g) No permit is required for placement of political signs.

(9) Community Events and Fundraisers. Celebrations such as Holland Happening, the Fourth of July, and similar events scheduled for the benefit of the general community may install temporary directional signing, provided such signs are removed within two days following the event.

(10) Civic Organizations. Civic organizations shall be allowed to have two A-frame signs per event or sale. This sign is in addition to directional signs that may be necessary. The sign shall be no larger than the allowed maximum for a business and subject to all requirements of A-frames for businesses. The sign shall be placed solely on the property for which the activity will be conducted and written permission must be obtained from the property owner or their designee. A civic organization sign shall be in addition to any other A-frame signs existing on site at time of application.

(11) Portable A-Frame Signs.

(a) Portable A-frame signs for the purpose of this code also includes sandwich board signs.

(b) Portable A-frame signs are allowed in all districts throughout the city except the CBD.

(c) Each business is permitted to have one portable A-frame sign no larger than 36 inches by 48 inches. The portable A-frame sign shall be included in the total allowable signage for said business.

(d) The portable A-frame sign shall be placed solely on the property of the business for which the sign advertises during normal business hours and removed at the close of business, and located no further than four feet from the building line. No two portable A-frames shall be closer than 20 feet from one another. No direct or indirect lighting of any kind shall be permitted.

(e) A-frame signs shall be constructed to be sturdy and withstand all types of weather conditions. No more than two-thirds of the total A-frame sign area may be reader board or changeable copy. All artistic embellishments and lettering shall have the appearance of professionalism.

(12) No temporary vehicular mounted sign shall be placed in such a manner as to subvert the intentions of this chapter.

19.36.090 Street right-of-way signs.

(1) General. Signs for the purpose of identification only, which contain no advertising, may be located upon the street right-of-way only where view-obstructing acoustical protective devices such as acoustical walls, berms or solid fences have been legally installed with city approval at property line thereby making building-mounted or conforming freestanding signs ineffective. Such signing may not exceed the maximum square footage for signs permitted in the applicable district.

(2) Design and Materials. Street right-of-way signs shall be in keeping with the character of the zoning district in which they are located and shall be constructed of quality materials. The proposed design and materials to be utilized in the construction of any such sign shall be approved in advance of the issuance of any sign permit by the administrator of this code.

(3) Types of Signs Permitted. Only signs identifying the use being maintained or operated upon the immediately abutting property and incidental signs indicating the appropriate entrance to and exit therefrom are permitted upon the public right-of-way under this section; provided, that vacancy signs no larger than three square feet in surface area may be installed as an addition to the identification sign.

(4) Sign Location. Signs permitted upon the street right-of-way shall not be installed or placed on the top of acoustical protective devices, nor shall such signs be installed upon or attached to acoustical protective devices constructed by the city.

(5) Sign Dimensions. Street right-of-way signs shall have a maximum height of five feet measured from the street grade only, a maximum surface area of 15 square feet.

(6) Sign Illumination. Street right-of-way sign illumination shall be from a source other than the sign itself.

(7) Permit Requirements. Street right-of-way signs are subject to all general requirements of this code; provided, that no such sign may be erected without a permit regardless of the size of the sign; and provided further, that any application for a street right-of-way sign permit is subject to the approval of the superintendent of public works.

19.36.100 Exempt signs or displays.

The following signs or displays are exempted from coverage under this code:

(1) Traffic or pedestrian control signs or signals, or signs indicating scenic or historic points of interest, which are erected by or on the order of a public officer in the performance of his public duty;

(2) Regulatory, informational, identification or directional signs installed by or at the direction of, a government entity;

(3) Signs required by law;

(4) Official public notices, official court notices or official sheriff's notices;

(5) The flag of a government or noncommercial institutions such as schools;

(6) Exterior signs or displays not visible from streets or ways open to the public;

(7) Signs in the interior of a building more than three feet from the closest window or not facing a window;

(8) Plaques, tablets or inscriptions indicating the name of a building, its date of erection, or other commemorative information, which are an integral part of the building structure or are attached flat to the face of the building, which are

nonilluminated, and which do not exceed three square feet in surface area;

(9) "No Trespassing," "No Dumping," "No Parking," "Private," and other informational warning signs, which shall not exceed three square feet in surface area;

(10) Reasonable seasonal decorations within the appropriate public holiday season. However, such displays shall be removed promptly at the end of the public holiday season;

(11) Sculptures, fountains, mosaics and design features which do not incorporate advertising or identification;

(12) Existing theater marquees (freestanding and/or building-mounted);

(13) Nonflashing, low-lumen building outline and window accent lighting may be installed by businesses in the CBD, CBD-1, CBD-2, C-3, C-4 and C-5 business and commercial districts. Permit and plan review is required.

19.36.110 Requirements applicable to all signs.

(1) Structural Requirements. The structure and erection of signs within the city shall be governed by the building code, most recent adopted edition (or any superseding edition adopted by the city).

(2) Electrical Requirements. Electrical requirements for signs shall be regulated under state law, promulgated by the National Fire Protection Association.

(3) Sign Illumination. Illumination from or upon any sign shall be shaded, shielded, directed or reduced so as to avoid undue brightness, glare, or reflection of light on private or public property in the surrounding area, and so as to avoid unreasonable distracting of pedestrians or motorists. "Undue brightness" is illumination in excess of that which is reasonably necessary to make the sign reasonably visible to the average person on an adjacent street.

(4) Sign Maintenance. All signs, including signs heretofore installed, shall be constantly maintained in a state of security, safety and repair. If any sign is found not to be so maintained or is insecurely fastened or otherwise dangerous it shall be the duty of the owner and/or occupant of the premises on which the sign is fastened to repair or remove the sign within five days after receiving notice from the sign code administrator. The premises surrounding a freestanding sign shall be free and clear of rubbish and the landscaping area free of weeds.

(5) Sign Obstructing View or Passage. No sign shall be located so as to physically obstruct any door, window or exit from a building. No sign shall be located so as to be hazardous to a motorist's ingress and egress from parking areas of any way open to the public or which obstructs the view in any direction at the intersection of a street or with an alley or driveway. This includes the parking of a vehicle, trailer, or device in such a manner to constitute a sign.

(6) Landscaping for Freestanding Signs. All primary freestanding signs shall include as part of their design, landscaping about their base to prevent automobiles from hitting the sign-supporting structure and to improve the overall appearance of the installation. If the required landscaping is not completed within 60 days after completion of the sign installation, the sign shall be in violation of this chapter. The code administrator, for reasons of weather, good planting practices, or unforeseeable construction delay may grant a reasonable extension of the time period specified in this subsection.

(7) Sign Inspection. All sign users shall permit the periodic inspection of their signs by the city upon city request.

(8) Conflicting Provisions. Whenever two provisions of this code overlap or conflict with regard to the size or placement of a sign, the more restrictive provision shall apply.

(9) Building Line. In any area of the city where the applicable building line is located more than 65 feet from the centerline of the city street on which it faces, the building line shall, for purposes of limiting size or placement of signs under this code, be deemed to begin 65 feet from the centerline of the street and to run parallel thereto.

(10) Painted Signs – Mounting. Painted signs may be painted on plywood or other backing material, so that the sign can be physically removed from the building or be painted on the building wall itself; provided, that the copy is surrounded by an appropriate border so that the sign can be distinguished from the building wall.

(11) Abandoned Signs. Signs identifying, or window signs advertising, activities, products, businesses or services which have been discontinued for more than 60 days on the premises upon which the signs are located must be removed by the building owner except sign structures in good condition may remain; provided the advertising copy is removed.

19.36.120 Prohibited signs.

The following signs or displays are prohibited, except as indicated. Prohibited signs are subject to removal by the city at the owner's or user's expense. (See OHMC 19.36.140.)

(1) Window signs containing material unrelated to the merchandise for sale or service performed by the person or business on whose premises or property the sign is located (except real estate "Open House" and subdivision directional signs as governed by OHMC 19.36.080(6)(b) and (6)(f)); provided, however, on-premises signs may call the attention of the public to public holidays or community events, the time and temperature;

(2) Signs which purport to be, or are an imitation of, or resemble an official traffic sign or signal, or which bear the words "Stop," "Caution," "Danger," "Warning," or similar words;

(3) Signs which, by reason of their size, location, movement, content, coloring or manner of illumination may be confused with or construed as a traffic control sign, signal or device, or the light of an emergency or radio equipment vehicle; or which obstruct the visibility of any traffic or street sign or signal device;

(4) Signs which rotate or have a part or parts which move or revolve, or electronically or electrically controlled changing message center signs, except that movement of the hands of a clock or digital changes indicating time and temperature or national market indices which do not advertise a specific company or commodity are permitted;

(5) Signs or displays of banners, clusters of flags, posters, pennants, ribbons, shimmering discs, streamers, strings of lights, spinners, twirlers or propellers, flashing, rotating or blinking lights, chasing or scintillating lights, flares, balloons, bubble machines and similar devices of a carnival nature, or containing elements creating sound or smell. Exception: Certain of these devices are permitted on a limited basis as seasonal decorations under OHMC 19.36.100(10) or for grand

openings of new business under OHMC 19.36.080(4) and (6);

(6) Animated signs which flash or simulate motion with an electronic or manufactured source of supply or contain wind activated motion;

(7) Signs attached to trees, utility poles, street lights, or any public property without permission of the government agency owning the same;

(8) Billboards;

(9) Portable signs, which for the purpose of this code means a sign which has no permanent attachment to a building or the ground, including mobile signs, but not including real estate open house signs, light pole banners or A-frame signs permitted under OHMC 19.36.080, and political signs, provided such political signs must meet the requirements of OHMC 19.36.080, where applicable;

(10) Roof-mounted statues, figures or objects used to attract attention to a particular business;

(11) Signs for which a permit has been granted under conditions with which the permittee does not comply;

(12) Signs for which a permit has been granted and subsequently revoked for cause by the administrator of this code;

(13) Signs erected, altered or relocated without a permit issued by the city or any other governmental agency which requires a permit by law;

(14) Search lights and beacons;

(15) Illuminated outdoor vending machines;

(16) Signs placed on vehicles or trailers which are parked or located for the primary purpose of display and block traffic sight visibility. (This does not apply to signs or lettering on buses, taxis, or vehicles operating during the normal course of business);

(17) Signs not properly maintained, showing neglect, or in a dilapidated or hazardous condition so as to violate the purpose, intent and objective of this chapter shall be required to be repaired or removed.

19.36.130 Permits and fees.

(1) Permit Requirements. All signs more than six square feet in surface area as governed by this code and all lighted signs must have a permit issued by the city, excluding nonlighted window signs in C-1 zones.

(2) Permit Applications. Applications for permits shall contain the name and address of the owner and user of the sign, the name and address of the owner of the property on which the sign is to be located, the location of the sign structure, drawings or photographs showing the design and dimensions of the sign and details of its proposed placement, and such other pertinent information as the administrator of this code may require to ensure compliance with this code and other applicable ordinances. Permit applications shall be available for inspection by the public upon request.

(3) Expiration of Permits. A sign permit shall become null and void if the work for which the permit was issued has not been completed within one year of its issuance. Permits for temporary or special signs (OHMC 19.36.080) shall expire a maximum of 12 months from the date of the sign installation. Such permits are not subject to renewal.

(4) Permit Exceptions. No new permit shall be required:

(a) For repainting, cleaning or other normal maintenance or repair of a sign or sign structure for which a permit has previously been issued, so long as the sign structure or content is not modified in any way;

(b) For the changing of the advertising copy or message on an approved reader board or theater marquee, during the period of amortization.

(5) Notice of Permit Denial – Reasons. When a sign permit is denied by the administrator, he shall give written notice of the denial to the applicant, together with a brief written statement of the reasons for the denial.

(6) Sign Permit Appeals.

(a) Appeal from Denial of Permit. Appeal may be taken to the hearing examiner from the administrator's denial of a sign permit for reasons other than failure to meet the requirements of the Uniform Sign Code, or the National Electrical Code (OHMC 19.36.160(1) and (2)). Appeal procedure is set forth in OHMC 19.36.160(3). Appeal from a denial of a sign permit on grounds of noncompliance with the Uniform Sign Code, the building code or the National Electrical Code shall be taken to the hearing examiner and shall be governed by the procedures of OHMC 19.36.160(3).

(b) Appeal from Failure of Administrator to Act on Permit Application Within 30 Days. The administrator's failure to either formally grant or deny a sign application within 30 days of the date an application meeting the requirements of subsection (2) of this section is filed shall be grounds for appeal to the hearing examiner under terms of OHMC 19.36.160.

(7) Fees. The applicant shall submit the applicable fees at the time of application.

Permit Application	Fee
Sign permit:	
under 25 sq. ft.	$25.00
26 sq. ft. and over	$50.00

(8) Permit Fee. Sign permit fees shall be determined by value of the sign and a fee shall be charged as set forth in OHMC 17.04.030, Table No. 1-A.

19.36.140 Administration, enforcement and sign removal.

(1) Code Administrator. The administrator of this code is the building official or his/her designee. The administrator is authorized and directed to enforce and carry out all provisions of this code, both in letter and spirit, with vigilance and with all due speed. To that end, the administrator is authorized to formulate procedures consistent with the purposes of this code. The administrator is further empowered to delegate the duties and powers granted to and imposed upon him under this code. As used in this code, "administrator of this code" or "administrator" includes his authorized representative.

(2) Inspection by Administrator. The administrator is empowered to enter or inspect any building, structure or premises in the city, upon which, or in connection with which a sign, as defined by this code, is located, for the purpose of inspection of the sign, its structural and electrical connections, and to ensure compliance with the provisions of this code. Such inspections shall be carried out during business

hours, unless an emergency exists.

(3) Code Violations and Enforcement. The remedies provided in this section for violations of or failure to comply with provisions of this code, whether civil, criminal, or for sign removal, shall be cumulative and shall be in addition to any other remedy provided by law. Any sign which is not in compliance with all provisions of this code is an unlawful sign.

(a) Civil Remedies. The violation of or failure to comply with any of the provisions of this code, or the erection, use or display of any sign not in compliance with all of the provisions of this code is declared to be unlawful.

(i) Injunction and Abatement. The city, through its authorized agents, may initiate injunction or abatement proceedings or other appropriate action in the courts against any person who violates or fails to comply with any provision of this code, or against the erector, owner or user of an unlawful sign is located, to prevent, enjoin, abate or terminate violations of the foregoing, furnish the hearing examiner with a brief written statement of the reasons for the failure.

(ii) When a sign is erected which does not conform to the provisions of the sign code, no additional signage will be permitted on the premises until such sign is removed or brought into compliance.

(b) Statement in Support of Administrator's Position. Upon any appeal, the administrator may, in his discretion, furnish the hearing examiner with a written statement of his position on the appeal and may therein reply to the position of the appellant. Such statements must be filed with the board at least 10 days in advance of the hearing on the appeal.

(c) Administrator's Appearance at the Hearing. The administrator or his representative shall attend and state his position at any appeal or variance hearing.

19.36.150 Nonconforming signs.

(1) General. To ease the economic impact of this code on businessmen with substantial investment in signs in existence on the date of adoption of the ordinance codified in this code, this section provides for continued use of a nonconforming sign in its existing state for 25 years from August, 1986. During this period, it is expected that the sign may be amortized on federal income taxes; however, whether it may be so amortized shall not affect the application of this section. Similar treatment is accorded signs in areas annexed to the city after the code's enactment.

(2) Nonconforming Signs.

(a) Notification of Nonconformity or Illegality. The sign code administrator shall, as soon as practicable, survey the city for signs which do not conform to the requirements of this code. Upon determination that a sign is nonconforming or illegal, the administrator shall use reasonable efforts to so notify, either personally or in writing, the sign user or owner of the sign and where practicable the owner of the property on which the sign is located of the following; provided, that the business licensee of the business with which the sign is associated shall be presumed to be the sign

user under this code:

(i) The sign's nonconformity or illegality;

(ii) Whether the sign may be eligible for a nonconforming sign permit.

If the identity of the sign user, owner of the sign, or owner of the property on which the sign is located cannot be determined after reasonable inquiry, the notice may be affixed in a conspicuous place on the sign or on the business premises with which the sign is associated.

(b) Signs Eligible for Nonconforming Sign Permit. With the exceptions herein provided, any on-premises primary sign located within the city limits on the date of adoption of the ordinance codified in this code, or located in areas annexed to the city thereafter, which does not conform with the provisions of this code, is eligible for characterization as a nonconforming sign provided it meets the following requirements:

(i) The sign was covered by a sign permit on the date of adoption of the ordinance codified in this code, if one was required under applicable law; or

(ii) If no sign permit is required under applicable law for the sign in question; the sign was in all respects in compliance with applicable law on the date of adoption of the ordinance codified in this code.

(iii) Exceptions: No temporary or special signs, as defined by OHMC 19.36.080, prohibited signs, as defined by OHMC 19.36.120, or incidental signs, as defined by OHMC 19.36.030(6), shall be eligible for characterization as nonconforming signs.

(c) Permit for Nonconforming Signs. A nonconforming sign permit is required for each nonconforming sign designated under subsection (2)(b) of this section. The permit shall be obtained by the sign user or the sign owner, or the owner of the property upon which the sign is located within 60 days of notification by the city (under subsection (2)(a) of this section) that the sign is nonconforming.

Applications for a nonconforming sign permit shall contain the name and address of the sign user, the sign owner, and the owner of the property upon which the sign is located and such other pertinent information as the administrator may require to ensure compliance with the code, including proof of the date of installation of the sign.

A nonconforming sign for which no permit has been issued within the 60-day period shall within six months be brought into compliance with the code or be removed. Failure to comply shall subject the sign user, owner or owner of the property on which the sign is located to the remedies and penalties of OHMC 19.36.150(3).

(d) Loss of Nonconforming Status.

(i) A freestanding, nonconforming sign shall immediately lose its nonconforming designation if:

(A) The sign is altered in any way, which tends to or makes the sign less in compliance with the requirements of this code than it was before the alteration; or

(B) The sign is relocated to a position making it less in compliance with the requirements of this code; or

(C) The sign is replaced.

(ii) A building-mounted, nonconforming sign shall immediately lose its nonconforming designation if:

(A) The sign is altered in any way which tends to or makes the sign less in compliance with the requirements of this code than it was before the alteration; or

(B) The sign is relocated to a position making it less in compliance with the requirements of this code; or

(C) The sign is replaced.

(e) On the happening of any one of (A), (B) or (C) of subsection (2)(d)(i) or (2)(d)(ii) of this section, any permit or designation for what had been designated as a nonconforming sign shall become void, the administrator shall notify the sign user, sign owner or owner of the property upon which the sign is located of cancellation of the permit or designation and the sign shall immediately be brought into compliance with this code and a new permit secured therefor, or shall be removed.

(3) Illegal Signs. An illegal sign is any sign which does not comply with the requirements of this code within the city limits as they now or hereafter exist and which is not eligible for characterization as nonconforming under this section. The city may immediately remove an illegal sign, at owner's expense, located on city property or right-of-way. The city may immediately remove an illegal sign located on private property no less than 10 days following the mailing of notice to the property owner or person in charge of the premises that the sign is illegal and must be removed.

(4) Amortization Period for Nonconforming Signs. Those signs which have been approved either through a sign permit or through the building permit/site plan review process, or have been in existence since before such permit processes were in effect, or have been issued a nonconforming sign permit, shall be permitted to remain for 25 years after adoption of the ordinance codified in this chapter.

(5) Nonconforming Sign Maintenance and Repair. Nothing in this section shall relieve the owner or user of a nonconforming sign or owner of the property on which the nonconforming sign is located from the provisions of this code regarding safety, maintenance and repair of signs, contained in OHMC 19.36.110, and from the provisions on prohibited signs, contained in OHMC 19.36.120; provided, however, that any repainting, cleaning, and other normal maintenance or repair of the sign or sign structure shall not modify the sign structure in any way which makes it less in compliance with the requirements of this code or the sign will lose its nonconforming status. (See subsection (2)(e) of this section.)

19.36.160 Hearing examiner jurisdiction and power.

(1) The hearing examiner shall have the power and duty to:

(a) Hear and decide appeals by a sign permit applicant from the decision of the administrator of this code denying or failing to grant a sign permit within 30 days of application;

(b) Grant a variance from the requirements of this code as part of the disposition of an appeal from action of the code administrator denying or failing to grant a sign permit (see subsection (2)(b) of this section);

(c) Hear and decide appeals by a sign owner, user or owner of the property on

which a sign is located from characterization of a sign as nonconforming or illegal under OHMC 19.36.150;

(d) Hear appeals from denial of a sign permit on grounds of noncompliance with requirements of the Uniform Sign Code, building code, or National Electrical Code, required under OHMC 19.36.130(1) and (2).

(2) Criteria for Hearing Examiner Decision.

(a) Appeals Without Petition for Variance. In appeals to the hearing examiner from decision of the code administrator denying a sign permit in connection with which no petition of variance has been filed, the hearing examiner's scope of review shall be limited to determining whether or not the code administrator's decision is in accordance with the requirements of this code and accordingly affirm or reverse such decision. If the code administrator's decision is reversed, the hearing officer shall direct the administrator to issue the permit in accordance with its decision. In appeals from failure of the administrator to grant a permit within 30 days of application, the hearing officer shall determine whether the sign and the application meet the requirements of this code. If so, the hearing officer shall direct the administrator to issue the permit. If not, the hearing officer shall deny the permit.

(b) Appeals with Petition for Variance. In appeals from decisions of the code administrator denying or refusing to grant a sign permit in connection with which the appealing party or any other interested party has filed a petition for variance, the hearing officer shall have the power and duty described in subsection (1) of this section and, in addition, shall have the power to hear, decide and grant or deny the requested variance from the provisions or requirements of this code. The hearing officer may grant a variance no greater than 15 percent (rounded to the nearest foot or square foot as applicable) from the provisions or requirements of this code only where practical difficulties exist rendering compliance with the provisions of this code impractical, and such compliance would create unnecessary hardships to the user or owner of the sign or signs. The hearing officer may grant a variance in harmony with the general purpose and intent of this code by varying the application of rules, regulations or provisions so long as the spirit and benefits of this code will be preserved; provided, however, no variance may be granted from the number of signs authorized by this code. The hearing officer shall not vary any of the rules, regulations or provisions of this code unless the hearing officer, upon due and diligent investigation and after public hearing, shall make specific findings that all of the following conditions exist in such cases:

(i) The variance will not constitute a grant of special privilege inconsistent with the limitation upon signage and uses of other properties in the vicinity and zone in which the property, on behalf of which the application was filed, is located;

(ii) Such variance is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with signage use rights and privileges permitted to other

properties in the vicinity and in the zone in which the subject property is located;

(iii) The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and in the zone in which the subject property is situated; and

(iv) Owing to the special circumstances found under subsection (2)(b)(ii) of this section, a strict enforcement of the rules, regulations or provisions of this code will result in unnecessary hardship to the sign user or owner or property owner applying for the variance, and such special circumstances are not the result of the voluntary action of the applicant or its agents.

In granting a variance, the hearing officer may attach thereto such conditions regarding the location, character and other features of the proposed sign as it may deem necessary to carry out the spirit and purpose of this code of moderating the size, number and obtrusive placement of signs and reduction of clutter in the public interest.

(3) Perfection of Appeal.

(a) An appeal with or without petition for variance may be considered by the hearing examiner only if:

(i) Written notice of appeal, with or without petition for variance, is filed with the planning department:

(A) Within 10 days of decision of the code administrator denying a sign permit; or

(B) Within 40 days of the submission of a sign permit application which the administrator has neither granted nor denied within 30 days; or

(C) Within 60 days of the administrator's characterization of the sign as nonconforming or illegal, which period shall begin to run with the mailing of notice of such characterization to the sign user or the sign owner, or the owner of the property on which the sign is located; or the posting of such notice on the sign or the associated business premises.

(ii) The notice of appeal is accompanied by a fee as required by OHMC 19.36.130(7).

(iii) The hearing examiner shall, on their own initiative or on the motion of any interested party, dismiss an appeal for failure of the appellant to meet any of the requirements of subsection (3)(a) of this section or for failure of the appellant to otherwise diligently prosecute the appeal, or if the hearing officer finds the appellant has made any knowingly false or misleading statement or representation in his sign application or appeal.

19.36.170 Conflicting provisions.

If any provision of this code is found to be in conflict with any provision of any zoning, building, fire, safety or health ordinance or code of the city, the provision which establishes the higher standard shall prevail.

Section Seventeen. Oak Harbor Municipal Code Chapter 19.38 is hereby re-adopted to read as follows:

Chapter 19.38
ESSENTIAL PUBLIC FACILITIES

Sections:

19.38.010 Purpose.
19.38.020 Determination of applicability.
19.38.030 Essential public facilities review process.
19.38.040 Criteria for approval.

19.38.010 Purpose.

The purpose of this chapter is to provide a process to site necessary public uses that may otherwise be difficult to site. This process involves the community and identifies and minimizes adverse impacts. Essential public facilities are defined in Chapter 19.08 OHMC, Definitions. Examples include hospitals, jails, prisons, airports, solid waste transfer stations, highways and stormwater treatment plants. The planning director shall determine whether a proposed facility shall be reviewed according to the essential public facility review process instead of the review process indicated under the applicable zoning classification.

19.38.020 Determination of applicability.

(1) Essential public facilities may be reviewed through the essential public facility review process. An applicant may make a written request or the planning director may require a proposal to be reviewed through Oak Harbor's essential public facilities review process. An applicant may use this process if the facility meets the definition of an essential public facility. If the facility is on the list of qualifying facilities prepared by the Washington State Office of Financial Management, it automatically meets the definition.

(2) The planning director shall make a determination that a facility be reviewed through Oak Harbor's essential public facilities review process based on the following criteria:

- (a) The facility is a type difficult to site because of one of the following:
  - (i) The facility needs a type of site of which there are few sites available,
  - (ii) The facility can locate only near another public facility,
  - (iii) The facility has or is generally perceived by the public to have significant adverse impacts that make it difficult to site, or
  - (iv) The facility is of a type that has been difficult to site in the past;
- (b) It is likely this facility will be difficult to site;
- (c) There is need for the facility and Oak Harbor is in the facility service area.

19.38.030 Essential public facilities review process.

(1) Facilities to be reviewed under the requirements of Chapter 19.48 OHMC.

(2) An applicant may have one or more alternative sites considered at the same time during this process.

(3) The planning director has the authority to require the consideration of sites outside the city of Oak Harbor. Alternative sites shall cover the service area of the proposed essential facility.

(4) A more amplified public involvement process may be required by the planning director than that required under Chapter 19.48 OHMC in order to include those residents living within the service area of the proposal.

(5) The costs of such an amplified public involvement program may be charged to the applicant.

(6) The planning director may require a multi-jurisdictional review process if the facility serves a regional, countywide, statewide, or national need.

(7) An analysis of the facility's impact on city finances shall be undertaken. Mitigation of adverse financial impact shall be required.

19.38.040 Criteria for approval.

The following criteria shall be used to make a determination on the application:

(1) Whether there is a public need for the facility;

(2) The impact of the facility on the surrounding uses and environment, the city and the region.

Section Eighteen. Oak Harbor Municipal Code Chapter 19.42 is hereby re-adopted to read as follows:

Chapter 19.42
ACCESSORY DWELLING UNITS

Sections:

19.42.010 Purpose and intent.
19.42.020 Permit required.
19.42.030 Standards and criteria.
19.42.040 Basis for denial.
19.42.050 Application process.
19.42.060 Permit conditions.
19.42.070 Nonconforming units.

19.42.010 Purpose and intent.

The purpose of an accessory dwelling unit is to:

(1) Add affordable units to existing housing and make housing units available to moderate-income people who might otherwise have difficulty finding homes within the city;

(2) Develop housing units in single-family neighborhoods that are appropriate for people at a variety of stages in the life cycle;

(3) Provide homeowners with a means of obtaining, through tenants in either the accessory dwelling unit or the principal residence, rental income, companionship, or security;

(4) Protect neighborhood stability, property values, and the single-family residential appearance of the neighborhood by ensuring that accessory dwelling units are installed under the conditions of this title.

19.42.020 Permit required.

An accessory dwelling unit requires a permit approved by the director.

19.42.030 Standards and criteria.

Accessory dwelling units shall meet the following criteria:

(1) The design and size of the accessory dwelling unit shall conform to all applicable standards in the building, plumbing, electrical, mechanical, fire, health, and any other applicable codes. When there are practical difficulties involved in carrying out the provisions of this title, the director or his designee may recommend modifications that will meet the intent of these codes. Such modifications shall be processed as a variance under this title.

(2) Any additions to an existing building shall not exceed the allowable lot coverage or encroach into required setbacks. The director shall not have the power to vary this provision.

(3) An accessory dwelling unit may be attached or detached from the principal unit.

(4) Only one accessory dwelling unit may be created per residence.

(5) The property owner, which shall include title holders and contract purchasers, must occupy either the principal unit or the accessory dwelling unit as their

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permanent residence, but not both, for more than six months out of each year, and at no time receive rent for the owner-occupied unit.

(6) An accessory dwelling unit may be either in a new or an existing residence.

(7) The primary unit, together with the accessory dwelling, may not occupy more than 40 percent of the total site area and must be designed so that, to the degree reasonably feasible, they will appear as one primary residence.

(8) The primary entrance to the accessory dwelling unit shall be located in such a manner as to be unobtrusive from the same view of the building which encompasses the entrance to the principal unit.

(9) One additional off-street parking space, in addition to that required by the underlying zone, shall be provided or as many spaces as deemed necessary to accommodate the actual number of vehicles used by the occupants of both the primary dwelling and the accessory dwelling unit.

(10) In order to encourage the development of housing units for people with disabilities, the director or his designee may allow reasonable deviation from the stated requirements to install features that facilitate accessibility. Such facilities shall be in conformance with the applicable codes.

(11) Manufactured homes, except zones where these structures are allowed, recreational vehicles or temporary housing shall not be utilized as an accessory dwelling unit.

19.42.040 Basis for denial.

The director may deny any permit where it will create an adverse visual impact on the neighborhood or public services, or result in the overall density of the residential area to exceed that established in the Oak Harbor comprehensive plan.

19.42.050 Application process.

Any person desiring approval of an accessory dwelling unit shall submit an application containing all of the information required by Chapter 19.48 OHMC, as determined as appropriate by the director, as well as the following information:

(1) Proof that the single-family property upon which the accessory dwelling unit is proposed to be located is owned and occupied by the applicant;

(2) A covenant, in a form acceptable to the city attorney, and suitable for recording with the Island County auditor, providing notice to future owners of the subject site that the existence of the accessory dwelling unit is predicated on the occupancy of the accessory dwelling unit or the primary dwelling. The covenant shall also require any owner of the property to notify a prospective buyer of the limitations of this chapter and to provide for the removal of improvements added to convert the premises to an accessory dwelling unit and the restoration of the site to a single-family dwelling in the event than any condition of approval is violated.

19.42.060 Permit conditions.

In addition to any conditions imposed by the director, an approved conditional use permit for an accessory dwelling unit shall state and is expressly subject to the condition that such a permit shall expire automatically whenever:

(1) The accessory dwelling unit is substantially altered and is thus no longer in conformance with the plans and drawings reviewed and approved;

(2) The subject site ceases to maintain three or more off-street parking spaces;
(3) The applicant ceases to own and reside in either the primary residence or the accessory dwelling unit.

19.42.070 Nonconforming units.

An owner of an accessory dwelling unit existing prior to the date of adoption of this chapter shall register with the director within one year from the date of adoption of this chapter. The director shall have the authority to waive certain standards in order to accommodate existing accessory dwelling units and may require reasonable conditions to cause the existing accessory dwelling unit to meet the purpose and intent of this title.

Section Nineteen. Oak Harbor Municipal Code Chapter 19.44 is hereby re-adopted to read as follows:

Chapter 19.44
PARKING

Sections:

19.44.010 Purpose and intent.
19.44.020 General requirements.
19.44.030 Bicycle parking.
19.44.040 Location.
19.44.050 Expansion, enlargement and occupancy.
19.44.060 Mixed occupancies.
19.44.070 Uses not specified.
19.44.080 Joint use.
19.44.090 Conditions required for joint use.
19.44.100 Table of minimum standards.
19.44.110 Parking space size and access requirements.
19.44.120 Car and van pool parking.
19.44.130 Plans.
19.44.140 Loading areas.

19.44.010 Purpose and intent.

Provisions of this chapter are of general application to several of the districts described in Chapter 19.20 OHMC, except as noted in the CBD central business district. It is the intent of this chapter to set down provisions for off-street parking and loading areas to prevent congestion in the streets, promote and protect property values and to provide for the health, safety and welfare of the citizenry.

19.44.020 General requirements.

Parking areas, public or private, are permitted as accessory uses, operating in conjunction with permitted uses, unless otherwise permitted by this title. Each off-street parking space shall have a net area of not less than 180 square feet, exclusive of driveways or aisles, and shall be of usable shape and condition. To determine on a gross area basis, 270 square feet shall be allowed per vehicle. If the required parking space for a one-family or two-family dwelling is not provided in a covered garage, then such space shall be not less than 180 square feet. The circulation pattern of all off-street parking areas excepting driveways serving single-family or two-family dwellings shall not have as a part of the pattern any parking or parking maneuvers on a public sidewalk, highway, road, street or alley.

19.44.030 Bicycle parking.

Bicycle racks shall be provided for all nonresidential and multifamily uses. Such racks shall provide space for a minimum of one bicycle for each 10 parking spaces required to a maximum of 10 bicycle spaces.

19.44.040 Location.

Off-street parking facilities shall be located and operated in conjunction with the permitted use as hereinafter specified; where a distance is specified, such distance shall

be the walking distance measured from the nearest point of the parking facility to the nearest point of the building that such facility is required to serve:

(1) For one-family and two-family dwellings, on the same lot with the building they are required to serve;

(2) For multiple dwellings, not more than 100 feet;

(3) For hospitals, skilled nursing facilities, assisted living facilities, rooming houses and boarding houses, fraternity and sorority houses, not more than 300 feet;

(4) For uses other than those specified above, not more than 500 feet;

(5) Parking lots for passenger automobiles only shall be allowed when such parking lots are for the purpose of providing the off-street parking required by this title and are located and improved in accordance with this chapter, except that when any such parking lot is to serve a use first permitted in a less restrictive zone than the zone in which the parking lot is to be located, such parking lot may be allowed only by a variance granted by the hearing examiner after a public hearing and the finding that such parking lot will not be unduly detrimental to surrounding properties; provided, that additional landscaping or fencing as directed by the hearing examiner to visually screen parked cars from all residential properties in the vicinity shall be provided as conditions precedent to the granting of such variance; and provided, that at least 40 lineal feet of the boundary of such parking lot adjoins a less restrictive zone or is separated therefrom only by the width of an alley or street. Such parking lots shall not extend beyond said less restrictive zone more than 150 feet into the more restrictive zone in which the parking lot is to be located. No such parking lots shall be allowed for the purpose of serving nonconforming uses.

19.44.050 Expansion, enlargement and occupancy.

All new or substantially altered uses or structures shall be provided with special purpose off-street parking facilities as required by this chapter. No application for a building permit or change of occupancy for a new or substantially altered structure or improvement shall be approved unless there is included with such improvement or use, a plot plan showing the required special off-street parking as required in this chapter. Wherever any building is enlarged in height or in ground coverage, off-street parking shall be provided for said expansion or enlargement in accordance with the requirements of the schedule; provided, however, that no parking space need be provided in the case of enlargement or expansion where the number of parking spaces required for such expansion or enlargement is less than 10 percent of the parking spaces specified in the schedule for the building.

19.44.060 Mixed occupancies.

In the case of mixed uses, the total requirements for the various uses shall be computed separately. Off-street parking facilities for one use shall not be considered as specified for joint use.

19.44.070 Uses not specified.

In the case of uses not specifically mentioned in sections below, the requirements for off-street parking facilities shall be determined by the planning director. Such determination shall be based upon the requirements for the most comparable use listed.

19.44.080 Joint use.

The director, upon application, may authorize the joint use of parking facilities for the following uses or activities under conditions specified:

(1) Up to 50 percent of the parking facilities required by this chapter for primarily nighttime uses such as theaters, bowling alleys, bars, restaurants and related uses may be supplied by certain other types of buildings or uses herein referred to as daytime uses such as banks, offices, retail and personal service shops, clothing, food, furniture, manufacturing or wholesale and related uses;

(2) Up to 50 percent of the parking facilities required by this chapter for primarily daytime uses may be supplied by primarily nighttime uses;

(3) Up to 100 percent of the parking facilities required by this chapter for a church, or for an auditorium incidental to a public or parochial school, may be supplied by the off-street parking facilities provided by uses primarily of a daytime nature.

19.44.090 Conditions required for joint use.

The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within 500 feet of such parking facilities in addition to which:

(1) The applicant shall show that there is no substantial conflict in the principal operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed;

(2) The applicant shall present a properly drawn legal instrument to be recorded with the Island County auditor, executed by the parties concerned for joint use of off-street parking facilities and approved as to form and manner of execution by the city attorney, to the hearing examiner upon application, such instrument to be filed with the building official upon approval of the hearing officer.

19.44.100 Table of minimum standards.

Use	Required Parking
Residential, single-family	Two per dwelling
Residential, duplex	Two per dwelling
Residential, multiple	One and one-half per dwelling unit
Three or more bedroom dwelling unit	Two per three or more bedroom dwelling unit. In addition, multifamily projects with eight or more units shall provide one visitor parking space for each eight units.
Banks	One per 400 square feet of gross floor area, plus employee parking
Bowling alleys	Four per alley, plus employee parking
Churches, auditoriums and similar enclosed places of assembly	One per four seats and/or one per 30 square feet of assembly space without fixed seats
Skilled nursing facilities	One per five beds, plus owner and employee parking
College	One space per 200 square feet of class room space
Assisted living facilities	Minimum of 0.8 spaces per unit, with a maximum of one and one-half spaces per unit
Food and beverage places with sales and consumption on premises	One per three seats, plus one space for every two employees on the largest shift

Furniture, appliance, hardware, clothing and shoe stores, personal service stores such as beauty parlors, barbershops and physical fitness centers	One per 600 square feet gross floor area, plus employee parking
Gasoline stations	15 spaces, including pump and service area
Hospital	One per two beds, excluding bassinets
Hotels, motor hotels	One per sleeping room, plus owner and employee parking
Libraries and museums	One per 200 square feet gross floor area, plus employee parking
Manufacturing uses, research testing and processing, assembling, all industries	One per each two employees on maximum shift and not less than one per each 800 square feet gross floor area
Mortuaries	One per 100 square feet of gross floor area used for assembly or one per five seats, plus employee parking
Motels	One per unit, plus owner and employee parking
Motor vehicle, machinery, plumbing, heating, ventilating, building supplies stores and services	One per 1,000 square feet floor area, plus employee parking
Offices, medical and dental (including optometrists)	One per 200 gross square feet of floor area, plus employee parking
Offices not providing customer services	One per each employee
Offices of opticians, chiropractors and others licensed by the state of Washington to practice the healing arts	One per 400 square feet of gross floor area, plus employee parking
Offices, business and professional (other than medical and dental) with on-site customer service	One per 400 square feet of gross floor area, plus employee parking
Rooming houses, similar uses	One per dwelling unit
Schools, elementary and junior high	One per each employee and faculty member, plus 15 visitor parking
Schools, high	One per each 10 students, plus one per each employee and faculty member, plus 15 visitor parking
Shopping centers with over 30,000 square feet of gross floor area	Four and one-half spaces per 1,000 square feet gross floor area, but not to exceed five spaces per 1,000 square feet of gross floor area
Stadiums, sport arenas and similar open assemblies	One per four seats and/or one each 30 square feet of assembly space without fixed seats
Theaters	One per four seats, plus employee parking
Warehouses, storage and wholesale business	One per each employee, plus two additional spaces
Other retail	One per 300 square feet gross floor area, plus employee parking

19.44.110 Parking space size and access requirements.

(1) Standard Parking Spaces. All standard parking spaces shall meet the minimum criteria outlined in the table and figure below.

(2) Compact Parking Spaces. Up to 40 percent of required parking spaces may be

provided as compact spaces. The aisle widths required for standard spaces shall be applied to compact spaces. Parking space width, parking space depth and row width shall be as shown in the following table. The minimum parking space depth shall be 16 feet and the minimum parking space width shall be eight feet. Compact parking spaces shall be clearly marked by painting the word "compact" on the parking space(s).

Required Parking Dimensions					
Parking Angle	Ë Stall Width	Ë Stall Depth	Ë Row Depth	Aisle WidthË (One Way)	Aisle WidthË (Two Way)
0°	Standard: 9□Ë Compact: 8□	Standard: 23□Ë Compact: 19□	Standard: 9□Ë Compact: 8□	10□	18□
30°	Standard: 9□Ë Compact: 8□	Standard: 20□Ë Compact: 16□	Standard: 18□Ë Compact: 15□	12□	20□
40°	Standard: 9□Ë Compact: 8□	Standard: 20□Ë Compact: 16□	Standard: 20□Ë Compact: 16□	12□	20□
45°	Standard: 9□Ë Compact: 8□	Standard: 20□Ë Compact: 16□	Standard: 21□Ë Compact: 17□	12□	20□
50°	Standard: 9□Ë Compact: 8□	Standard: 20□Ë Compact: 16□	Standard: 20□Ë Compact: 16□	15□	20□
60°	Standard: 9□Ë Compact: 8□	Standard: 20□Ë Compact: 16□	Standard: 20□Ë Compact: 16□	17□	20□
70°	Standard: 9□Ë Compact: 8□	Standard: 20□Ë Compact: 16□	Standard: 20□Ë Compact: 16□	20□	20□
80°	Standard: 9□Ë Compact: 8□	Standard: 20□Ë Compact: 16□	Standard: 20□Ë Compact: 16□	24□	24□
90°	Standard: 9□Ë Compact: 8□	Standard: 20□Ë Compact: 16□	Standard: 20□Ë Compact: 16□	24□	24□

PARKING PLAN LAYOUT

19.44.120 Car and van pool parking.

Any nonresidential development which shall provide priority spacing for car pools and van pools shall be allowed to reduce the total amount of required parking by 1.15 spaces for each priority car pool and van pool space provided.

19.44.130 Plans.

The plan of the proposed parking area shall be submitted to the city engineer at the time of the application for the building for which the parking area is required. The plan shall clearly indicate the proposed development, including location, size, shape, design, curb cuts, lighting, landscaping, construction details and other features and appurtenances required. The illustrations provided at the end of this chapter shall serve as a guide and illustrate the minimum requirements for parking stall configurations.

A legal description of the property is required and a parking area designated and recorded.

(1) Parking areas shall be designed in conformance with the Oak Harbor design guidelines.

(2) All traffic-control devices such as parking strips designating car stalls, directional arrow or signs, bull rails, curbs, and other developments, shall be installed and maintained as shown on the approved plans. Hard surfaced parking areas shall use paint or similar devices to delineate car stalls and directional arrows. All driveways, off-street parking areas and public off-street parking areas shall be hard surfaced with a minimum of two inches of asphalt concrete.

(3) Minimum dimensions of off-street parking areas shall be not less than stated in this chapter.

(4) Screen all parking lots from view of adjoining residential district or use through use of sight obscuring fences, earth berms or landscaped planting strips, to a height of not less than six feet.

(5) At least 10 percent of every parking lot shall be landscaped. In all cases, landscaping shall be distributed throughout the parking area. For computation of required landscape area, allow 30 square feet per parking space. The landscaping shall consist of deciduous or coniferous plant material and may include turf, shrubs and flowers.

(6) Lighting of areas provided for off-street parking shall be so arranged to not constitute a nuisance or hazard to passing traffic and where said lots share a common boundary with any "R" classified property, the illuminating devices shall be so shaded and directed to play their light away from "R" classified property.

(7) Maintenance of all areas provided for off-street parking shall include removal and replacement of dead and dying trees, grass and shrubs, removal of trash and weeds, and repair of traffic control devices, signs, light standards, fences, walls, surfacing material, curbs and railings.

19.44.140 Loading areas.

Each off-street loading space shall measure not less than 30 feet by 12 feet and shall have an unobstructed height of 14 feet six inches and shall be made permanently available for such purposes, and shall be hard surfaced, improved and maintained as required by this chapter. Required loading spaces shall be in conformance with the following table:

Department stores, freight terminals, industrial or manufacturing establishments, retail or wholesale stores or storage warehouses or any similar use which has, or intends to have 10,000 square feet or more, shall provide truck loading or unloading berths:

Square feet of aggregate gross floor area	Required number of berths
10,000 to 15,999	1

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16,000 to 39,999	2
40,000 to 65,000	3
each additional 16,000	1 additional

Auditoriums, convention or exhibit halls, sports arenas, hotels, office buildings, restaurants or similar uses which have, or intend to have an aggregate gross floor area of 40,000 square feet or more, shall provide truck loading or unloading berths:

Square feet of aggregate gross floor area	Required number of berths
40,000 to 59,999	1
60,000 to 160,000	2
each additional 60,000	1 additional

Area of Parking Lot = 5,504 Sq. Ft.

Section Twenty. Oak Harbor Municipal Code Chapter 19.46 is hereby re-adopted to read as follows:

Chapter 19.46
LANDSCAPING AND SCREENING

Sections:

19.46.010 Purpose.
19.46.020 Applicability.
19.46.030 General landscaping requirements.
19.46.035 North Whidbey Enterprise Area landscape requirements.
19.46.040 General landscaping standards.
19.46.045 Tree retention.
19.46.050 Fences and hedges.
19.46.060 Phased projects.
19.46.070 Conflicts.
19.46.080 Maintenance standards.
19.46.090 Timing of landscaping completion.
19.46.100 Landscape plans required.
19.46.110 Administrative relief and alternative compliance.
19.46.120 Enforcement of chapter.

19.46.010 Purpose.

The purpose of this chapter is to provide uniform standards for the development and maintenance of the landscaping of private property and public rights-of-way. The purpose of landscaping is to improve the livability of residential neighborhoods, enhance the customer attraction of commercial areas, increase property values, improve the compatibility of adjacent uses, provide visual separation and physical buffers between incompatible adjacent land uses, provide visual relief from the expanse of parking lots, screen undesirable views, contribute to the image and appeal of the overall community, and mitigate air and noise pollution. It is the intent of these requirements to encourage the retention of existing vegetation including significant trees to the extent feasible and to require replacement if significant existing trees are removed; to reduce erosion and storm water runoff; to preserve and promote urban wildlife habitats; to enhance the streetscapes along the city's public rights-of-way with an emphasis on trees; to define and separate vehicular and pedestrian traffic areas; to screen the appearance of parking areas from public rights-of-way and adjacent properties; and to make the city a more aesthetically pleasing place to live, shop and work.

19.46.020 Applicability.

The provisions of this chapter shall apply to any of the following:

(1) All new public and private developments, multifamily housing larger than a duplex, and long plats;

(2) Any additions to existing structures that exceed 30 percent of the gross floor area, or are in excess of 1,000 square feet;

(3) Any expansion of a mobile home park in which the number of new mobile home lots exceeds 10 percent of the number of existing mobile home lots;

(4) Provisions required by Chapter 19.48 OHMC;

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(5) Situations where this chapter imposes a requirement for buffering or screening between two uses, one of which is existing and the other new. The responsibility for satisfying this requirement rests entirely on the new use;

(6) Single-family dwellings, duplexes, and current approved site plans shall be exempt;

(7) Any preexisting vehicular surface area which expands in excess of 25 percent shall provide the landscaping required in OHMC 19.46.030. No expenditure made for removing existing asphalt, constructing planting areas, installing irrigation systems, and adding dirt and plant materials which is required in order to comply with these requirements shall be required to exceed four percent of the total assessed real property value of the subject property on which the improvements are being made.

19.46.030 General landscaping requirements.

(1) Required minimum landscape setbacks apply to all zoning districts, except those projects specifically excluded in OHMC 19.46.020 above.

(a) Minimum width of landscape setback, as identified with the city's street classification plan:

(i) Large shopping centers in excess of five acres adjacent to principal arterial streets: 20 feet;

(ii) Any multifamily and nonresidential use constructed on a designated scenic transportation route: 20 feet;

(iii) All other uses adjacent to a principal arterial: 12 feet;

(iv) Adjacent to a minor arterial or collector arterial: 10 feet;

(v) Adjacent to all other streets: eight feet;

(vi) Where roadway right-of-way expansion is proposed the setback will begin at the anticipated new edge of the road.

(b) Minimum Number of Trees in Landscaped Setbacks. There shall be four trees for every 100 linear feet of frontage of property adjacent to all street classifications. Guidelines for the specific types and locations of trees and other landscape materials in landscape setbacks are contained within the landscape policy manual.

(c) Design Standards.

(i) Some of the required landscape setback trees may be clustered in the setback. Parking lot screening may be included in the landscape setback width. The required landscaped setback trees may be permitted to be partially or totally located in the adjacent public right-of-way area, if:

(A) All of the required trees cannot be placed in the landscaped setback;

(B) There are no conflicts with utility easements;

(C) In the case of the state highway, the city engineer and State Highway Engineer approve;

(D) It shall be the responsibility of the adjacent property owner to care for landscaped rights-of-way;

(E) Where undeveloped adjacent right-of-way occurs, it shall be landscaped.

The required landscaped setback trees may be located in the adjacent public right-of-way area if these trees cannot be placed in the landscaped setback area due to the existing development of the site. However, such trees are required only to the extent that: (1) the city engineer and State Highway Engineer approve the trees in the case of a state highway; and (2) no conflicts exist within utility easements.

(ii) Opaque walls and fences which obstruct view shall be located outside (building side) of the setback to maintain a landscaped appearance along the street.

(iii) Administrative relief of the requirements of this section may be requested in accordance with OHMC 19.46.110.

(2) Required Minimum Landscape Perimeters. Planting areas within side and rear yards that are not occupied by structures shall be as follows:

(a) Minimum Width of Perimeter. Five feet for the length of the property line, unless otherwise specified under screening requirements of this chapter;

(b) Exemptions. Perimeter of industrial site or commercial yard that is not substantially visible from the right-of-way or located where screening is not required, shall be exempt;

(c) Planting Requirements.

(i) A minimum of four trees shall be planted for every 100 linear feet, or fraction thereof, of perimeter planting area;

(ii) Shrubs and ground cover plantings shall be in quantities and spacing that will provide for 80 percent ground coverage within three years;

(iii) When abutting properties with different land use classifications occurs, the screening requirements under OHMC 19.46.030(3) and (4) shall supersede the requirements of this subsection;

(d) Connecting Driveways. When connecting joint driveways, or shared parking lots are provided between sites, the minimum area requirements may be reduced by the area occupied by the driveway that would otherwise be landscaped under the requirements of this subsection.

(3) Required Minimum Landscape Buffers.

(a) Buffers between (1) adjacent nonresidential and residential uses; and (2) adjacent nonresidential uses and single-family residential zones:

(i) Design Standards. The buffer shall be a minimum of 12 feet wide and shall be located on the property line adjacent to any single-family residential community. Said buffer shall generally consist of a mix of predominately evergreen plantings including trees, shrubs, and ground covers. Evergreen trees shall be a minimum height of four feet at time of planting. Planting shall be chosen and spaced so as to grow together within four years of their planting in a manner that is sufficient to obscure sight through the barrier. The entire planting strip shall be landscaped; however, those plantings used to achieve the sight-obscuring screen shall cover at least six feet of the width of the strip.

(b) Buffers between adjacent multifamily residential and single-family residential zones:

(i) Design Standards. The buffer shall be a minimum of 10 feet wide and shall be located on the property line adjacent to the single-family residential community.

(c) Buffers between nonresidential and residential uses separated by a nonarterial street, public alley or private street:

(i) Design Standards. The buffer shall be a minimum of 12 feet in depth. The minimum number of trees in the buffer shall be two trees for every 20 linear feet of buffer. The trees will consist of a mix of evergreen and deciduous. Depending upon the nonresidential use, evergreens may be increased to help obscure sight between the two uses. An opaque structure with a maximum height of six feet may be optional along the common property line. If a fence is constructed, planting shall still occur as stated above. The buffer may be reduced to 10 feet if an opaque structure is erected.

(d) Buffers between an industrial classified district and a residential classified district:

(i) Design Standards. All sites in an industrial district having a common boundary with a residential district shall be planted and maintained along such common boundary with a view-obscuring coniferous greenbelt of shrubs, trees and native vegetation not less than six feet in height nor less than 10 feet in width, for screening purposes and controlling access.

(4) Fences and Screening. When applicable, the requirements of this section shall supersede the requirements of other sections of this chapter as well as those sections of Chapter 19.40 OHMC.

(a) Purpose. The requirements of this subsection are intended to reduce visual impacts and incompatible characteristics of:

(i) Abutting properties with different land use classifications;

(ii) Service areas and facilities, including loading and storage areas;

(iii) Parking areas located in front of buildings;

(iv) Any other use or area as required under this section, or determined to be necessary by the planning director (or designee).

The fence or landscaping screen shall be sight obscuring, obstructing storage areas from view on the sides of the property abutting, adjoining, or facing a residential district. The fence shall be of such material and design as will not detract from adjacent residences and shall be built according to plans submitted by the owner or his/her authorized agent and approved by the planning director (or designee).

(b) Landscaping. Screen planting shall consist of evergreen trees planted a maximum of 15 feet on center, or hedges with dense evergreen foliage, in combination with deciduous trees and hedges for seasonal color and texture. Ground cover shall be planted at a density to form an effective barrier to cover 85 percent of the ground surface within two years.

(i) On a corner lot there may be placed and maintained:

(A) A fence or screen not more than three feet in height; provided, that it is not sight obstructing (50 percent of the

area of the fence or screen is open) along a public or private street;

(B) A six-foot-high open wire fence along the property line facing the side street; provided, that it does not come closer to the street right-of-way on the front of the lot than the required building setback;

(C) A four-foot-high solid fence or hedge parallel to the property line facing the side street; provided, it is 10 feet back from the side street; and provided, that it does not come closer to the street on the front of the lot than the rear of the building.

(ii) In commercial zones, no fence or hedge may be placed on the front yard setback except where required to screen the property from the adjacent lot, then the screen shall extend to the street right-of-way.

(c) Minimum Width.

(i) Landscape Screening. If screening is to be achieved through the use of plant materials only, the screening area shall be a minimum of 10 feet in width. If other materials, such as fencing, walls or berms are used in conjunction with the landscaping, the width may be reduced, as described in subsections (4)(c)(ii) to (iv) of this section.

(ii) Earth Berm Alternative. If an earth berm is incorporated into the screening plan, medium size shrubs and/or evergreen trees shall be spaced a maximum of four and one-half feet on center and the width of the screening area may be reduced to eight feet.

(iii) Fence Alternative. If a fence option is selected, maximum spacing of medium sized shrubs shall be six feet on center, and the width of the screening area may be reduced to seven feet. The fence shall be constructed of exterior weather resistant wood, or applicable alternative. One alternative may be a cyclone fence; however, such a fence shall include slats, and if the fence is next to right-of-way, landscaping shall be planted between the fence and the right-of-way. Plantings must obscure 75 percent of a cyclone fence within four years.

(iv) Wall Alternative. If a wall at least five feet high is to be used for screening, the planting requirements shall be as specified under subsection (1) of this section, and the screening width may be reduced to five feet. Screen walls shall be constructed with masonry, block, rockery or textured concrete, subject to design approval by the planning director.

(d) Uses Requiring Screening. The planning director may require screening to protect adjacent properties from negative impacts of any permitted or conditional use in a zoning district.

Except as otherwise required by the planning director, screening shall be required in the following instances:

(i) Developments located in districts listed on the left side of the chart,

below, shall provide screening when they adjoin districts specified on the right side of the chart.

District to be Developed	District to be Screened
Multifamily residential	Single-family residential
Semi-public	All residential
Commercial/business	All residential
Industrial	All residential/commercial

(ii) Churches, community centers, and other similar conditional uses shall provide perimeter screening when adjoining a residential district.

(e) Fence and screen height limits in the various zones are as follows:

Residential Zones:	Front yard	3 feet maximum
	Side yard	6 feet maximum
	Rear yard	6 feet maximum
Commercial Zones:	Front yard	0 feet maximum
	Side yard	6 feet maximum
	Rear yard	6 feet maximum
Industrial Zones:	Front yard	8 feet maximum
	Side yard	8 feet maximum
	Rear yard	8 feet maximum

(5) Minimum Parking Lot Requirements.

(a) Required Trees.

(i) One tree of a type suitable for parking lots shall be provided for every 10 open (not in a garage) vehicular parking spaces in parking lots with 10 or more spaces;

(ii) The tree types and minimum planter sizes shall be consistent with the landscape policy manual. Trees chosen shall be appropriate to a parking lot location;

(iii) The required trees may be clustered but shall be located to divide and break up expanses of paving and long rows of parking spaces and to create a canopy effect in the parking lot. In order to be considered within the parking lot, the trees must be located in planters that are bounded on at least three sides of parking lot paving. This means only trees in landscaped "islands" or "fingers" can count toward the parking lot tree requirement;

(iv) Planters shall be of sufficient size and design to accommodate the growth of the trees and to prevent damage to the trees by vehicles;

(v) The number of species required shall vary according to the overall number of trees required to be planted. The species shall be planted in proportion to the required mix. The species mix shall not apply to areas of vegetation required to be preserved by law nor those located in areas designated as natural. The number of species to be planted are indicated below.

Required # of trees	Maximum # of species
6 – 10	2
11 – 15	3
16 +	4

(b) Required Landscape Area. At least 15 percent of every parking lot shall be landscaped. In all cases, with the exception of vehicular display lots, landscaping shall be distributed throughout the parking area. Landscaping located in required setbacks or buffers may not be used to meet this requirement. The landscaping shall consist of deciduous and/or coniferous material and may include turf, shrubs, and flowers.

(c) Required Screening.

(i) Open parking spaces (except those in single-family residential projects in any zone district) shall be screened from the view of adjacent properties and streets to mature minimum height of 30 inches by the use of berms and/or plantings;

(ii) A minimum of two-thirds of the affected street frontage or property boundary, not counting intersecting driveways, must have the required screen;

(iii) The required screening may be a component of the required landscape setback;

(iv) Structures such as decorative walls or fences may be approved through an administrative relief request if the planning director (or other designee) finds that:

(A) The structures avoid a blank and monotonous appearance by such measures as architectural articulation and the planting of vines, shrubs or trees; or

(B) The total use of the berms and/or plantings is not physically feasible; or

(C) The structures attractively complement the use of berms and/or plantings;

(v) The maximum spacing of plants to achieve an acceptable screen and the maximum acceptable grades for screening areas, such as sodded berms and planting beds, shall be consistent with the landscaping policy manual;

(vi) Guidelines for the specific types and location of trees, shrubs and other landscape materials in parking lots are contained within the landscape policy manual as approved by city council or thereafter amended.

(6) In addition to the requirements and standards of this chapter, the landscape guidelines in the design guidelines shall apply.

19.46.035 North Whidbey Enterprise Area landscape requirements.

(1) The standards contained in this section apply to the North Whidbey Enterprise Area as identified in Exhibit C of the Urban Growth Area Interlocal Agreement

between Island County and the city of Oak Harbor, a copy of which is on file with the city clerk and available for public inspection.

(2) Significant Tree Retention. Significant tree retention in the I, PIP, C-4 and nonresidential development, short subdivision and subdivision in the PRE zones shall meet the following standards:

(a) Applicants should retain 15 percent of the significant trees found on the property except for those trees found in the building footprints, access roads, parking areas and utility line trenches. Applicants should give attention to the following:

(i) Preservation of significant trees along the perimeter of the property; and

(ii) Preservation of significant trees near or adjacent to critical areas; and

(iii) Preservation of significant trees which create a distinctive skyline feature; and

(iv) Preservation of Garry Oak trees; and

(v) Trees that may constitute a safety hazard should be removed; and

(vi) Special attention shall be given to preservation of significant trees on properties identified in the 2001 Oak Harbor Comprehensive Plan, Environmental Element, Woodland Map.

(b) An inventory of significant trees shall be submitted with all applications for subdivision, short subdivision or site plan review.

(3) Landscaping, screening and buffering in the I and PIP zones shall meet the following standards:

(a) Open storage, trash or recycling areas shall be screened by fencing and/or landscaping;

(b) Landscaping including street trees spaced no further than 20 feet on center shall be required in all front yards and the abutting public road; and

(c) Buffers between industrial zones and adjacent residential properties shall be planted along the common boundary. The planting should include coniferous shrubs, trees and native vegetation. Fencing may be incorporated to help ensure an effective visual buffer.

(4) Landscape for I, PIP and C-4 lands abutting Goldie Road and Oak Harbor Road shall meet the following standards:

(a) A 20-foot landscape setback shall be established; and

(b) The area between the property line and drainage swale shall be planted with low profile foliage; and

(c) The landscape area shall be planted with a mixture of native evergreen trees containing a variety of species, colors and textures for a year-around green attractive appearance; and

(d) If the landscape buffer setback does not have existing significant vegetation, the buffer will be planted with native evergreen trees. If deciduous trees are desired they may be planted at a rate of two evergreen to one deciduous tree; and

(e) Maximum spacing of the trees shall be 10 feet on center or equivalent grouping as determined by site and existing conditions; and

(f) Roadway and intersection requirements shall prevail if a conflict arises with the landscape standards listed herein.

19.46.040 General landscaping standards.

(1) Landscape Materials.

(a) Landscape materials shall be defined as evergreen or deciduous trees, shrubs, and ground cover plants, perennial or annual flowers, and lawn. River rock, fountains, ponds, bark, rockeries, ornamental or decorative walkways (provided both sides abut landscaping) may be included, where, in the opinion of the planning director, additional ornamental features may be considered as part of the landscape materials, subject to the administrative relief process.

(b) Suggested plant material suited to the unique soils, geology, and weather patterns of Oak Harbor are contained in the landscape policy manual at the city planning department.

(c) Planting shall occur based on species tolerance to the environment in which it will be placed.

(d) No artificial lawn or plants will be permitted in landscaped areas.

(2) Erosion Control Plan. The city may require temporary erosion and sediment control measures as part of the landscape plan for the development. Erosion or sediment control plan shall be reviewed prior to or in conjunction with a plat or site plan.

(3) Drainage Detention/Retention Ponds. If a proposed detention pond has a slope ratio of 3:1 or greater, where fencing around the pond will be required, a fencing and landscaping plan shall be submitted to the planning department. Submittal of the proposed fencing and landscaping plan shall occur in conjunction with short plat, preliminary plat, or site plan review applications, depending on the project type.

(4) Land Clearing Plan. Clearing of landscaping is required to be in accordance with the provisions of Chapter 19.47 OHMC.

(5) Pollution Control. It shall be the responsibility of the property owner to ensure that storm runoff from landscaped areas does not contain excessive amounts of fertilizer, insecticides, and herbicides that may be harmful to aquatic life, and to take measures to prevent runoff water impacts as required by the Department of Ecology and Wildlife and as specified in the Puget Sound Water Quality Manual. One measure to reduce the use of chemicals is the use of native plants in landscape areas.

(6) Safety Features/Utilities. Installation of landscape materials shall not obstruct access to fire connections, post indicator valves (PIVs) and hydrants, standpipes, sprinkler connections, utility vaults, pedestals, and other public and private utility facilities. Appropriate species of plants for areas affected by overhead utility lines can be found in the plant list. Landscaping shall not obstruct fire apparatus access roads.

(7) Irrigation and Watering. An underground irrigation system is required which is adequate to provide watering needs for plant materials. Small preexisting sites may receive special consideration through the administrative relief process. Also, administrative relief from the irrigation requirement may be requested for planting

areas which contain only drought tolerant vegetation.

(8) Visibility Triangle. Along street frontages, within 30 feet of an alley or unsignalized street intersection, or within 25 feet of a driveway, no shrub shall be higher than 30 inches from street gutter grade and no tree shall have branches or foliage below eight feet above street level.

At signalized intersections the conditions of this section shall not be necessary, but it shall be required that only deciduous trees be located at signalized intersections. Under no circumstances shall landscaping interfere with sight distance visibility.

(9) Where practical, landscaping shall be designed to not block solar gain or solar access by surrounding properties.

(10) Special Landscaping Districts. The area of the CBD central business district, for the purpose of this chapter, will be considered a special landscaping district. This area is substantially developed on zero setbacks from the right-of-way, making it impractical to meet the full extent of the requirements of this chapter. Businesses located in this district shall meet parking lot landscaping standards as shown in OHMC 19.46.030(5) and shall participate in a street tree planting program in the street right-of-way adjacent to the parcel frontage.

(11) Xeriscape Process. Xeriscape is a process by which sound horticultural, landscaping, and efficient water-using principles come together. The style of the xeriscapes can be quite variable. Drought resistant landscaping, such as a contemporary design or a Spanish garden, could qualify as xeriscape when constructed to meet the following six principles:

(a) Good Design. Based on careful selection of low-water-use plants or drought tolerant plants;

(b) Soil Improvement. Improvements including the addition of manure, compost, or other organic materials which can be amended into the soil;

(c) Use of Mulch. Beauty bark or other organic substance to beautify the landscape and help maintain moisture in the soil;

(d) Limited Lawn Areas. Minimizing grass areas results in minimal lawn maintenance;

(e) Efficient Water Use. Water between 12:00 midnight and 6:00 a.m. to help prevent fungus growth, and lower the evaporation rate of water;

(f) Good Maintenance. Maintain the landscape to reflect a weed and trash free environment.

(12) Landscaping for Freestanding Signs. All primary freestanding signs shall include, as part of their design, landscaping about their base to prevent automobiles from hitting the sign supporting structure and to improve the overall appearance of the installation. If the required landscaping is not completed within 60 days after completion of sign installation, the sign is in violation of this chapter.

19.46.045 Tree retention.

(1) The purpose and intent of this section is to reduce the aesthetic and environmental impacts of site development while promoting reasonable use of land and to implement the city's comprehensive plan by:

(a) Avoiding the removal of significant trees and stands of trees in order to maintain ecological functions and maintain Oak Harbor's urban environment;

(b) Providing measures to protect trees from construction impacts and ensure their survival; and

(c) Providing flexibility in order to retain stands of trees of ecological or aesthetic importance, or to allow for revegetation when trees cannot be retained.

(2) All development proposals and land clearing applications shall retain at least 15 percent of the significant trees, as defined in Chapter 19.08 OHMC.

(a) Trees shall be retained within stands or clustered. Narrow strips and single unprotected significant trees shall be avoided. Improvements shall be designed to give priority to protection of trees with the following characteristics:

(i) Healthy significant trees over 50 feet in height;

(ii) Significant trees that form a continuous canopy or grove of trees;

(iii) Significant trees on steep slopes or adjacent to existing open space, parkland, wetlands, water courses and conservancy areas; and

(iv) Significant trees which provide a distinctive feature, such as a skyline, corridors along arterial and collector streets, or provide a land use buffer along the perimeter of the proposed development.

(b) All areas where vegetation is retained shall be designated as a native growth protection area, conservation easement, deed restriction or other means of deed conveyance.

(3) Exceptions.

(a) The minimum significant tree percentage may be reduced on sites with special circumstances and where revegetation is proposed. Special circumstances include, but are not limited to:

(i) The retention of significant trees precludes reasonable development of the property.

(ii) Physical limitations such as existing lot size, soils or topography.

(iii) Deteriorated health of trees.

(iv) Potentially hazardous trees.

(v) Trees subject to blowdown after construction.

(b) The minimum significant tree percentage may be reduced for preliminary plat applications that demonstrate special circumstances and propose revegetation:

(i) With approval from the planning commission a revegetation plan shall give consideration to revegetation and its proximity to existing vegetation, steep slopes, open space, parkland, wetlands, water courses, conservancy areas, arterial and collector streets, effectiveness as a land use buffer, enhancement of existing stands of native vegetation or other similar conditions.

(ii) The revegetation plan may combine the use of native species and nonnative species.

(iii) The revegetation plan shall provide for a two to one tree replacement ratio.

(iv) Replacement trees shall be a minimum two and one-half-inch caliper for deciduous trees or a minimum of six feet in height from

existing grade for conifers and comply with the requirements of subsection (5) of this section.

(c) The minimum significant tree percentage may be reduced for short plat, development and land clearing applications that demonstrate special circumstances and propose revegetation:

(i) With approval from the director a revegetation plan shall give consideration to revegetation and its proximity to existing vegetation, steep slopes, open space, parkland, wetlands, water courses, conservancy areas, arterial and collector streets, effectiveness as a land use buffer, enhancement of existing stands of vegetation or other similar conditions.

(ii) The revegetation plan may combine the use of native species and nonnative species.

(iii) The revegetation plan shall provide for a two to one tree replacement ratio.

(iv) Replacement trees shall be a minimum two and one-half-inch caliper for deciduous trees or a minimum of six feet in height from existing grade for conifers and comply with the requirement of subsection (5) of this section.

(d) Trees which do not meet the definition of significant trees may be credited towards the minimum significant tree percentage to be retained in order to facilitate the preservation of a greater number of smaller trees if a group of trees and its associated undergrowth provide a distinctive feature, are on a steep slope or adjacent to existing open space, parkland, wetlands, water courses, conservancy areas, arterial and collector streets, effectiveness as a land use buffer, enhancement of existing stands of vegetation or other similar conditions.

(e) A reduction in the replacement ratio required by subsections (3)(b) and (c) of this section may be considered for planting an understory to enhance habitat.

(f) The director may approve the removal of significant trees that have been retained pursuant to this chapter, if it is determined that the tree is diseased, physically deteriorated, potentially hazardous, damaged or subject to windthrow. Significant trees that are removed as approved by the director, and the one-year maintenance period has expired, shall be replaced at a one to one ratio. Replacement trees shall be a minimum two and one-half-inch caliper for deciduous trees or a minimum of six feet in height from existing grade for conifers.

(4) Determining the Number of Significant Trees to be Retained.

(a) For plats, short plats and binding site plans, trees that are within a regulated environmentally sensitive area shall be excluded and will not contribute towards the base number of significant trees or the 15 percent retention requirement.

(b) For all other development and clearing applications, trees that are within a regulated environmentally sensitive area, within the building footprint or are within the required landscape area shall be excluded and will not

contribute towards the base number of significant trees or the 15 percent retention requirement.

(c) All development proposals and clearing applications shall include a drawing showing the location of all significant trees, trees to be retained, trees to be removed, groves of trees and other natural features on and adjacent to the site.

(i) Parcels larger than five acres may utilize a sampling methodology to identify significant trees. Parcels smaller than five acres shall utilize a survey methodology to identify significant trees.

(5) Revegetation and Survival Standards.

(a) Sites with documented special circumstances in conformance with subsection (3) of this section shall provide a revegetation plan. The plan shall include:

(i) Written documentation of the special circumstances that make the retention of significant trees impracticable;

(ii) Information required under OHMC 19.46.100;

(iii) The revegetation plan shall replace significant trees that are required to be retained at a two to one ratio. Replacement trees shall be a minimum two and one-half-inch caliper for deciduous trees or a minimum of six feet in height from existing grade for conifers; and

(iv) Priority shall be given to revegetation and its proximity to existing vegetation, steep slopes, open space, parkland, wetlands, water courses, conservancy areas, arterial and collector streets, effectiveness as a land use buffer, enhancement of existing stands of vegetation or other similar conditions.

(b) All trees (replacement trees and retained trees) shall be maintained in a healthy growing condition. All trees found to be diseased, dead or dying within one year of acceptance by the city shall be replaced. Trees planted as part of a revegetation plan shall be replaced at a one to one ratio and retained trees shall be replaced at a two to one ratio.

(6) Construction Standards.

(a) A vegetation protection plan shall be submitted for all vegetation that is to be retained. The vegetation protection plan may be combined with the grading/clearing plan or the temporary erosion control plan.

(b) Barrier fencing or silt fencing shall be placed around the root zone of all trees and vegetation to be retained. There shall be no construction activity within the fencing.

(c) Any clearing to be done within the root zone must be approved by the director and utilize hand grubbing and light equipment. No fill will be allowed within the root zone unless approved by the director.

(7) Modifications of Standards in Order to Preserve Significant Trees or Stands of Vegetation.

(a) A variance may be granted to allow intrusion of a building into a setback yard by five feet to preserve significant trees elsewhere on the property.

(b) Setback averaging may be utilized to preserve significant trees elsewhere

on the property. A reduced setback shall be compensated by an increased setback elsewhere.

(c) A variance may be granted to allow a 10 percent reduction in parking spaces to preserve significant trees elsewhere on the property.

(8) Professional Evaluation. In determining tree removal or replacement, the director may require a professional evaluation or tree protection plan by a certified arborist at the applicant's expense, where the director determines that such evaluation is necessary to comply with the standards of this section. The evaluation may include providing a hazardous tree assessment, evaluation of the anticipated effects of a proposed project on the viability of trees on the site, developing a plan for tree protection or replacement and evaluation after construction.

19.46.050 Fences and hedges.

(1) Fences and hedges a maximum of six feet in height may be placed and maintained on the side and rear lot line, and across the front of the property line even with the front of the building on the lot but not closer to the street right-of-way than the required setback. On corner lots the setback shall apply to both streets.

Within the setback area a fence not more than three feet in height may be constructed; provided, that it is not sight-obscuring (50 percent of the area of the fence is open).

Within the setback area a solid hedge may be planted not to exceed a height of more than three feet.

On a corner lot there may be placed and maintained:

(a) A fence or hedge not more than three feet in height; provided, that it is not sight-obstructing (50 percent of the area of the fence or hedge is open);

(b) A six-foot-high open wire fence along the property line facing the side street; provided, that it does not come closer to the street right-of-way on the front of the lot than the required building setback;

(c) A four-foot-high solid fence or hedge parallel to the property line facing the side street; provided, it is 10 feet back from the side street; and provided, that it does not come closer to the street on the front of the lot than the rear of the house.

(2) In commercial zones, no fence or hedge may be placed on the front yard setback except where required to screen the property from the adjacent lot, then the screen shall extend to the street right-of-way.

(3) Fence and hedge limits in the various zones are as follows:

Residential Zones:	Front yard	3 feet maximum
	Side yard	6 feet maximum
	Rear yard	6 feet maximum
Commercial Zones:	Front yard	0 feet maximum
	Side yard	6 feet maximum
	Rear yard	6 feet maximum
Industrial Zones:	Front yard	8 feet maximum
	Side yard	8 feet maximum
	Rear yard	8 feet maximum

19.46.060 Phased projects.

Phased projects include but are not limited to shopping centers, large site developments proceeding in phases, applicable subdivisions, cluster developments, and business parks. Before construction permits are issued for the first phase of any phased project, conceptual approval of the landscaping plan for the site as a whole is required. Final approval of the landscaping plan for each phase is required before construction permits are issued for a phase. Installation of landscaping for each phase of development shall be required prior to releasing occupancy permits for that phase. Relief may be available per OHMC 19.46.110.

Landscaping along a frontage road or perimeter screening may be required to be installed in the first phase. Criteria to be considered in the decision includes but is not limited to the following:

(1) Timing of phases of a project;

(2) Proximity to residential areas.

19.46.070 Conflicts.

(1) If the provisions of this chapter conflict with other ordinances or regulations, the more stringent limitation or requirement shall govern or prevail to the extent of the conflict.

(2) In the event that, because of lot configuration, adjacent land uses, or special circumstances, more landscaping is required to meet all requirements of this title, the higher amount of landscaping shall be required.

19.46.080 Maintenance standards.

(1) Maintenance of Cultivated Areas.

(a) General. The owner of land subject to this chapter shall be responsible for the maintenance of said land in good condition so as to present a healthy, neat, and orderly landscape area.

(b) Maintenance of Plants. All landscaping and screening areas shall be maintained in a healthy, growing condition. Broken, dead, or dying trees, shrubs, or other plants shall be replaced. All landscaping and screening shall be kept free of trash and weeds.

(c) Tree Removal. It shall be the responsibility of each private property owner to remove any dead, diseased, or dangerous trees or shrubs, or part thereof, located on private property which overhang or interfere with traffic control devices, public sidewalks, rights-of-way, or property owned by the city. The city shall have the authority to order the removal and possible replacement of any such trees or shrubs.

(d) Pruning.

(i) All pruning should be accomplished according to good horticultural standards. Trees shall be pruned only as necessary to promote healthy growth;

(ii) Unless special approval is provided, trees shall be allowed to attain their normal size and shall not be severely pruned or "hat racked" in order to permanently maintain growth at a reduced height;

(iii) Trees may be periodically pruned or thinned in order to reduce the leaf mass and stimulate further branching.

(e) Mowing. Grass shall be mown as required in order to encourage deep root growth and therefore the preservation of irrigation water.

(f) Edging. All roadways, curbs, and sidewalks shall be edged when necessary in order to prevent encroachment from the adjacent grass areas.

Power trimmers shall not be used to trim grasses around trees since they will quickly remove bark causing deterioration and eventual death of the tree.

(g) Watering. All watering of planted areas shall be managed so as to:

(i) Maintain healthy flora;

(ii) Make plant material more drought tolerant;

(iii) Avoid excessive turf growth;

(iv) Minimize fungus growth;

(v) Stimulate deep root growth;

(vi) Minimize leaching of fertilizers;

(vii) Minimize cold damage.

Watering of plants and trees should always be in sufficient amounts to thoroughly soak the root ball of the plant and the surrounding area, thereby promoting deep root growth and drought tolerance.

Whenever possible, automatic irrigation systems should be installed and operation should occur between the hours of 12:00 midnight and 6:00 a.m. Irrigation during these hours helps to reduce fungus growth and loss of water due to evaporation.

If an irrigation system is installed it shall be regularly maintained to eliminate waste of water due to loss of heads, broken pipes, or misjudged nozzles.

(2) Maintenance of Natural Plant Communities.

(a) General. All areas preserved as natural plant communities shall be annually cleared of nonnative vegetation and lawn grasses, and cleared of all trash and other debris.

(b) Required Management Plan. For all areas of preserved plant communities larger than three acres in area, the owner shall submit for the approval of the planning department a narrative management plan indicating the manner in which the owner will preserve the native plant communities. The narrative shall include:

(i) Whether the existing vegetation is to be preserved in the existing species composition;

(ii) If applicable, the manner in which the composition of existing plant material is to be preserved;

(iii) The maintenance schedule for removal of debris and exotic species;

(iv) Other information the planning department feels necessary to approve a management plan.

All natural plant communities shall be managed in order to maintain the plant community for the purpose it was preserved.

When applicable, the planning department shall make periodic inspections of the natural areas to verify the owner's adherence to the approved management plan.

19.46.090 Timing of landscaping completion.

(1) Completion of Landscaping. All landscaping must be completed in accordance with the approved landscape plan before a certificate of occupancy may be issued

for any building on the lot. In the event that weather conditions do not allow for the installation of the landscaping, the property owner shall provide the planning director with documented assurance that the landscaping will be completed within six months. The building official may then issue a one six-month temporary certificate of occupancy and permit the owner to complete the landscaping within the six-month period. For the purpose of this subsection, "documented assurance" means:

(a) A bond or other assurance acceptable to the city equal to 112 percent of the estimated installation costs shall be required. Such deposit shall be accompanied by a letter which shall stipulate completion of all landscape development no later than six months after the issuance of the certificate of occupancy or date of final approval, whichever is later.

(b) If these conditions are not met, the city may use the deposit to perform the landscape development.

19.46.100 Landscape plans required.

(1) General. Prior to the issuance of any building permit, a landscape plan shall be submitted to, reviewed by, and approved by the planning director.

(2) Nature of Required Plans. Landscape plans for lots larger than one and one-half acres in size shall be prepared by and bear the seal of an architect or landscape architect, or other professional with demonstrated qualifications.

(3) Contents of Landscape Plan. The landscape plan shall:

(a) Be drawn to scale, including dimensions and distances;

(b) Delineate the existing and proposed parking spaces, or other vehicular areas, access aisles, driveways, and similar features;

(c) Show all landscape features including height, quality, type, botanical and common names, place of planting and all areas of vegetation, in context with the location and outline of any existing or proposed and other improvements on the site;

(d) Gross acreage, area of preservation, number of trees to be planted and/or preserved, other plants to be planted and/or preserved, and square footage of paved areas shall be included in a tabulation that clearly displays this and other relevant information necessary for the planning department to evaluate compliance with the provisions of this chapter;

(e) Include an irrigation plan, which shows zones, connecting nozzles, distribution valves, irrigation lines, sprinkler heads, timer location, and backflow prevention device, as well as other information integral to the proposed irrigation system.

An application and inspection fee, in the amount set by the city council from time to time, shall be collected by the building department at time of application for certificate of occupancy.

19.46.110 Administrative relief and alternative compliance.

The standards contained in this chapter are intended to encourage development which is economically viable and environmentally satisfying. The standards are not intended to be arbitrary or to inhibit creative solutions. Projects may justify approval of alternative methods for compliance with the standards. Conditions may arise where normal

compliance is impractical or impossible, or where maximum achievement of the city's objectives can only be obtained through alternative compliance.

(1) Requests for alternative compliance and administrative relief may be accepted for any application to which the requirements of this chapter apply, when one or more of the following conditions exist:

(a) Topography, soil, vegetation or other site conditions make it impossible or impractical; or improved environmental quality would result from alternative compliance;

(b) Space limitations, unusually shaped lots, and prevailing practices in the surrounding neighborhood may justify alternative compliance for infill sites, and for improvements and redevelopment in older communities;

(c) Parking lots with five parking spaces or less may apply for administrative relief in order to reconfigure landscaping to be less than 15 percent of the parking lot. For example, a portion of the requirement can be met by landscaping around the perimeter of the parking lot;

(d) Change of use of an existing site increases the buffer required more than it is feasible to provide;

(e) Safety considerations make alternative compliance necessary;

(f) When an alternative proposal is equal or better than normal compliance in its ability to fulfill all landscaping requirements in this chapter;

(g) Alternative types of irrigation for preexisting conditions.

(2) The following may be considered as a remedy in the cases where alternative compliance is proposed:

(a) Alternative compliance shall be limited to the specific project under consideration and shall not establish precedents for acceptance in other cases;

(b) Requests for alternative compliance shall be accompanied by sufficient explanation and justification, written and/or graphic, to allow appropriate evaluation and decision;

(c) A request for alternative compliance shall be submitted to the planning director (or designee) at the time the plan is submitted. In the case of those plans for which no public hearing is required, the decision of the planning director (or designee) will be final, unless the applicant appeals the decision to the planning commission. In the case of those plans for which a planning commission or other public hearing is required:

(i) The request for alternative compliance shall be submitted no less than 21 calendar days prior to the scheduled date of the hearing;

(ii) The planning director (or designee) will forward a recommendation to the proper hearing authority a minimum of five working days prior to the hearing;

(d) The planning director may request modification of proposed standards in the administrative relief proposal.

19.46.120 Enforcement of chapter.

A violation of any of the provisions of this chapter shall be a civil offense and any person failing to comply thereof shall be punished by a fine not to exceed $250.00 or value of materials and labor to bring the property into compliance with this chapter, whichever is

greater. It shall be a separate offense for each and every day or portion thereof during which any violation of any part of the provisions of this chapter is committed, continued or permitted.

Section Twenty-One. Oak Harbor Municipal Code Chapter 19.47 is hereby re-adopted to read as follows:

Chapter 19.47
LAND CLEARING

Sections:

19.47.010 Purpose.
19.47.020 Applicability.
19.47.030 Permits.
19.47.040 Exemptions.
19.47.050 Application for land clearing permit.
19.47.060 Minor clearing permit.
19.47.070 Performance bond or cash guarantee.
19.47.080 Appeals.
19.47.090 Civil/criminal enforcement.
19.47.100 Injunctive enforcement.
19.47.110 Severability.
19.47.120 Permit fees.
19.47.130 Compliance with state law.

19.47.010 Purpose.

These regulations are adopted for the following purposes. The city staff shall consider such purposes as criteria or standards of the issuance of land clearing permits under OHMC 19.47.050.

(1) To promote the public health, safety and general welfare of the citizens of Oak Harbor;

(2) To preserve and enhance the city's physical and aesthetic character by preventing indiscriminate removal or destruction of trees and ground cover on undeveloped and partially developed property;

(3) To promote land development practices that result in a minimal disturbance to the city's vegetation and soils;

(4) To minimize surface water and ground water runoff and diversion and to prevent erosion and reduce the risk of slides;

(5) To minimize the need for additional storm drainage facilities;

(6) To acknowledge that trees and ground cover reduce air pollution by producing pure oxygen from carbon dioxide;

(7) To promote building and site planning practices that are consistent with the city's natural topographic and vegetation features while at the same time recognizing that certain factors such as condition (e.g., disease, danger of falling, etc.), proximity to existing and proposed structures and improvements, interference with utility services, protection of scenic views, and the realization of a reasonable enjoyment of property may require removal of certain trees and ground cover;

(8) To insure prompt development, restoration and replanting and effective erosion control of property after land clearing through the use of phase development, performance bonds, and other reasonable controls;

(9) To reduce siltation and water pollution;

(10) To implement the goals and objectives of the Washington State Environmental Policy Act;
(11) To maintain the rural character of the city;
(12) To protect and enhance critical lands and their buffers;
(13) To implement the following environmental element policies as stated in the comprehensive plan:
  (a) Policy 1.c: Protect the public and public resources and facilities from injury, loss of life, property damage or financial loss due to flooding, erosion, landslides, soil subsidence and slope failure,
  (b) Policy 6.c: Require planting or retention of trees and shrubs with new development and substantial development projects,
  (c) Policy 6.g: The city shall require developers to submit and receive city approval of erosion control and limit-of-clearing plans, as applicable, prior to release of forest practices permits and land clearing,
  (d) Policy 6.h: Consider adopting a land clearing and grading ordinance to prevent indiscriminate removal or destruction of trees and ground cover on undeveloped and partially developed property;
(14) Not to prevent the reasonable development of land in the city of Oak Harbor.

19.47.020 Applicability.
This chapter applies to all properties within the city with exceptions as shown in OHMC 19.47.040. This does not apply to oak trees, which are regulated under Chapter 20.16 OHMC.

19.47.030 Permits.
No person, corporation, or other legal entity shall engage in or cause land clearing in the city without having obtained a land clearing permit or minor clearing permit. Obtaining a land clearing permit or minor clearing permit does not exempt any person from obtaining a grading permit, when required.

19.47.040 Exemptions.
The following shall be exempt from the provisions of this chapter:
(1) The installation and maintenance of fire hydrants, surface electrical transformer boxes, water meters, water and sewer mains, pumping stations, pedestrian or bicycle paths, and street improvements by the city or its contractors;
(2) Removal of trees and ground cover in emergency situations involving immediate danger to life or property or substantial fire hazards;
(3) Removal of dead or diseased ground cover or trees. If there is a question as to whether ground cover or trees are diseased, a forester or city staff shall inspect the site and determine whether the plant needs to be removed;
(4) Removal of trees or ground cover on partially developed lots, for purposes of general property and utility maintenance, landscaping or gardening; provided, that this exemption shall not apply to any land clearing which includes the use of a bulldozer or similar mechanical equipment and shall not be construed to eliminate the requirement of permits for land clearing for the purpose of developing the property with substantial permanent improvements such as roads, driveways, utilities, or buildings;
(5) Developed single-family residential lots;

(6) Individual undeveloped single-family residential lots where a building permit has been issued.

19.47.050 Application for land clearing permit.

(1) An application for a land clearing permit shall be submitted by the owner or authorized agent on a form provided by the city and shall be accompanied by such of the following documents and information as are determined to be necessary by the city staff as indicated on the application form.

(2) Applications shall be submitted with the preliminary plat application, where applicable.

(3) The city staff shall complete its review and make its decision within 20 working days from the date a complete application is submitted, unless an extension is authorized by the planning director.

(4) Any permit granted hereunder shall expire six months from the date of issuance. Approved plans shall not be amended without authorization of the city staff. The permit may be suspended or revoked by the city staff because of incorrect information supplied, not following the approved plan or any violation of the provisions of this chapter. A one time six-month extension may be approved by the planning director upon submission of a letter from the applicant stating the reason for delay and approximate time clearing will be completed.

(5) The city shall be advised by the property owner or authorized agent, the day prior to beginning any land clearing operations.

(6) Land clearing involving the use of heavy equipment shall be limited to those hours indicated in OHMC 6.56.030(8).

(7) The applicant shall be responsible for posting the property as per Chapter 18.21 OHMC.

(8) In the case that multiple owners own a share in a property, a homeowners' association or other similar maintenance association shall be responsible for continued maintenance of the land and remaining vegetation, subsequent to land clearing.

(9) An erosion and sediment control plan shall be approved prior to issuance of a land clearing permit, or as a condition of approval of a land clearing permit.

19.47.060 Minor clearing permit.

In the case that a property owner wishes to remove five percent or less of the total trees and ground cover on a site, the owner may apply for a minor clearing permit.

(1) To apply for a permit, the owner must submit a letter requesting approval to remove the trees and/or ground cover. Such letter shall provide the following information:

   (a) The percentage of total ground cover and trees which will be removed, as compared to the existing amount of trees and ground cover on the lot;

   (b) Location of the trees and/or ground cover proposed for removal;

   (c) If applicable, the approximate date the last minor clearing permit was approved by the city;

   (d) Date that trees and/or ground cover are to be removed.

(2) At no time shall the city approve, either by individual permit or by multiple permits, the removal of more than five percent of ground cover and trees on a lot

per year through the minor clearing permit. Any proposed tree or ground cover removal above the annual maximum of five percent is subject to the land clearing permit process.

(3) The minor clearing permits may not be used for requesting the removal of trees within a required buffer on arterial streets.

19.47.070 Performance bond or cash guarantee.

The city staff may require, as a condition to the granting of a permit, that the applicant furnish a performance bond or cash guarantee to the city to secure the applicant's obligation, after the approved land clearing has been accomplished, to complete the restoration and replanting of the property in accordance with the terms of the permit and within the term thereof. The bond shall be in an amount equal to the estimated cost of such restoration and replanting, plus an additional 10 percent and with surety and conditions satisfactory to the city staff.

19.47.080 Appeals.

Any person or persons aggrieved by any action of the city staff may within 15 days of such action file a written notice of appeal in accordance with Chapter 1.24 OHMC.

19.47.090 Civil/criminal enforcement.

A violation of any of the provisions of this chapter shall be a misdemeanor and any person found guilty thereof shall be punished by a fine not to exceed $500.00 or replacement value, whichever is greater. It shall be a separate offense for each and every day or portion thereof during which any violation of any part of the provisions of this chapter is committed, continued or permitted.

19.47.100 Injunctive enforcement.

Any violation of the provisions of this chapter is hereby declared to be a public nuisance and may be abated through proceedings for injunctive or similar relief in superior court or other court of competent jurisdiction.

19.47.110 Severability.

If any section, paragraph, subsection, clause or phrase of this chapter is for any reason held to be unconstitutional or invalid by action of law such decision shall not affect the validity of the remaining portions of the chapter.

19.47.120 Permit fees.

After review and approval of the application a land clearing permit and minor clearing permit will be issued at a cost determined from time to time by the city council.

19.47.130 Compliance with state law.

All clearing shall be done in accordance with applicable state laws.

Section Twenty-Two. Oak Harbor Municipal Code Chapter 19.48 is hereby re-adopted to read as follows:

Chapter 19.48
SITE PLAN REVIEW PROCEDURES

Sections:

19.48.010 Purpose and intent.
19.48.020 Applicability.
19.48.030 Exemptions.
19.48.032 Requirements for application submittal.
19.48.035 Requirements for the site plan map.
19.48.037 General evaluation criteria for site plan approval.
19.48.039 Timing of certain actions in site plan approval, reviewed development.
19.48.040 Basis for determining the review process.
19.48.050 Decision criteria for site plan review.
19.48.052 Supplemental issues in considering review of impacts to surrounding properties and use.
19.48.054 Supplemental issues in considering mitigation of impacts to the site.
19.48.056 Supplemental issues in considering mitigation of traffic impacts.
19.48.058 Supplemental issues in considering mitigation of impacts from signage and surrounding property.
19.48.060 Commercial and industrial design guidelines.
19.48.070 Site plan review procedures.
19.48.080 Authority for conditions or plan modifications.
19.48.090 Minor modifications to an approved site plan.
19.48.100 Major modifications to an approved site plan.
19.48.110 Timing of development permits.
19.48.120 Expiration and extension of site plan approval.
19.48.130 Exception to time limit for phased projects.
19.48.180 Revocation of site plan and design review approval.
19.48.190 Compliance required.
19.48.200 Penalty for noncompliance.

19.48.010 Purpose and intent.

The purpose of site plan approval shall be to assure that the site plan of proposed uses is compatible with existing and potential uses and complies with development regulations and the comprehensive plan of the city of Oak Harbor. Site plan elements subject to this section include, but are not limited to, site layout, building orientation, pedestrian and vehicular access, signage, landscaping, natural features of the site, screening and buffering, parking and loading arrangements, and illumination. Site planning is the horizontal and vertical arrangement of these elements so as to be compatible with the physical characteristics of a site and with the surrounding area. Site plan review may include design review, which addresses the aesthetic considerations of architectural style, exterior treatment and colors. Site plan review should occur at an early stage in the development of a project, when the scale, intensity and layout of a project are known. The intent of the site plan approval shall be to:

(1) Promote integrated project review of various city codes concerned with

development;

(2) Assure consistency with development regulations and plans;

(3) Protect neighboring owners and uses by assuring that reasonable provisions have been made for such matters as sound and sign buffers, light and air, and those other aspects of site plans which may have substantial effects on neighboring land uses;

(4) Promote the orderliness of community growth, protect and enhance property values and minimize discordant and undesirable impacts of development both on- and off-site;

(5) Promote coordination of public or quasi-public elements, such as walkways, driveways, paths, and landscaping within segments of larger developments and between individual developments;

(6) Ensure convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent areas;

(7) Protect the desirable aspects of the natural landscape and environmental features of the city by minimizing the undesirable impacts of proposed developments on the physical environment;

(8) Minimize conflicts that might otherwise be created by a mix of uses within allowed zones; and

(9) Promote the creation of "campus-like" settings in appropriate zones.

19.48.020 Applicability.

(1) Site Plan Review. No use shall be commenced nor shall any development permit be issued for any use or structure requiring site plan approval pursuant to this section until the director has approved or approved with conditions a site plan when required by this chapter. Development permits issued shall be in accordance with the approved site plan.

(2) A site plan review shall be required in the following instances:

(a) Original construction of new facilities or structures.

(b) Variances.

(c) Conditional use permits.

(3) Binding Site Plans. If the applicant desires to make the site plan a binding site plan, the applicant shall notify development services in writing, at the time of application, and meet the additional requirements listed in Chapter 21.80 OHMC and pay any additional fees required.

If a binding site plan is applied for anytime after the application for site plan is made, a new or amended site plan may be required to meet the requirements of Chapter 21.40 OHMC, except OHMC 21.40.080.

19.48.030 Exemptions.

A site plan shall not be required for remodeling existing buildings or structures, provided:

(1) The alterations conform with any prior approved site plan; and

(2) The alterations do not modify the existing site layout; or for single-family dwellings or single duplexes except those located in critical areas or in cases when two or more duplexes will be built on the same lot.

19.48.032 Requirements for application submittal.

The applicant shall submit the following items:

(1) An application fee;

(2) A verified statement by the applicant that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has submitted the application with the consent of all owners of the affected property;

(3) Ten copies of the following:

(a) A cover sheet listing contents of the application package;

(b) An application form with at least one original copy signed by the applicant in ink;

(c) A written narrative that describes the existing conditions and proposed project in detail, describing how the project meets and/or exceeds the site plan review criteria as listed in OHMC 19.48.037 and 19.48.050 and including all information about the proposed and existing use, size, landscaping, screening, lighting, noise, structure(s), structural changes, hours of operation, and capacity (storage, students, etc.) of the project;

(d) A complete and accurate site plan map that conforms to the requirements listed in OHMC 19.48.035;

(e) All associated applications, to the extent applicable, e.g., SEPA, floodplain, habitat, shoreline, wetland, variances, conditional use, transportation concurrency, land clearing;

(f) A mailing list of all property owners adjacent to the project site, along with a map showing locations of the adjacent property owners unless the application requires a review process IV, in which case the list of property owners must include all owners within a 300-foot radius of the site;

(g) Any additional information requested in, or as a result of any, preapplication conference;

(4) Three copies of the following:

(a) A preliminary storm water report. If the project involves the addition or redevelopment of 2,000 square feet or more of impervious surfacing, storm water review will be required for the project;

(b) A traffic impact study, if applicable, indicating the number of additional average daily trips the proposal could be expected to generate, prepared by a professional engineer certified to practice in Washington State;

(c) Any other environmental studies required;

(5) Any other additional copies of application package needed for public hearings.

19.48.035 Requirements for the site plan map.

The applicant shall submit a site plan map that is complete and accurate with a minimum scale of one inch the equivalent of 20 feet, and of a minimum size of 24 inches by 36 inches with the following information:

(1) General Information.

(a) Project name;

(b) Street address of property;

(c) Page border;

(d) Title block containing the drawing title, scale, revision number, if applicable, north arrow, date;

(e) Vicinity map including streets and surrounding landmarks within 500 feet of the property or enough information to easily locate the site on a large

city map;

(f) Legal description of the property as provided by the Island County assessor's office;

(g) Parcel number as provided by the Island County assessor's office;

(h) Parcel map as provided by the Island County assessor's office showing all adjacent parcels;

(i) Existing zoning;

(j) Square footage of floor area in each structure;

(k) Parking spaces and parking lot dimensions;

(l) Type of Construction Proposed. Indicate color and texture of exterior surfaces, e.g., wood, concrete, block, composite;

(m) Number of units, if applicable;

(n) If project will be developed in phases, indicate the number of units or buildings for each phase;

(o) Project density, including number of units per gross acre.

(2) Site Information.

(a) Location of property lines, indicating exterior lines with bold solid lines and interior property lines with long dashed lines;

(b) Topographic contour lines showing both existing and proposed elevations, at no more than five-foot intervals, extending a minimum of 10 feet beyond the property line. The interval should be such that the existing and proposed slopes of the property can be determined on the drawing. Proposed contours shall show ties to existing contours and show spot elevations as needed;

(c) Easements showing all existing, proposed, public and private easements;

(d) Building setbacks indicating the front, rear and side building setbacks with clear dimensions;

(e) Distance to adjacent structures on site, if applicable;

(f) Proposed building(s), including dimensions;

(g) Sizes and locations of solid waste containers showing details of any site screening fences or structures and screening of dumpsters, etc.;

(h) Location of existing and proposed signs including elevation, size, material, color, design and method of illumination;

(i) Locations and dimensions of off-street parking, including handicap parking, how parking is designated per unit if applicable, lot striping, wheel stops and curbing, include turning radii in the circulation pattern;

(j) Locations and sizes/widths of existing and proposed driveways, traffic flow, and parking lot circulation and maneuvering;

(k) Locations and dimensions of existing and proposed rights-of-way, streets, curbs, gutters, and street centerlines, including pavement edges;

(l) Dimensions and locations of sidewalks and wheelchair ramps;

(m) Limits of the paved areas.

(3) Building Information.

(a) Architectural elevations of existing and proposed buildings, including height and number of stories, along with any mechanical roof-mounted equipment;

(b) Generalized floor plans, planned uses for each area of building (including occupancy type, if known), finished floor elevations, exiting and accessibility accommodations.

(4) Infrastructure Improvements.

(a) Location of existing and proposed storm sewers, catch basins, manholes, parking lot storm drains, detention structures, etc.;

(b) Location and size of existing and proposed water mains, valves, service lines, size of water meters, sprinkler systems, fire hydrants, and backflow devices;

(c) Location and size of existing and proposed sanitary sewer collectors, manholes, pumping stations, force main and side services, including cleanouts;

(d) Location of other existing and proposed utilities, including, but not limited to, gas, power, telephone, streetlights.

(5) Landscaping. The applicant shall submit a landscape plan that is consistent with the proposed site plan. The plan shall be complete and accurate with a minimum scale of one inch equivalent of 20 feet, and of minimum size of 24 inches by 36 inches with the following information:

(a) Project name;

(b) Street address of property;

(c) Page border;

(d) Title block containing the drawing title, scale, revision number if applicable, north arrow, date;

(e) For lots larger than 1.5 acres in size the landscape plan shall be prepared by and bear the seal of a landscape architect, architect, or other professional with similar qualifications;

(f) Dimensions and distance;

(g) Existing and proposed parking spaces, or other vehicle areas, access aisles, driveways, and similar features;

(h) All landscape features including height, quality, type, botanical and common names, places of planting and all areas of vegetation shall be shown in context with the location and outline of any existing or proposed and other improvements on the site including fences, walls or berms;

(i) Gross acreage, area of preservation, number of trees to be planted and/or preserved, other plants to be planted and/or preserved, and square footage of paved areas shall be included in a table that clearly displays this and other relevant information necessary for the evaluation of compliance with the provisions of Chapter 19.46 OHMC, Landscaping and Screening;

(j) Percentage of parking lot area to be landscaped;

(k) Planting details including soil and staking requirements;

(l) Maintenance requirements; and

(m) Irrigation plan showing number, location and type of heads, zones, and drip systems, if applicable, as well as water meter locations and sizes.

19.48.037 General evaluation criteria for site plan approval.

An application that complies with all of the following general evaluation criteria listed below, the requirements of this title, and applicable city standards shall be approved. An

application that does not comply with these criteria shall be denied by the city.

(1) Comprehensive Plan. The proposed site plan and other application information proposed for development shall be consistent with the city's comprehensive plan.

(2) Zoning. The proposed site plan and other required application information shall meet the requirements of this title;

(3) Natural Environment. The site plan and other required application information shall meet the requirements of environmentally sensitive area regulations of OHMC Title 20 and the State Environmental Policy Act, Chapter 197-11 WAC;

(4) Public Services. The proposed project shall be designed to meet the following:

(a) Adequate water supply to city standards as listed in OHMC Title 13;

(b) Adequate sewer facilities to city standards as listed in OHMC Title 14;

(c) Appropriate surface water management to city standards as listed in OHMC Title 12;

(d) Adequate fire protection and hydrants to city standards as listed in OHMC Title 8;

(e) Appropriate street improvements (including sidewalks) or site access facilities to city standards for or to all anticipated uses within the project as listed in OHMC Titles 11 and 17 and Chapter 21.40 OHMC;

(f) Provisions for all appropriate deeds, dedications and all other easements; and

(g) Provisions made for access to and maintenance of all common facilities.

(5) Existing Public Facilities and Services. The proposed project shall be designed to not adversely impact the public facilities and services which the city has adopted a level of service for without providing for additional mitigation means meeting the city's approval.

Mitigation measures, if necessary, must be proposed by the applicant and designed by a certified professional in that applicable field.

(6) Phasing Plan. In lieu of requiring the completion of all public/private improvements for the entire site prior to occupancy of any structure on the site, the city may approve a phasing plan. The city may require suitable guarantees as provided in Chapter 19.90 OHMC. The public/private im-provements in each phase must be designed to stand on their own as required by the city. A phasing plan can only be approved if each city department responsible for the conditions of the permit agrees on the phased development plan. In most cases, those departments are development services, public works, and fire.

19.48.039 Timing of certain actions in site plan approval, reviewed development. Unless specifically excepted by other ordinances, generally, the development plan approval process requires the following items be provided at the times specified in the tables below.

(1) Permits to apply for before or with the site plan application:

Permit	When Permit Application Must be Made
Limited clearing permit. (Only applicable when a SEPA application is not required).	Before site plan application.

Grading permit.	With site plan application.
Clearing permit.	With site plan application.
SEPA checklist.	With or before site plan application.
Concurrency application.	With or before site plan application.

(2) Actions that need to be taken, fees that need to be paid and plans that need to be submitted before the building permit will issue. All items can be provided concurrent with site plan application:

Action	**Actions That Need to be Taken Before the Building Permit Will be Issued**
Impact fees for park and transportation.	Fee to be paid before building permit will issue.
System development charges for water and sewer.	Fee to be paid before building permit will issue.
Latecomer's agreement.	Fee to be paid and agreement filed, before building permit will issue
Engineering plan.	Approved before building permit will issue.
Landscape plan.	Approved before building permit will issue.
Installation of streets.	Before building permit will issue or when bonded for as provided in Chapter 19.90 OHMC.
Installation of public water utility improvements.	Before building permit will issue or when bonded for as provided in Chapter 19.90 OHMC.
Installation of public sewer improvements.	Before building permit will issue or when bonded for as provided in Chapter 19.90 OHMC.
Installation of surface water management facilities.	Before building permit will issue or when bonded for as provided in OHMC 12.30.535.

(3) Connections and installations to be made before an occupancy permit will be issued or the use will be approved:

Connections and Installations	**Timing**

Installation of private sewer improvements (as defined in OHMC 14.03.060) outside of building.	Before occupancy permit will issue or use is approved.
Connection to an approved water supply.	Before occupancy permit will issue or use is approved.
Connection to the sewer system.	Before occupancy permit will issue or use is approved.
Installation of landscaping and sprinkler system.	Before occupancy permit will issue or use is approved or when bonded for as provided in OHMC 19.46.090.

19.48.040 Basis for determining the review process.

(1) Unless otherwise directed, the approval of a site plan is a Type II review process.

(2) The site plan approval shall be a Type I review process for projects with a total building square footage less than or equal to 4,000 square feet.

(3) The site plan approval shall be a Type IV review process when one of the following conditions applies:

(a) The director determines that based on departmental comments or public input there are significant unresolved concerns that are raised by the proposal; or

(b) The applicant has requested a public hearing; or

(c) The proposed project is larger than any one of the following:

(i) One hundred semi-attached or attached residential units;

(ii) One hundred fifty thousand square feet of gross floor area for industrial uses;

(iii) Thirty-five thousand square feet of gross floor area for commercial offices or similar uses;

(iv) Four stories or 45 feet in height;

(v) Ten acres in size.

19.48.050 Decision criteria for site plan review.

The reviewing authority shall review and act upon site plans based upon comprehensive planning considerations and the following criteria in this section. These criteria are objectives of good site plans to be aimed for in development within the city of Oak Harbor. However, strict compliance with any one or more particular criterion may not be necessary or reasonable. These criteria also provide a frame of reference for the applicant in developing a site, but are not intended to be inflexible standards or to discourage creativity and innovation. The site plan review criteria include the following:

(1) Consistency as determined under Chapter 18.20 OHMC;

(2) Mitigation of impacts to surrounding properties and uses;

(3) Mitigation of environmental impacts of the proposed site plan to the site;

(4) Conservation of area-wide property values;

(5) Safety and efficiency of vehicle and pedestrian circulation;
(6) Provision of adequate light and air;
(7) Mitigation of noise, odors and other harmful or unhealthy conditions;
(8) Availability of public services and facilities to accommodate the proposed use;
(9) Prevention of neighborhood deterioration and blight.

19.48.052 Supplemental issues in considering review of impacts to surrounding properties and use.

The following issues shall be considered in determining impacts on surrounding properties and uses:

(1) Mitigation of undesirable impacts of proposed structures and site layouts that could impair the use of surrounding uses and structures and of the community;
(2) Provision of desirable transition and linkage between uses and to the street, utility, walkway, and trail systems in the surrounding area by the arrangement of easements, landscaping, fencing and/or other buffering techniques, in order to prevent conflicts and to promote coordinated and planned benefit from, and access to, such elements;
(3) Effective location, design and screening of parking and service areas in order to promote efficient function of such facilities, to provide integrated facilities between uses when beneficial, to promote "campus-like" layouts in appropriate zones, and to prevent unnecessary repetition and conflict between the uses and service areas of facilities;
(4) Mitigation of the unnecessary and avoidable impacts of new construction on views from existing buildings and future development sites, recognizing the public benefit and desirability of maintaining visual accessibility to attractive natural features and of promoting "campus-like" settings in appropriate zones;
(5) Provision of effective screening from public streets and residential uses for all permitted outdoor storage area (except auto and truck sales), for surface mounted utility equipment, for rooftop equipment and for all refuse and garbage containers, in order to promote a "campus-like" setting where appropriate and to preserve the effect and intent of screening or buffering otherwise required by the zoning code; and
(6) Consideration of placement and design of exterior lighting in order to avoid excessive brightness or glare to adjacent properties and streets.

19.48.054 Supplemental issues in considering mitigation of impacts to the site.

The following issues shall be considered in determining impacts of development to the site:

(1) Building placement and spacing to provide for privacy and noise reduction; orientation to views and vistas and to site amenities, to sunlight and prevailing winds, and to pedestrian and vehicle needs;
(2) Preservation of the desirable natural landscape through retention of existing vegetation and limited soil removal, insofar as the natural characteristics will enhance the proposed development; and
(3) Design and protection of planting areas so that they are not susceptible to damage from vehicles or pedestrian movements.

19.48.056 Supplemental issues in considering mitigation of traffic impacts.

The following issues shall be considered in determining safety and efficiency of vehicular and pedestrian circulation:

(1) Provision of adequate and safe vehicular access to and from all properties;

(2) Arrangement of the circulation pattern so that all ingress and egress movements may occur at as few points as possible along the public street, the points being capable of channelization for turning movements;

(3) Consolidation of access points with adjacent properties, when feasible;

(4) Promotion of the safety and efficiency of the internal circulation system, including the location, design and dimensions of vehicular and pedestrian access points, drives, parking, turnarounds, maneuvering areas, walkways, bikeways, and emergency access ways; and

(5) Separation of loading and delivery areas from parking and pedestrian areas.

19.48.058 Supplemental issues in considering mitigation of impacts from signage and surrounding property.

The following issues shall be considered in determining impacts of development from signage on surrounding property and public spaces:

(1) Employment of signs primarily for the purpose of identification;

(2) Management of sign elements, such as size, location and arrangement so that signs complement the visual character of the surrounding area and appear in proportion to the building and site to which they pertain; and

(3) Moderation of surface brightness or lighting intensity except for that necessary for sign visibility.

19.48.060 Commercial and industrial design guidelines.

The commercial and industrial design guidelines, referred to as "design guidelines," a copy of which is filed with the Oak Harbor city clerk, are hereby adopted as the design guidelines for the commercial and industrial zones of Oak Harbor and shall be applied as follows:

(1) All of the design guidelines apply to new construction.

(2) To the extent reasonably practicable, the design guidelines shall apply to all exterior remodels with a value in excess of 60 percent of the building valuation and which also have a total value in excess of $100,000 ("major exterior remodels").

(3) For exterior remodels with a value less than 60 percent of the building valuation of which have a total value less than $100,000 ("minor exterior remodels"), it is only required that the proposed improvements meet the design guidelines and do not lead to further nonconformance with the design guidelines. For example, if a property owner decides to replace a window, then the window shall meet the guideline standards, but new pedestrian coverings are not required.

(4) The design guidelines do not apply to remodels that do not change the exterior appearance of the building. However, if a project involves both exterior and interior improvements, then the project valuation shall include both exterior and interior improvements.

(5) The design guidelines are intended to supplement the design standards in the city of Oak Harbor's zoning ordinance. Some of the design guidelines state that the city may relax or modify zoning ordinance standards if the design guidelines are

met. Other guidelines include provisions, requirements, or considerations that are in addition to the zoning ordinance standards. Where the design guidelines and zoning ordinance standards conflict and there is no provision in the design guidelines, the most restrictive shall apply.

19.48.070 Site plan review procedures.

(1) Fees shall be as set out in Chapter 3.64 OHMC.

(2) Application forms shall, along with Chapter 18.20 OHMC requirements, include such other items which will allow resolving issues raised by the criteria of this chapter.

(3) Circulation and Review of Application. Upon receipt of a completed application, the director shall route the application for review and comments to various city departments and other jurisdictions or agencies with an interest in the application. This routing should be combined with circulation of environmental information.

(4) Comments from the reviewing departments shall be made in writing. Unless a proposed site plan is subsequently modified, the recommendations of the reviewing departments shall constitute the final comments of the respective departments with regard to the proposed site plan. Lack of comment from a department shall be considered a recommendation for approval of the proposed site plan. However, all departments reserve the right to make later comments of a code compliance nature during building permit review. This includes such requirements as exact dimensions, specifications or any other requirement specifically detailed in the city code.

(5) Revisions or modifications to site plan application. Whenever a revised site plan or new information is received from an applicant, the development services department may recirculate the application to concerned departments. Consulted departments shall respond in writing within 10 days with any additional comments. In general, the city's environmental determination of significance or nonsignificance will not be issued until after final departmental comments on the site plan or revised site plan are received.

(6) Director to Determine Necessity for Public Hearings. Upon receipt of final departmental comments and after the close of the public comment period, the director shall determine the necessity for a public hearing on the site plan.

19.48.080 Authority for conditions or plan modifications.

(1) The reviewing authority shall have the power to place reasonable conditions on or modify a site plan in order to satisfy the general purposes of this section and to achieve consistency with the review criteria. Such conditions or modifications may include, but are not limited to, screening, buffering, building location, and orientation, paving, landscaping, vegetation removal, grading and contouring. The reviewing authority shall also have the power to fix the location and configuration of driveways, walkways, parking and loading areas, emergency access, curbs, planting areas and signs. When only a portion of a site is proposed for development, such power to condition, modify or fix shall be exercised only for that area which is directly related to or may be impacted by the actual proposed development.

(2) To the extent necessary to meet the site review criteria and to the extent necessary

to compensate for the impacts attributable to the proposed development, the reviewing authority may impose additional requirements, including:

(a) Modification of Plan Subsequent to Public Hearing and Prior to Decision. In all cases, if an applicant can demonstrate that a site plan can be made consistent with the review criteria and general purposes by alternative modifications to the site plan, the reviewing authority shall accept the alternative modifications proposed by the applicant.

(b) Denial of Site Plan. If the reviewing authority finds that the site plan application cannot be made consistent with the general purposes and review criteria of this chapter by requiring reasonable conditions, then the site plan shall be denied.

(3) Limitations on Authority. The authority to condition or deny site plan applications should be exercised to the minimum extent necessary to protect the public interest and welfare as expressed in the purposes of this chapter.

19.48.090 Minor modifications to an approved site plan.

Minor modifications may be permitted by the director. To be considered a minor modification, the amendment must not:

(1) Involve more than a 10 percent increase in area or scale of the development in the approved site plan; or

(2) Have a significantly greater impact on the environment and facilities than the approved plan; or

(3) Change the boundaries of the originally approved plan.

19.48.100 Major modifications to an approved site plan.

Major modifications to an approved site plan require a new application. The review and approval shall rest with the approval body which approved the original site plan. Major modifications involve a substantial change in the basic site design plan, intensity, density, use and the like generally involving more than a 10 percent change in area or scale.

19.48.110 Timing of development permits.

Development permits may be processed simultaneously with the site plan review. Development permits shall not be issued until the appeal period for an approved site plan has expired.

19.48.120 Expiration and extension of site plan approval.

The final approval of a site plan shall expire within two years of the date of approval. A single two-year extension may be granted for good cause by the approval body which approved the original site plan. Extensions are a Type II review process.

19.48.130 Exception to time limit for phased projects.

(1) Phasing Permitted. For development proposed on only a portion of a particular site, an applicant may choose to submit a site plan application for either the entire site or a portion of the site. In the latter case, the application shall state clearly the area of the site and the proposed development, including phases, for which site plan approval is being requested. In every case, the site plan application and review shall cover at least that portion of the site which is directly related to or may be impacted by the actual proposed development, as determined by the

director.

(2) Authority for Extension of Time. The director may grant site plan approval for large projects planned to be developed or redeveloped in phases over a period of years, exceeding the normal time limits of this chapter. Such approval shall include clearly defined phases and specific time limits for each phase.

(3) Expiration of Phase(s). If the time limits of a particular phase are not satisfied then site plan approval for that phase and subsequent phases shall expire. The director shall also determine if such a phased project will be eligible for any extensions of the time limits.

(4) Vested for the Purposes of Zoning. As long as the development of a phased project conforms to the approved phasing plan, the zoning regulations in effect at the time of the original approval shall continue to apply. However, all construction shall conform to the building code, fire code and public utility regulations in or adopted under OHMC Title 12, 13, 14 and 15 or otherwise required by state law, in force at the time of building permit application.

19.48.180 Revocation of site plan and design review approval.

(1) Revocation or Modification Allowed. Approval of a site plan and design review application may be revoked or modified by the planning commission after a public hearing on any one or more of the following grounds:

(a) That the approval was obtained by fraud or misrepresentation of facts;

(b) That the development or use pursuant to the approved site plan and design review is being or has been exercised contrary to the terms or conditions of such approval, or in violation of any statute, ordinance, law or regulation;

(c) That the development or use for the site plan and design review for which the approval was granted is being or has been so exercised as to be detrimental to the public health, safety or welfare.

(2) Upon determination by the director or his designee that possible grounds for revocation of the site plan and design review approval exist, the matter shall be placed on the planning commission agenda. After the public hearing, the planning commission shall:

(a) Revoke the site plan and design review approval;

(b) Affirm the approval of the site plan and design review as previously granted; or

(c) Modify previously imposed conditions or require additional conditions including periodic review to insure development or use is in conformance with the site plan and design review, and requirements of the Oak Harbor Municipal Code.

19.48.190 Compliance required.

No person shall violate or fail to comply with the provisions of this chapter or any adopted site plan and design review approval or any conditions or provisions thereof, nor shall a building permit be issued for any structure which would violate or fail to comply with any adopted site plan and design review approval for the parcel or parcels on which such structure is to be located.

19.48.200 Penalty for noncompliance.

Anyone found in violation of this chapter shall be guilty of a civil infraction subject to a maximum of $250.00 fine. Each day the violation continues may be considered as a separate violation.

Section Twenty-Three. Oak Harbor Municipal Code Chapter 19.50 is hereby re-adopted to read as follows:

Chapter 19.50
AVIATION ENVIRONS OVERLAY ZONE

Sections:

19.50.010 Purpose.
19.50.020 Application of chapter provisions.
19.50.030 Definitions.
19.50.040 Subdistricts.
19.50.050 AE overlay zone use restrictions.
19.50.060 Exemptions.

19.50.010 Purpose.

(1) The aviation environs (AE) overlay zone is created with the following purposes:
   (a) To protect the public health, safety and welfare by regulating development and land use within noise-sensitive areas and accident potential zones;
   (b) To ensure compatibility between the Whidbey Island Naval Air Station at Ault Field and surrounding land uses;
   (c) To protect the air station from incompatible encroachment.

(2) The AE overlay zone shall serve as an overlay district that applies additional standards and requirements to properties located within an underlying zoning district. In the case of conflicting standards and requirements, the more stringent standards and requirements shall apply.

19.50.020 Application of chapter provisions.

Within the AE overlay zone, any proposed new or modified use or structure is subject to the use restrictions, construction standards and disclosure requirements provided in this chapter. This chapter applies to all properties in the city located within the AE overlay zone.

(1) Permitted Uses. Land uses within the AE overlay zone shall be consistent with the underlying zoning district in which the proposal is located and with the land use restrictions identified in this chapter. For property only partially within the AE overlay zone, the land use restrictions in this chapter apply only to those portions within the boundaries of the AE overlay zone.

(2) Underlying Zoning District. Where more than one (1) underlying zoning district applies to a particular property in the AE overlay zone, the provisions of this chapter shall apply only to the specific zoning district in which a particular portion of the property is located.

(3) Change of Use. For a proposed change of use to an existing structure, the provisions of this chapter apply to the entire existing structure if the change of use results in an increase in the density of people per acre or if the use of the existing structure is changed to one or more allowed uses requiring noise attenuation.

(4) Nonconforming Uses. Nothing contained in this chapter affects existing structures or the right to continue uses already established before the effective date of these regulations, nor do these regulations preclude any reasonable repairs to or alterations of buildings or properties used for such existing uses, subject to the

nonconforming use provisions contained in this title.

(5) For the purposes of this chapter, the provisions herein shall apply to properties annexed into the city that are located inside the AE overlay zone.

19.50.030 Definitions.

The following definitions shall apply to this chapter. In addition, the definitions set forth in Chapter 17.30 OHMC concerning attenuation standards for noise, as now in effect or as hereafter adopted, shall also apply to this chapter.

(1) "Accident potential zones (APZs)" means areas delineated as having measurable potential for aircraft accidents based on historical accident and operations data throughout the military.

(2) "Air Installation Compatible Use Zones (AICUZ) Study" means a study prepared by the United States Department of Defense for Ault Field at NAS Whidbey Island that analyzes various airfield planning parameters related to aircraft operations, noise and safety and provides recommendations that can be used to further promote compatible land use surrounding Ault Field.

(3) "Floor area ratio (FAR)" means the ratio between the square feet of gross floor area of the building and the site area. The FAR is customarily used to measure nonresidential land use intensities.

(4) "Maximum floor area ratio (FAR)" means the highest permitted FAR for a given land use. This ratio is calculated by multiplying the average people per car for a given land use by the maximum number of occupied parking spaces per 1,000 square feet of gross leasable area for said land use by 43.56 (square feet per acre divided by 1,000), then dividing the total into the desired maximum density for an acre (people per acre).

19.50.040 Subdistricts.

There are hereby established and mapped six subdistricts of the AE overlay zone.

(1) Subdistrict Definitions. The subdistricts of the AE overlay zone, as described below, are based on the 2005 Air Installation Compatible Use Zone (AICUZ) Study for Naval Air Station Whidbey Island's Ault Field as it relates to mapped accident potential zones and Ldn noise contours.

(a) Accident Potential Subdistrict 1. This subdistrict corresponds to that area of the city inside the AICUZ Accident Potential Zone I.

(b) Accident Potential Subdistrict 2. This subdistrict corresponds to that area of the city inside the AICUZ Accident Potential Zone II.

(c) Accident Potential Subdistrict 3. This subdistrict corresponds to that area of the city within 1,000 feet of either accident potential subdistricts 1 or 2.

(d) Noise Subdistrict A. This subdistrict corresponds to that area of the city located between the AICUZ 60 and 65 Ldn noise contours.

(e) Noise Subdistrict B. This subdistrict corresponds to that area of the city located between the AICUZ 65 and 75 Ldn noise contours.

(f) Noise Subdistrict C. This subdistrict corresponds to that area of the city located within the AICUZ 75 Ldn and higher noise contours.

(2) Subdistrict Boundaries. Boundaries for the AE overlay zone subdistricts defined in subsection (1) of this section are as depicted on the official zoning map for the city.

19.50.050 AE overlay zone use restrictions.

This section establishes restrictions within the AE overlay zone subdistricts on those uses that would otherwise be permitted in the underlying zoning districts.

(1) Accident Potential Subdistricts 1, 2 and 3. The restrictions for accident potential subdistricts 1 and 2 are based on AICUZ land use compatibility standards for accident potential zones, and adapted for the specific context of Oak Harbor. The restrictions for accident potential subdistrict 3 are based on consistency with the city's comprehensive plan to ensure that land uses around accident potential zones conserve the highest degree of public health, safety and welfare.

(a) Maximum Density. The maximum number of persons per acre for a permitted land use within the accident potential subdistricts shall be 25 persons per acre for accident potential subdistrict 1, 30 persons per acre for accident potential subdistrict 2 and 50 persons per acre for accident potential subdistrict 3. To provide a measurement for determining maximum density, a maximum floor area ratio (FAR) has been established for each permitted land use. Total permitted gross floor area for a permitted land use is determined by multiplying the total square footage of land area by the FAR for that land use.

(b) Permitted Uses and FAR Standards. The table that follows establishes permitted and conditionally permitted uses and FAR standards within the accident potential subdistricts. Since these subdistricts overlay only the auto/industrial commercial land use designation, as mapped in the Oak Harbor comprehensive plan, the table considers only those uses permitted in the underlying C-4 highway service commercial zoning district which implements this designation.

C-4 Permitted Land Uses	**Accident Potential Subdistrict 1** (25 persons per acre)	**Accident Potential Subdistrict 2** (30 persons per acre)
Automobile and Truck Service Stations	Yes(maximum FAR 0.14)	Yes(maximum FAR 0.17)
Automobile Sales and Service	Yes(maximum FAR 0.14)	Yes(maximum FAR 0.17)
Boat Sales and Boat Repair	Yes(maximum FAR 0.14)	Yes(maximum FAR 0.17)
Car Washes	Yes(maximum FAR 0.11)	Yes(maximum FAR 0.13)
Coffee Kiosks	Not permitted	Limited to 100 square feet
Contractor Offices and Related Storage	Yes(maximum FAR 0.11)	Yes(maximum FAR 0.13)
Drive-In Banks	Not permitted	Yes(maximum FAR 0.13)
Equipment Rental	Not permitted	Yes(maximum FAR 0.13)
Farm and Garden Supplies, Plant Nurseries	Not permitted	Yes(maximum FAR 0.13)
Furniture Manufacturing	Yes(maximum FAR 0.28)	Yes(maximum FAR 0.34)
Furniture Sales	Not permitted	Yes(maximum FAR 0.17)
Mobile and Modular Home Sales	Yes(maximum FAR 0.14)	Yes(maximum FAR 0.17)
Printing and Publishing	Yes(maximum FAR 0.28)	Yes(maximum FAR 0.34)
Professional and Scientific Instrument Manufacturing	Not permitted	Not permitted
Real Estate Sales	Not permitted	Yes(maximum FAR 0.13)
Recreational Vehicle Sales	Yes(maximum FAR 0.14)	Yes(maximum FAR 0.17)
Restaurants	Not permitted	Not permitted

Self-Storage Facilities	Yes(maximum FAR 1.0)	Yes(maximum FAR 1.2)
Uses Requiring a Conditional Use Permit		
Amateur Radio Tower and Antenna	Not permitted	Not permitted
Government Buildings for Administrative or Protective Services	Not permitted	Yes(maximum FAR 0.14)
Government Storage Yards, Treatment Plants, Well Sites, Pump Stations	Yes(restricted)	Yes
Public Transportation Shelter Stations	Yes(restricted)	Yes
Public Utility and Communications Facility	Yes(restricted)	Yes
Radio and Television Broadcasting Stations and Towers	Not permitted	Not permitted
Retail or Wholesale Building Supplies, Hardware	Yes(maximum FAR 0.11)	Yes(maximum FAR 0.13)

(c) For uses noted as "restricted," please refer to the AICUZ Study for guidance.

(d) For sites containing more than one permitted use, the most restrictive maximum FAR shall be applied to the entire site.

(e) For sites already developed to the maximum FAR, changes of use are permitted only in cases where the proposed new use has the same or more restrictive maximum FAR than the current use.

(f) For calculating the maximum FAR, the higher of the weekend or weekday parking space occupancy rate shall be used.

(2) Noise Subdistricts A, B and C. New residential or noise-sensitive commercial uses, construction and reconstruction, remodeling, and/or additions to existing buildings in noise subdistricts A, B and C of the AE overlay zone shall be made to comply with Chapter 17.30 OHMC.

(a) Proposed Uses and Structures. The compatibility table contained in Chapter 17.30 OHMC identifies permitted uses and development standards that apply to proposed development within the AE overlay zone. All proposed uses and structures must comply with these standards.

(b) Interior Day-Night Average Noise Level (Ldn). All proposed uses and structures must comply with the noise level reduction (NLR) standards as provided in the compatibility table in Chapter 17.30 OHMC. Compliance with NLR requirements shall be evidenced prior to issuance of an occupancy permit or business license permit.

19.50.060 Exemptions.

The provisions of this chapter shall not be deemed applicable to the following when permitted in the underlying district:

(1) Temporary Uses. Temporary uses including, but not limited to, public celebrations and outdoor entertainment events so long as the period of operation does not exceed five days, does not exceed the maximum densities established by the applicable subdistrict and is associated with an existing permanent use;

(2) Temporary Structures. Temporary buildings and structures that are not used for residential purposes and that meet the applicable requirements as contained within

this chapter so long as such uses and associated structures are constructed incidental to a permitted use, as per the requirements of this chapter;

(3) Agricultural Structures. Bona fide agricultural buildings, structures, improvements, and associated nonresidential developments;

(4) Accessory Uses and Structures. Accessory uses and structures incidental to a permitted principal structure or use and within the intent, purposes, or objectives of these regulations; structures housing accessory uses must be included in the gross floor area when calculating for consistency with the maximum FAR;

(5) Mobile and Manufactured Homes. Mobile homes and manufactured homes constructed after April 1, 1992, in general complying with the performance standards of this chapter, may be located within existing, expanded or new mobile home parks within the AE noise subdistrict A. Mobile homes and manufactured homes constructed prior to April 1992 shall not be located within AE noise subdistrict A unless the development services director determines that the sound attenuation standards are met or may be met by making modifications to the home. All mobile homes and manufactured homes located within the AE noise subdistrict B shall comply with these regulations.

Section Twenty-Four. Oak Harbor Municipal Code Chapter 19.56 is hereby re-adopted to read as follows:

Chapter 19.56
SHORELINE MANAGEMENT*

Sections:

19.56.010 Administration of the city of Oak Harbor shoreline master program.
19.56.020 Policy.
19.56.030 Administration.
19.56.040 Map.
19.56.070 Penalties.

*** Prior legislation: Ords. 1033 and 1165.**

19.56.010 Administration of the city of Oak Harbor shoreline master program.

(1) No development shall occur within the shorelines of the city of Oak Harbor unless the same conforms to the "Oak Harbor shoreline master program" adopted by reference, a copy of which is on file with the city clerk's office and which shall be made available for public inspection.

(2) Administration of the shoreline master program shall be as set out in Sections 10, 11 and 12 of the shoreline master program.

19.56.020 Policy.

(1) From the effective date of this chapter until such time as an applicable master program has become effective, a permit shall be granted only when the proposed development is consistent with:
   (a) The applicable master program;
   (b) The policy of Section 2 of the Shoreline Management Act of 1971;
   (c) So far as can be ascertained, the master program being developed for the city of Oak Harbor.

(2) After adoption or approval, as appropriate, by the Department of Ecology of an applicable master program, a permit shall be granted only when the proposed development is consistent with:
   (a) The applicable master program; and
   (b) The policy of Section 2 of the Shoreline Management Act of 1971.

(3) With respect to timber situated within 200 feet abutting landward within the city of Oak Harbor, a permit shall be granted only for selective commercial timber cutting, so that no more than 30 percent of the merchantable trees may be harvested in any 10-year period of time; provided, that other timber harvesting methods may be permitted to those limited instances where the topography, soil conditions or silviculture practices necessary for regeneration render selective logging ecologically detrimental; provided further, that clear cutting of timber which is solely incidental to the preparation of land for other uses authorized by this chapter may be permitted.

(4) Surface drilling for oil and gas is prohibited in the waters of Puget Sound north to the Canadian boundary and the Strait of Juan de Fuca seaward from the ordinary high water mark on all lands within 1,000 feet landward from said mark.

(5) A permit shall be denied if the proposed development is not consistent with the above enumerated policies.

19.56.030 Administration.
The planning agency is vested with the duty of administering the rules and regulations relating to the shoreline development permits and may prepare and require the use of such forms as are essential to its administration.

19.56.040 Map.
Shorelines of the state located within Oak Harbor may be designated on an official shoreline map to be kept in the office of the planning agency.

19.56.070 Penalties.
The city attorney shall bring such injunctive, declaratory, or other actions as are necessary to insure that no uses are made of the shorelines of the state located within Oak Harbor in conflict with the provisions and programs of this chapter in accordance with Sections 21, 22, and 23 of the Shoreline Management Act of 1971.

Section Twenty-Five. Oak Harbor Municipal Code Chapter 19.60 is hereby re-adopted to read as follows:

Chapter 19.60
ADMINISTRATION

Sections:

19.60.010 Planning director.
19.60.020 Records.
19.60.030 Permits issued contrary to this title.
19.60.040 Certificate of occupancy and nonconforming uses.
19.60.050 Uses.

19.60.010 Planning director.
The planning director shall be responsible for enforcing the provisions of this title. The planning director, and his duly authorized representatives, shall have the right to enter any building or enter upon any land during the daytime in the course of their duties in the enforcement of this title, upon showing proper identification and upon giving reasonable notice, subject to requirements of law.

19.60.020 Records.
The planning director shall maintain in his office, planning, zoning and environmental review records which shall be open to the public for inspection. The planning director shall keep a record of each and every identifiable complaint, the complaint of a violation of any of the provisions of this title, the action taken, consequent to any such complaint, which records shall be open to the public for inspection.

19.60.030 Permits issued contrary to this title.
Any building permit, certificate of occupancy, or other authorization issued, granted or approved in violation of the provisions of this title, shall be null and void and of no effect without the necessity of any proceedings for a revocation or nullification thereof, and any work undertaken or use established pursuant to any such building permit, certificate of occupancy, or other authorization shall be unlawful, and no action shall be taken by any board, officer, or any employee of the city purporting to validate any such violation.

19.60.040 Certificate of occupancy and nonconforming uses.
All nonconforming uses of buildings or land shall, within one year of the date when said use of building or land becomes nonconforming, obtain a similar certificate of occupancy from the building official. The planning director shall make his best efforts to notify nonconforming users and inform them that they must apply for said certificate of occupancy, but his failure to do so shall not excuse the property owner from securing the certificate. Nonconforming uses of land and nonconforming buildings for which no certificate of occupancy has been issued within one year provided for herein, shall be conclusively presumed in violation of this title and may be abated as provided herein.

19.60.050 Uses.
Before any application is taken for a zone change, a conditional use permit, a variance, an application for a planned residential development or an appeal from the planning

director's decision, a fee shall be paid as set forth in OHMC Title 3.

Section Twenty-Six. Oak Harbor Municipal Code Chapter 19.66 is hereby re-adopted to read as follows:

Chapter 19.66
VARIANCES*

Sections:

19.66.010 Purpose.
19.66.020 Criteria for governing application.
19.66.030 Excluded factors.
19.66.040 Variances for oak tree protection.
19.66.050 Prohibited uses not otherwise allowed.
19.66.060 Minimum variance.
19.66.070 Conditions.
19.66.080 Time decision is effective.
19.66.090 Administrative variance.

*** Prior legislation: Unnumbered ordinance dated 4/7/1992.**

19.66.010 Purpose.

The purpose of this chapter is to set forth criteria and procedures to vary or adopt the strict application of the terms of this title. However, variances may not be granted to vary the use and procedural requirements of this title.

19.66.020 Criteria for governing application.

A variance may be approved by the board of adjustment only when it is established that:

(1) Special conditions or circumstances exist which are peculiar to the land such as size, shape, topography or location, not applicable to other lands in the zoning district and that literal interpretation of the provisions of this title would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this title;

(2) The special conditions do not result from actions of the applicant;

(3) The granting of the variance does not amount to a rezone;

(4) The variance will not grant a special privilege to the subject property which is denied other lands in the same district;

(5) The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements within the vicinity.

19.66.030 Excluded factors.

The following matters shall not be considered:

(1) The special circumstances of the applicant such as the fact that the applicant cannot afford to comply with the code;

(2) That a more profitable use of the property is possible with a variance.

19.66.040 Variances for oak tree protection.

The goal of this section is to provide no net loss or gain in buildable area when oak trees are present and allow for design flexibility. In order to ameliorate the impact of Ordinance No. 898, codified in Chapter 20.16 OHMC, the following variances may be

allowed under the zoning code:

(1) Setbacks. A variance may be granted to allow intrusion of a building into a setback yard by 10 feet to preserve an oak tree located elsewhere on the property. In no event shall a setback less than five feet to a side yard or 10 feet to an adjacent public street be approved;

(2) Parking. Parking requirements may be reduced by two vehicles per oak tree preserved on the property. In no event shall there be less than one space per dwelling unit.

19.66.050 Prohibited uses not otherwise allowed.

With respect to uses of land, buildings and other structures, this title is declared to be a definition of the public interest by the city council and the spirit of this title will not be observed by any variance which permits a use not generally, or by a conditional use, permitted in the district involved or any use expressly or by indication prohibited by terms of this title in said district. Therefore, under no circumstances shall the hearing examiner grant a variance to permit a use not generally or by conditional use permitted in the district involved or any use expressly or by implication prohibited by the terms of this title in the said district.

19.66.060 Minimum variance.

Upon finding a variance is necessary, the hearing examiner shall authorize the minimum variance from the zoning code provisions necessary to allow the owner the rights enjoyed by other properties in the vicinity with the same zoning.

19.66.070 Conditions.

In granting any variance, the hearing examiner may condition approval on appropriate conditions and safeguards which will mitigate the variance impact on the lands in the vicinity and which further the purposes and provisions of this zoning code.

19.66.080 Time decision is effective.

The decision of the hearing examiner granting or denying a variance shall not become final until the expiration of 10 days from the date of action by the hearing officer, unless the officer shall find that the making of the decision effective immediately is necessary for the preservation of property or personal rights and shall so certify on the record of the request for a conditional use permit. If a building permit and/or occupancy permit is not obtained for the subject property within six months from the date of the hearing officer's decision, the variance shall be canceled and automatically become null and void. The decision of the hearing examiner shall be final, subject to review by the superior court.

19.66.090 Administrative variance.

(1) The following variances are minor and may be approved by the planning director under Chapter 19.48 OHMC to achieve the purpose of the site plan review process:

(a) Up to five percent reduction in lot area, setbacks and lot width from the amount required in the zoning district in which the subject property is located;

(b) Up to five percent increase in lot coverage and building heights from the amount required in the zoning district in which the subject property is

located.

(2) No variance shall be approved by the planning director which will allow an increase in the number of dwelling units on a parcel or which will permit the reduction in area of any lot created after the effective date of the ordinance codified in this chapter.

(3) Prior to approval of an administrative variance, the planning director shall determine that the granting of the variance will not be significantly detrimental to the public health, safety and welfare, or injurious to nearby property or improvements.

Section Twenty-Seven. Oak Harbor Municipal Code Chapter 19.67 is hereby re-adopted to read as follows:

Chapter 19.67
CONDITIONAL USES

Sections:

19.67.010 Purpose.
19.67.020 Hearing examiner.
19.67.030 Criteria.
19.67.040 General conditions.
19.67.050 Special permit condition.
19.67.060 Time decision is effective.

19.67.010 Purpose.

The purpose of this chapter is to set forth criteria, conditions and procedures for granting or denying a conditional use permit.

19.67.020 Hearing examiner.

Conditional use permits shall be granted or denied by the hearing examiner; provided, that the city council may grant or deny a conditional use permit as part of a rezone or a planned residential development under this title.

19.67.030 Criteria.

No conditional use shall be granted unless it meets the following criteria:

(1) All special conditions for the particular use are met;
(2) It does not have a significant, adverse environmental impact resulting in excessive noise, light and glare or soil erosion on adjacent property;
(3) It is provided with adequate parking;
(4) It is served with adequate public streets, public utilities and facilities;
(5) It otherwise meets the purpose of the district in which it is to be placed;
(6) It meets the goals and policies of the Oak Harbor comprehensive plan.

19.67.040 General conditions.

The following conditions shall be applied to each permit:

(1) The conditional use shall not be transferable to a subsequent user unless specifically authorized by the hearing examiner who finds it appropriate and a permit authorizing the transferability is on record with the Island County auditor;
(2) The conditional use permit must be acted on within one year of the date of granting. Otherwise the conditional use permit shall expire and be null and void;
(3) The conditional use permit applies only to the property for which application is made.

19.67.050 Special permit condition.

Approval of a conditional use permit application may be conditioned so that the required findings can be made. Permit conditions may include requirements which:

(1) Increase the required lot size or yard dimensions;
(2) Increase street width;
(3) Control the location and number of access points to the property;

(4) Increase the number of off-street parking or loading spaces required;
(5) Limit the number of signs;
(6) Limit the coverage or height of buildings because of obstructions to view and reduction of light and air to adjacent property;
(7) Limit or prohibit openings in sides of buildings or structures or expand requirements for screening or landscaping where necessary to reduce noise and glare and maintain the property in a character in keeping with the surrounding area;
(8) Establish requirements under which any future enlargement or alteration of the use shall be reviewed by the city and new conditions imposed;
(9) Establish regulations for the use of the property as necessary to protect nearby property or improvements from detrimental effects of the proposed use such as limiting the hours of operation or number of employees.

19.67.060 Time decision is effective.

The decision of the hearing examiner is final 10 days after the date of action by the hearing officer. The decision of the hearing examiner shall be final unless appealed to superior court within 10 days from the date of action.

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Section Twenty-Eight. Oak Harbor Municipal Code Chapter 19.75 is hereby re-adopted to read as follows:

Chapter 19.75
MAP AMENDMENTS AND CONTRACT REZONES

Sections:

19.75.010 Purpose.
19.75.020 Map rezones.
19.75.030 Contract zoning.

19.75.010 Purpose.

The purpose of this chapter is to set forth criteria for dealing with rezone hearings which the courts classify as quasi-judicial. These procedures and criteria may also be used for other map amendments.

19.75.020 Map rezones.

(1) Development Proposal. A quasi-judicial rezone application (map amendment) shall require a specific development proposal for the subject property with sufficient detail to enable the city to evaluate the applicant's proposal for conformance with the applicable criteria and to adequately condition the rezone request to protect the public health, welfare and safety. In addition, the director may require the applicant to participate in a meeting to inform citizens about the proposal.

(2) Processing. An application for a quasi-judicial rezone shall be processed in accordance with OHMC Title 18 and 19.

(3) Open Record Hearing. An open record public hearing shall be held on each application. Any person may participate in the hearing by submitting written comments or making oral comments at the hearing.

(4) Decision Criteria.

(a) The application may be approved or approved with conditions or modifications if the applicant has demonstrated that the proposal complies with the decision criteria set forth in this section.

(b) The applicant carries the burden of proof and must demonstrate that the criteria are met by a preponderance of the evidence.

(c) If the criteria are met, the rezone may be granted.

(d) The applicant must demonstrate the following:

(i) The proposed rezone is in the best interest of the residents of the city;

(ii) The proposed rezone is appropriate because either:

(A) Conditions in the immediate vicinity of the subject property or within the city have so significantly changed since the property was given its present zoning that, under those changed conditions, a rezone is within the public interest; or

(B) The rezone will correct a zone classification or zone boundary that was inappropriate when established; or

(C) The proposed rezone is consistent with the comprehensive plan; or

(D) The proposed rezone is consistent with all applicable provisions of this title including any specific design criteria;

(iii) The proposed rezone bears a substantial relation to the public health, safety, and welfare;

(iv) A site plan of the proposed project, if considered, is designed to minimize all significant adverse impacts on other properties;

(v) A site plan, if considered, is designed to minimize impacts upon the public facilities, services and utilities;

(vi) The proposal is not inconsistent with the surrounding area;

(vii) If applicable, that there is a means of developing, preserving, and maintaining open space;

(viii) All conditions necessary to lessen any impacts of the proposed use can be monitored and enforced.

(5) Requisites of a Decision. After considering all of the information submitted on the matter, the following findings, conclusions and decision shall be made:

(a) A statement of facts presented at the hearing that supports the decision, including facts supporting any conditions and restrictions that are recommended.

(b) A statement of the conclusions based on those facts.

(c) The application of the criteria used to make the decision.

(d) A determination that significant adverse impacts on other properties can be minimized through mitigation measures imposed as conditions of approval and identifying the mitigation measures.

(6) Nature of Decision. The city council may as its decision do one of the following:

(a) Approve the application for rezone;

(b) Approve the application with modifications or conditions; or

(c) Deny the application.

(7) Ordinance Required. The city council shall include in an ordinance granting the rezone any conditions and restrictions it determines are necessary to meet the decision criteria or to eliminate or minimize any undesirable effects of granting a rezone. Any conditions, modifications and restrictions that are imposed shall become part of the decision.

(8) Minor Modifications. Subsequent to the adoption of the ordinance, the applicant may apply for a minor modification to a site plan approved as part of that ordinance. The director shall review applications for a minor modification. The director may approve a minor modification only if the director finds that:

(a) The change will not result in reducing the landscaped area, buffer areas, or the amount of open space on the project by more than five percent;

(b) The change will not result in increasing the residential density;

(c) The change will not result in increasing gross floor area of the project by more than five percent;

(d) The change will not result in any structure, or vehicular circulation or parking area being moved more than 30 feet in any direction and will not

reduce any required yard;

(e) The change will not increase any adverse impacts or undesirable effects of the project and that the change in no way significantly alters the project; and

(f) The change will not modify the intent of any condition.

(9) Major Modifications. If the applicant seeks a modification to the approved site plan that does not meet the requirements of a minor modification, the applicant may propose a major modification by submitting an application for a quasi-judicial project-related rezone. The city will process such application in the same manner as an application for a new quasi-judicial project-related rezone.

19.75.030 Contract zoning.

(1) A contract may be tendered as part of a requested rezone or requested by the planning commission or city council as a condition of granting a rezone. Such contract shall not provide for additional uses, increased density or uses of less restrictive bulk and density requirements than those of the parent district. Such contracts can decrease potentially permitted uses, decrease intensity of uses and increase restrictions on bulk and density over the parent zone and tender other restrictions or compensations for amelioration of impacts caused by the rezone or development. The criteria for granting or denying a contract rezone will be those set out in OHMC 19.75.020 and the following:

(a) Whether the additional restrictions and mitigation measures actually mitigate identified adverse impacts sufficiently to assure there will be no major adverse impact on the health, welfare and safety of the city;

(b) Whether the additional restrictions will better meet the goals and policies of the Oak Harbor comprehensive plan;

(c) Whether a time limit should be imposed within which development must be completed;

(d) What should be the consequences of not complying with conditions imposed;

(e) Whether the proposed development will stabilize a boundary between districts;

(f) Whether the proposed use is compatible with adjoining uses;

(g) Whether there are adequate assurances available to assure that the mitigation measures will be maintained;

(h) What are the costs of monitoring the imposition and maintenance of mitigation, and who is to bear the cost of such measures.

(2) Because a contract is a change from the normal zoning of Oak Harbor it shall be a disfavored method of handling a zoning matter and it shall not be used unless the evidence is clear and convincing that mitigation measures will solve the problems identified with rezoning actions.

Section Twenty-Nine. Oak Harbor Municipal Code Chapter 19.80 is hereby re-adopted to read as follows:

Chapter 19.80
TEXT AMENDMENTS

Sections:

19.80.010 Scope.
19.80.020 Review criteria.

19.80.010 Scope.

This chapter shall cover criteria for text amendments, additions or deletions of general application to this zoning code. (

19.80.020 Review criteria.

(1) The following criteria, along with other relevant issues, must be met in each amendment, addition or deletion to the text, tables and figures of the zoning code:

(a) The amendment must be consistent with the Oak Harbor comprehensive plan;

(b) The amendment must substantially promote the public health, safety and welfare.

(2) An addition or deletion to the text, tables and figures of the zoning code may also be made if such change is needed to clarify the meaning of this zoning code, correct an error, or to add text or issues which should not have been omitted.

Section Thirty. Oak Harbor Municipal Code Chapter19.85 is hereby re-adopted to read as follows:

Chapter 19.85
PROCEDURE FOR AMENDMENTS TO THE ZONING CODE

Sections:

19.85.010 Scope.
19.85.020 Planning commission review.
19.85.030 City council.
19.85.040 Quasi-judicial hearing procedure.

19.85.010 Scope.

This procedure shall be followed for all amendments to the zoning code whether quasi-judicial or legislative.

19.85.020 Planning commission review.

The planning commission shall review each change, addition or deletion to the zoning code. A public hearing shall be held by the planning commission for each proposal. After a decision, their findings, recommendations, transcripts and evidence thereon shall be transmitted to the city council for their action.

19.85.030 City council.

(1) After receipt of the recommendations of the planning commission, the city council shall consider the recommendation. The council may adopt or remand the recommendations without holding an additional public hearing.

(2) If a majority of the city council, excluding absentees and persons excluded by reason of conflict of interest and appearance of fairness wish to consider any change to the recommendation, the council shall set a public hearing on the matter. The city council, after hearing, may approve, deny, subject approval to conditions or remand for further action by the planning commission.

19.85.040 Quasi-judicial hearing procedure.

The following procedures shall only apply to amendments of the zoning code which are quasi-judicial in nature:

(1) Notice. Notice shall be provided as required by OHMC 18.20.090(3);

(2) Hearing Body. The planning commission shall act as the hearing body for map or text amendments. The city council may elect to hold another hearing as provided under state law;

(3) Presiding Officer. The chairperson of the planning commission shall be the presiding officer and shall have authority to regulate all matters of hearing procedure including admissibility of evidence, the terms and duration and order of speakers; provided, the hearing body may overrule a decision of the presiding officer by a simple majority vote of members present and available to vote;

(4) Witnesses. All witnesses shall be sworn;

(5) Exhibits. To be considered, an item, map, document, letter, written material or photograph must be entered into the record as an exhibit. Exhibits to the extent possible shall be provided to the recording officer prior to the meeting;

(6) Notice. The hearing body may take notice of those items which a court may take judicial notice of;

(7) Order of Presentation.

(a) First, the staff shall describe the nature of the proposal and make other comments relevant to the matter including the relevant SEPA analysis, if any,

(b) Second, the proponent shall present fully its case for establishing the change proposed,

(c) Third, opponents and citizens shall be given an opportunity to provide input,

(d) Fourth, if necessary, each side will be allowed an opportunity to provide rebuttal. The presiding officer may regulate as he or she deems proper,

(e) Fifth, argument may be allowed;

(8) Examination. Cross-examination shall be allowed after a witness has testified, provided, the council member or planning commission member may reserve any or all questioning until after presentation of witnesses and argument. There is no right of rebuttal to matters brought up in council or commission questioning;

(9) Discussion. Discussion by the hearing body shall be conducted in public but may be in a room separate from the hearing room. Only those matters made a part of the record shall be considered by the hearing body in reaching its decision. It shall make written findings with its decision and may assign to a proponent or an opponent the job of completing the proposed finding. If exception by a party is taken to a finding, that exception shall be made in writing and presented to staff before the hearing at which they are considered;

(10) Reconsideration. Reconsideration of a vote may be had at any time prior to ratification of an ordinance of final adoption of findings and/or minutes terminating a matter;

(11) Procedures prescribed herein are directory and variances therefrom shall not result in invalidation of an action taken.

Section Thirty-One. Oak Harbor Municipal Code Chapter 19.90 is hereby re-adopted to read as follows:

Chapter 19.90
ASSURANCES

Sections:

19.90.010 Purpose.
19.90.020 Site improvement assurance.
19.90.030 Maintenance of assurances.
19.90.040 Release of assurances.
19.90.050 Assurance administration.

19.90.010 Purpose.

The purpose of this chapter is to establish the requirements and procedures for assurances when required to ensure compliance with the zoning code when construction of improvements or landscaping is required.

19.90.020 Site improvement assurance.

Before the building official approves and issues a temporary certificate of occupancy for a planned residential development, a site plan development, mobile home park or any other development for which improvements are required, either on site or off site to comply with the zoning code, the developer or owner of the property involved shall provide the city with a bond or other similar security in a form approved by the planning director adequate to ensure that the required on and off site improvements will be completed before a final certificate of occupancy is issued. The bond or security shall be based on the full cost of the uncompleted, required site improvements including drainage and landscaping.

19.90.030 Maintenance of assurances.

Before the building official approves the final certificate of occupancy, the developer or owner shall provide a bond or a similar security in a form approved by the planning director for 10 percent of the cost of the site improvements including drainage which shall be adequate to ensure the maintenance of the site improvements for one year after the site improvements are completed, provided, however, that the prorated security to ensure the maintenance of landscaping improvements shall be retained for a period of two years after the landscaping improvements are completed.

19.90.040 Release of assurances.

The building official shall release the site improvements assurance only upon the approval of the planning director and only after the site improvements are complete and satisfactory and the developer or owner has provided the required maintenance assurance. The building official, upon approval by the planning director, shall release the maintenance assurance or portions thereof not obligated to ensure maintenance not performed not less than one year after the effective date of the assurance except in the case of a landscaping assurance which shall be two years.

19.90.050 Assurance administration.

The planning director shall consult with the city attorney to determine the amount of the

assurances on completion of phases of work, additional assurances for extensions of time and related matters. Assurances shall be kept in the custody of the city finance director.

Section Thirty-Two. Oak Harbor Municipal Code Chapter 19.100 is hereby re-adopted to read as follows:

Chapter 19.100
PENALTIES, NUISANCES AND ENFORCEMENT

Sections:

19.100.010 Penalty for violation.
19.100.020 Legal proceedings by city attorney.

19.100.010 Penalty for violation.

(1) Any person or corporation whether owner, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this title or permits any such violation or fails to comply with any of the requirements thereof, or who erects, constructs, reconstructs, alters, enlarges, converts, moves, or uses any building or uses any land in violation of any detailed statements or plans submitted by him and approved under the provisions of this title, is guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not exceeding $300.00. Each week's continued violation shall constitute a separate additional violation.

(2) It is a misdemeanor to permit, tolerate, allow or otherwise engage in a prohibited use for the zone where the property is located. It is no defense that the person charged with this offense did not act intentionally, recklessly or negligently. It is the defendant's burden of proof to establish that the use complies with all conditions of a validly granted conditional use permit or variance under this title of the Oak Harbor Municipal Code.

(3) It is a public nuisance to permit, tolerate, maintain, construct or use property in the city contrary to requirements of this zoning code.

(4) In case a building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used in violation of this title, the proper legal authorities of the city of Oak Harbor, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business or use in or about such building, structure, or land.

19.100.020 Legal proceedings by city attorney.

The city attorney, upon request of the planning director, shall institute any necessary legal proceedings to enforce the provisions of this title.

Section Thirty-Three. Oak Harbor Municipal Code Chapter 19.110 is hereby re-adopted to read as follows:

Chapter 19.110
JUDICIAL REVIEW

Sections:
19.110.010 Zoning code amendments.
19.110.020 Judicial review of the hearing examiner.

19.110.010 Zoning code amendments.
Decisions of the city council on a map amendment or text amendment shall be final and conclusive unless within 21 days of date of action by the city council, appeal authorized by law or the Constitution is taken to a court of competent jurisdiction by an aggrieved party by writ of review, writ of prohibition and writ of mandamus or petition for declaratory judgment. Date of action is defined as the date of passage of an ordinance or resolution or, in the case of decision by the council to deny a rezone or text amendment, the date of adopting the findings of fact and conclusions concerning such action.

19.110.020 Judicial review of the hearing examiner.
Orders or decisions of the hearing examiner on a conditional use permit or variance are final and conclusive unless within 21 days of the action the original applicant or an adverse party files a declaratory judgment act, writ of review, writ of prohibition, or writ of mandamus in a court of competent jurisdiction.

THE CITY COUNCIL HERBEY ADOPTS THE PROPOSED CODE REVISIONS DESCRIBED HEREIN AS "INTERIM REGULATIONS" AS ALLOWED BY RCW 36.70.795.

Wynn

City of Oak Harbor
City Council Agenda Bill

Bill No. 11
Date: April 21, 2009
Subject: Comprehensive Utilities Rate Study Agreement

FROM: Cathy Rosen, Public Works Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

DJ Jim Slowik, Mayor
____ Paul Schmidt, City Administrator
____ Doug Merriman, Finance Director
WH Margery Hite, City Attorney, as to form

PURPOSE

The agenda bill requests approval of a Professional Services Agreement with HDR Engineering Inc. for a Comprehensive Rate Study for Water, Sewer, Storm Drain and Solid Waste Utilities to assure adequate funding of the utilities operation and maintenance and capital needs while developing rates that are fair and equitable to all classes of customers.

AUTHORITY

Authority for contracts for architectural and engineering services is established in OHMC Chapter 2.350. City policy is consistent with the state requirements under Chapter 39.80 RCW, to publicly announce requirements for architectural and engineering services, and negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices.

SUMMARY STATEMENT

Background

The City of Oak Harbor has not completed a comprehensive rate study for the Water, Sewer, Storm Drain and Solid Waste Utilities for many years. The purpose of a comprehensive rate study is to assure the adequate funding of the utilities operations and maintenance and capital needs while developing rates that are cost-based and fair and equitable to all classes of customers. The Study will include an analysis of revenue requirements over a six-year period, cost of service analysis including an analysis of customer classes and revenue requirement allocations, rate design and analysis and update of system development fees.

Selection Process
In accordance with OHMC Chapter 2.350 pertaining to the selection of consultants, a Request for Qualifications (RFQ) for firms with experience in similar projects was published in the Whidbey News Times and the Daily Journal of Commerce. A total of five firms responded to the RFQ. The submittals were evaluated and ranked by staff with the top three firms being subsequently invited to submit proposals for the project. The proposals were reviewed and the consultants were interviewed by a panel that consisted of: Council members Paggao, Palmer and Severns, City Administrator Paul Schmidt, Finance Director Doug Merriman, and Public Works Director Cathy Rosen. HDR Engineering was ranked the highest and negotiations of price and scope were initiated. Staff reviewed the proposed scope of work and fee and found that the scope meets the City's needs and that the fee is both commensurate with the work and consistent with the market.

Funding
Funding for the Comprehensive Rate Study has been budgeted in the 2009-2010 Water, Sewer, Storm Drain and Solid Waste Budgets. The total contract will be in an amount not to exceed $134,995 with $39,410 being funded by the Water Division, $33,730 being funded by the Sewer Division, $31,125 being funded by the Storm Drain Division and $24,105 being funded by the Solid Waste Division.

STANDING COMMITTEE REPORT

The agenda bill was presented and discussed at the Public Works and Utilities Standing Committee meeting on April 2, 2009.

RECOMMENDED ACTION
Authorize the Mayor to sign the agreement with HDR Engineering, Inc. in an amount not to exceed $134,995 for the Comprehensive Rate Study for Water, Sewer, Storm Drain and Solid Waste Utilities.

ATTACHMENTS

- Consultant Agreement

MAYOR'S COMMENTS

CITY OF
Oak Harbor
WHIDBEY ISLAND, WASHINGTON

CITY OF OAK HARBOR
CONSULTANT AGREEMENT
WITH HDR Engineering, Inc

PROJECT TITLE: Comprehensive Water, Sewer, Storm Drain and Solid Waste Rate Studies

PROJECT COMPLETION DATE: September 30, 2009

MAXIMUM AMOUNT PAYABLE: $134,995.00

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CONSULTANT CONTRACT
HEADING

I. INSTRUCTIONS

This contract must be completed in full, including all applicable exhibits. If an exhibit is not applicable, it should be marked "VOID".

Any changes or additions to this contract must be made in writing and set forth below. (The parties may attach appendices and exhibits to this contract but they **must** be listed in Section IV below.) Any exceptions or changes to the General Requirements must be listed in Section XI of the contract.

II. CONSULTANT INFORMATION

Name: HDR Engineering, Inc.

Address: 500 108th Ave. NE, Ste. 1200, Bellevue, WA 98004-5549

Telephone/Fax No.: (425) 450-6200

Federal ID No.: 47-0680568

Do you require a 1099 for the IRS? No

III. PROJECT INFORMATION

Protect Title: Comprehensive Water, Sewer, Storm Drain and Solid Waste Rate Studies

Project Description: A comprehensive water, sewer, storm drain and solid waste rate study.

Project Completion Date: September 30 2009
Maximum Amount Payable: $134,995.00
Progress Payments: Monthly

IV. ADDITIONAL DOCUMENTS ADDED TO THIS CONTRACT

AGREEMENT

V. INTRODUCTION

THIS AGREEMENT, made and entered into this _____ day of _____, _____, between the City of Oak Harbor, Washington, hereinafter called the "CITY", and the below identified organization hereinafter called the "CONSULTANT" consists of this agreement, the exhibits and the General Requirements attached hereto.

WITNESSETH THAT:

WHEREAS, the CITY desires to accomplish the above-referenced project, and

WHEREAS, the CITY does not have sufficient staff to meet the required commitment and, therefore, deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary services for the PROJECT; and

WHEREAS, the CONSULTANT represents that he/she is in compliance with the Washington State statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the CITY;

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

VI. GENERAL DESCRIPTION OF WORK

The work under this AGREEMENT shall consist of the work and services described in Section III of this AGREEMENT and as herein defined and necessary to accomplish the completed work for this PROJECT. The CONSULTANT shall furnish all services, labor and related equipment necessary to conduct and complete the work as designated elsewhere in this AGREEMENT.

VII. SCOPE OF WORK

The Scope of Work and project level of effort for this project is detailed in Exhibit "B" attached hereto, and by this reference made a part of this AGREEMENT.

VIII. PAYMENT

The CONSULTANT shall be paid by the CITY for completed work and services rendered under this AGREEMENT on the basis of a negotiated hourly rate plus costs as provided in Exhibit "C" attached hereto, and by this reference made part of this AGREEMENT. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work specified in Exhibit "B" attached hereto and by this reference made part of this AGREEMENT; except for out of pocket costs as identified in Exhibit "C".

IX. CERTIFICATION OF THE CONSULTANT AND THE CITY

Attached hereto as Exhibit "A-1" is the Certification of the Consultant and Certification of City Official. Exhibit "A-2" is the Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions.

X. COMPLETE AGREEMENT

This document and referenced attachments contain all covenants, stipulations and provisions agreed upon by the parties. No agent or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as an amendment to this AGREEMENT.

XI. GENERAL REQUIREMENTS

The General Requirements for Consulting Contract, on file in the City Clerk's Office at Oak Harbor City Hall, a copy of which is attached hereto, shall apply to this AGREEMENT except as modified in this Section XI (General Requirements). The CONSULTANT has assured that the attached copy of the General Requirements conforms to the set filed in the City Clerk's Office.

General provisions are modified to provide that "CONSULTANT shall provide period reports as required and not necessarily on a monthly basis."

XII. EXECUTION AND ACCEPTANCE

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and agreements contained in the proposal, and the supporting materials submitted by the CONSULTANT, and does hereby accept the AGREEMENT and agrees to all of the terms and conditions thereof.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the day and year first above written.

By_____ By_____
Consultant: NOR Engineering, Inc. Agency:_____
Principal

I, David A. Peters, Consultant, certify under penalty of perjury under the laws of the State of Washington that this copy of the General Requirements for Consultant Contract conform to the set filed in the Clerk's Office.

Dated: 3/27/09

By HDR Engineering, Inc.

GENERAL REQUIREMENTS

1. MISCELLANEOUS PROVISIONS

All aspects of coordination of the work of this AGREEMENT, with outside agencies, groups or individuals shall receive advance approval by the CITY. Necessary contacts and meetings with agencies, groups or individuals shall be coordinated through the CITY.

The CONSULTANT shall attend coordination, progress and presentation meetings with the CITY or such officials, groups or individuals as may be requested by the CITY. The CITY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT's participation. The minimum number of hours or days notice required shall be agreed to between the CITY and the CONSULTANT and shown in Exhibit "B" attached hereto and made part of this AGREEMENT. The CONSULTANT shall prepare a monthly progress report as needed by the CITY (but in no case shall it be more than once a month), in a form approved by the CITY, that will outline in written and graphical form the various phases and the order of performance of the work in sufficient detail so that the progress of the work can easily be evaluated.

All reports and other data, furnished to the CONSULTANT by the CITY shall be returned. All designs, drawings, specifications, documents, and other work products prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for this PROJECT and are property of the CITY. Reuse by the CITY or by others acting through or on behalf of the CITY of any such instruments of service, not occurring as part of this PROJECT, shall be without liability or legal exposure to the CONSULTANT.

2. TIME FOR BEGINNING AND COMPLETION

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the CITY. All work under this AGREEMENT shall be completed by the date shown in Section III of this AGREEMENT under "Project Completion Date".

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the CITY, in the event of a delay attributable to the CITY, or because of unavoidable delays caused by an act of God, governmental actions or other conditions beyond the control of the CONSULTANT. A prior supplemental agreement issued by the CITY is required to extend the established completion date.

3. SUBCONTRACTING

The CITY permits subcontracts for only those items of work designated for subcontracts in Exhibit "G-1" or "G-2" to this AGREEMENT.

The work of the subconsultant shall not exceed its maximum amount payable unless prior written approval has been issued by the CITY.

All reimbursable direct labor, overhead, direct non-salary costs and fixed fee costs for the subconsultant shall be substantiated in the same manner as outlined in Section VIII. All subcontracts exceeding Ten Thousand Dollars ($10,000.00) in cost shall contain all applicable provisions of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any work under this AGREEMENT without prior written permission of the CITY. No permission for subcontracting shall create, between the CITY and subcontractor, any contract or any other relationship.

4. EMPLOYMENT

The CONSULTANT warrants that he/she has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the CITY shall have the right to annul this AGREEMENT without liability, or in its discretion, to deduct from the AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the CITY, and any and all claims that may or might arise under any Workers' Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full or part time basis, or other basis, during the period of the contract, any professional or technical personnel who are, or have been, at any time during the period of the contract, in the employ of the CITY, except regularly retired employees, without written consent of the public employer of such person.

5. NONDISCRIMINATION

The CONSULTANT agrees not to discriminate against any client, employee or applicant for employment or for services because of race, creed, color, national origin, marital status, sexual orientation, sex, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability or the use of a trained dog guide or service animal by a person with a disability; unless based upon a bona fide occupational qualification; with regard to, but not limited to, the following: employment upgrading, demotion or transfer, recruitment or any recruitment advertising, a layoff or termination, rate of pay or other forms of compensation, selection for training, or rendition of services. The CONSULTANT understands and agrees that if it violates this provision, this AGREEMENT may be terminated by the CITY and further that

the CONSULTANT shall be barred from performing any services for the CITY now or in the future unless a showing is made satisfactory to the CITY that discriminatory practices have terminated and that recurrence of such action is unlikely.

During the performance of this AGREEMENT, CONSULTANT, for itself, its assignees and successors in interest agrees as follows:

A. **COMPLIANCE WITH REGULATIONS**: The CONSULTANT shall comply with the applicable federal law relative to nondiscrimination, Title 49, Code of Federal Regulations, which are herein incorporated by reference and made a part of this AGREEMENT. The CONSULTANT shall comply with the Americans with Disabilities Act of 1992, as amended.

B. **INFORMATION AND REPORTS**: The CONSULTANT shall provide all information and reports required by the CITY and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the CITY to be pertinent to ascertain compliance with such state or federal law. Where any information required of the CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the CITY, and shall set forth what efforts it has made to obtain the information.

C. **SANCTIONS FOR NONCOMPLIANCE**: In the event of the CONSULTANT's noncompliance with the nondiscrimination provisions of this AGREEMENT, the CITY shall impose such sanctions as it may determine to be appropriate, including, but not limited to:

(1) Withholding of payments to the CONSULTANT under the AGREEMENT until the CONSULTANT complies, and/or

(2) Cancellation, termination or suspension of the AGREEMENT, in whole or in part.

D. **INCORPORATION OF PROVISIONS**: The CONSULTANT shall include the provisions of paragraphs (A) through (E) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any subconsultant or procurement as the CITY may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a subconsultant or supplier as a result of such direction, the CONSULTANT may request the CITY to enter into such litigation to protect the interests of the CITY.

E. **UNFAIR EMPLOYMENT PRACTICES**: The CONSULTANT shall comply with RCW 49.60.180 and Executive Order number E.O. 77-13 of the Governor of the State of Washington which prohibits unfair employment practices.

6. TERMINATION OF AGREEMENT

The right is reserved by the CITY to terminate this AGREEMENT at any time upon ten (10) days' written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the CITY other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT as shown in Exhibit "F".

No payment shall be made for any work completed after ten (10) days following receipt by the CONSULTANT of the Notice to Terminate. If the accumulated payment made to the CONSULTANT prior to Notice to Terminate exceeds the total amount that would be due, computed as set forth herein above, then no final payment shall be due and the CONSULTANT shall immediately reimburse the CITY for any excess paid.

If the services of the CONSULTANT are terminated by the CITY for default on the part of the CONSULTANT, the above formula for payment shall not apply. In such an event, the amount to be paid shall be determined by the CITY with consideration given to the actual costs incurred by the CONSULTANT in performing the work to the date of termination, the amount of work originally required which was satisfactorily completed to date of termination, whether that work is in a form or a type which is usable to the CITY at the time of termination; the cost to the CITY of employing another firm to complete the work required and the time which may be required to do so, and other factors which affect the value to the CITY of the work performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount which would have been made using the formula set forth in the previous paragraph.

If it is determined for any reasons that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without it or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the CITY in accordance with the provision of this AGREEMENT.

In the event of death of any member, partner or officer of the CONSULTANT or any of its supervisory personnel assigned to the project, or, dissolution of the partnership, termination of the corporation, or disaffiliation of the principally involved employee, the surviving members of the CONSULTANT hereby agree to complete the work under the terms of this AGREEMENT, if requested to do so by the CITY. This subsection shall not be a bar to renegotiation of the AGREEMENT between the surviving members of the CONSULTANT and the CITY, if the CITY so chooses.

In the event of the death of any of the parties listed in the previous paragraph, should the surviving members of the CONSULTANT, with the CITY's concurrence, desire to terminate this AGREEMENT, payment shall be made as set forth in the second paragraph of this section.

Payment for any part of the work by the CITY shall not constitute a waiver by the CITY of any remedies of any type it may have against the CONSULTANT, or for failure of the

CONSULTANT to perform work required of it by the CITY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

7. CHANGES OF WORK

The CONSULTANT shall make changes and revisions in the complete work of this AGREEMENT as necessary to correct errors appearing therein, when required to do so by the CITY, without additional compensation thereof. Should the CITY find it desirable for its own purposes to have previously satisfactorily completed work or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the CITY. This work shall be considered as Extra Work and will be paid for as herein provided under General Requirements, Section 13.

8. DISPUTES

Any dispute concerning questions of fact in connection with the work not disposed of by AGREEMENT between the CONSULTANT and the CITY shall be referred for determination to the City Administrator or his/her designee, whose decision in the matter shall be final and binding on the parties of this AGREEMENT, provided, however, that if an action is brought challenging the Public Works Superintendent or City Engineer's decision, that decision shall be subject to de novo judicial review.

9. VENUE, APPLICABLE LAW AND PERSONAL JURISDICTION

In the event that either party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this AGREEMENT, the parties hereto agree that any such action shall be initiated in the Superior Court of the State of Washington, situated in Island County. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties to such action shall have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in Island County.

10. LEGAL RELATIONS AND INSURANCE

A. The CONSULTANT shall comply with all Federal, State, and local laws and ordinances applicable to the work to be done under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of Washington.

B. The CONSULTANT's relation to the CITY shall be at all times as an independent contractor and not as an employee.

C. Unless otherwise specified in the AGREEMENT, the CITY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of an acceptable, supplemental agreement, the CONSULTANT shall provide on-call

assistance to the CITY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

D. The CITY will pay no payments under Section VIII "Payments" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the CITY may take such other action as is available to them under other provisions of this AGREEMENT, or otherwise in law.

11. INDEMNIFICATION REQUIREMENTS

Indemnification/Hold Harmless. CONSULTANT shall defend, indemnify and hold the CITY, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the CONSULTANT in performance of this AGREEMENT, except for injuries and damages caused by the sole negligence of the CITY.

Notwithstanding the provisions of the preceding paragraph, it is understood and mutually agreed by the CONSULTANT and the CITY that neither party will attempt to enforce strict liability for any act, error or omission against either party and that the work covered under this AGREEMENT will be completed by the CONSULTANT with the standard of care of the Consulting profession in the State of Washington.

Should a court of competent jurisdiction determine that this AGREEMENT is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the CONSULTANT and the CITY, its officers, officials, employees, and volunteers, the CONSULTANT's liability hereunder shall be only to the extent of the CONSULTANT's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the CONSULTANT's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this AGREEMENT.

12. INSURANCE.

The CONSULTANT shall procure and maintain for the duration of this AGREEMENT, insurance claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the CONSULTANT, its agents, representatives or employees.

A. **No Limitation.** CONSULTANT's maintenance of insurance as required by the AGREEMENT shall not be construed to limit the liability of the CONSULTANT to the coverage provided by such insurance, or otherwise limit the CITY's recourse to any remedy available at law or in equity.

B. **Minimum Scope of Insurance.** CONSULTANT shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The CITY shall be named as an insured under the CONSULTANT's Commercial General Liability insurance policy with respect to the work performed for the CITY.

3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

4. Professional Liability insurance appropriate to the CONSULTANT's profession.

C. **Minimum Amounts of Insurance.** CONSULTANT shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of One Million Dollars ($1,000,000.00) per accident.

2. Commercial General Liability insurance shall be written with limits no less than One Million Dollars ($1,000,000.00) each occurrence, Two Million Dollars ($2,000,000.00) general aggregate.

3. Professional Liability insurance shall be written with limits not less than One Million Dollars ($1,000,000.00) per claim and One Million Dollars ($1,000,000.00) policy aggregate limit.

D. **Other Insurance Provisions.** The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

1. The CONSULTANT's insurance coverage shall be primary insurance with respect to the CITY. Any insurance, self-insurance, or insurance pool coverage maintained by the CITY shall be in excess of the CONSULTANT's insurance and shall not contribute with it.

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

E. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

F. **Verification of Coverage.** CONSULTANT shall furnish the CITY with original certificates and a copy of the amendatory endorsements including, but not necessarily limited to, the additional insured endorsement evidencing the insurance requirements of the CONSULTANT before commencement of the work.

13. EXTRA WORK

A. The CITY may at any time, by written order, make changes within the general scope of the AGREEMENT in the services to be performed.

B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of the AGREEMENT, the CITY shall make an equitable adjustment in the (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify the AGREEMENT accordingly. If the change causes an increase in the maximum amount payable, it shall not become a part of this AGREEMENT unless and until a written amendment to the AGREEMENT is executed by both the CITY and the CONSULTANT.

C. The CONSULTANT must submit its "request for equitable adjustment" (hereafter referred to as "claim") under this clause within thirty (30) days from the date of receipt of the written order. However, if the CITY decides that the facts justify it, the CITY may receive and act upon a claim submitted before final payment of the AGREEMENT.

D. Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.

E. Notwithstanding the terms and conditions of paragraphs (A) and (B) above, the maximum amount payable for this AGREEMENT shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

14. ENDORSEMENT OF PLANS

The CONSULTANT shall place his endorsement on all plans, estimates or any other engineering data furnished by him.

15. EQUAL OPPORTUNITY

A. Compliance with 41 CFR 60-1.4 -- Equal Opportunity Clause. The CITY incorporates 41 CFR 60-1.4 -- Equal Opportunity Clause by reference.

B. Compliance with 41 CFR 60-250.5 -- Equal Opportunity Clause (Special Disabled Veterans).

1. The CONSULTANT will not discriminate against any employee or applicant for employment because he or she is a special disabled veteran, veteran of the Vietnam era, recently separated veteran, or other protected veteran in regard to any position for which the employee or applicant for employment is qualified. The CONSULTANT agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals without discrimination based on their status as a special disabled veteran, veteran of the Vietnam era, recently separated veteran, or other protected veteran in all employment practices, including the following:

   i. Recruitment, advertising, and job application procedures;

   ii. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;

   iii. Rates of pay or any other form of compensation and changes in compensation;

   iv. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

   v. Leaves of absence, sick leave, or any other leave;

   vi. Fringe benefits available by virtue of employment, whether or not administered by the CONSULTANT;

   vii. Selection and financial support for training, including apprenticeship, and on-the-job training under 38 U.S.C. 3687, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

   viii. Activities sponsored by the CONSULTANT including social or recreational programs; and

   ix. Any other term, condition, or privilege of employment.

2. The CONSULTANT agrees to immediately list all employment openings which exist at the time of the execution of this AGREEMENT and those which occur during the performance of this AGREEMENT, including those not generated by this AGREEMENT and including those occurring at an establishment of the CONSULTANT other than the one wherein the AGREEMENT is being performed, but excluding those of independently operated corporate affiliates, at an appropriate local employment service office of the state employment security agency wherein the opening occurs. Listing employment openings with the U.S. Department of Labor's America's Job Bank shall satisfy the requirement to list jobs with the local employment service office.

3. Listing of employment openings with the local employment service office pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicants or from any particular group of job applicants, and nothing herein is intended to relieve the CONSULTANT from any requirements in Executive orders or regulations regarding nondiscrimination in employment.

4. Whenever the CONSULTANT becomes contractually bound to the listing provisions in paragraphs 2 and 3 of this clause, it shall advise the state employment security agency in each state where it has establishments of the name and location of each hiring location in the state: Provided, That this requirement shall not apply to state and local governmental CONSULTANTS. As long as the CONSULTANT is contractually bound to these provisions and has so advised the state agency, there is no need to advise the state agency of subsequent AGREEMENTS. The CONSULTANT may advise the state agency when it is no longer bound by this AGREEMENT clause.

5. The provisions of paragraphs 2 and 3 of this clause do not apply to the listing of employment openings which occur and are filled outside of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

6. As used in this clause:

   i. All employment openings include all positions except executive and top management, those positions that will be filled from within the CONSULTANT's organization, and positions lasting three (3) days or less. This term includes full-time employment, temporary employment of more than (3) three days' duration, and part-time employment.

ii. Executive and top management means any employee:

(a) whose primary duty consists of the management of the enterprise in which he or she is employed or of a customarily recognized department or subdivision thereof; and

(b) who customarily and regularly directs the work of two (2) or more other employees therein; and

(c) who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and

(d) who customarily and regularly exercises discretionary powers; and

(e) who does not devote more than twenty percent (20%), or, in the case of an employee of a retail or service establishment who does not devote as much as forty percent (40%), of his or her hours of work in the work week to activities which are not directly and closely related to the performance of the work described in (a) through (d) of this paragraph 6.ii.; Provided, that (e) of this paragraph 6.ii. shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment, or who owns at least a twenty percent (20%) interest in the enterprise in which he or she is employed.

iii. Positions that will be filled from within the CONSULTANT's organization means employment openings for which no consideration will be given to persons outside the CONSULTANT's organization (including any affiliates, subsidiaries, and parent companies) and includes any openings which the contractor proposes to fill from regularly established "recall" lists. The exception does not apply to a particular opening once an employer decides to consider applicants outside of his or her own organization.

7. The CONSULTANT agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

8. In the event of the CONSULTANT's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

9. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Deputy Assistant Secretary for Federal Contract Compliance, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the CONSULTANT's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants who are special disabled veterans, veterans of the Vietnam era, recently separated veterans, or other protected veterans. The CONSULTANT must ensure that applicants or employees who are special disabled veterans are informed of the contents of the notice (e.g., the CONSULTANT may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair).

10. The CONSULTANT will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the CONSULTANT is bound by the terms of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, and is committed to take affirmative action to employ and advance in employment qualified special disabled veterans, veterans of the Vietnam era, recently separated veterans, and other protected veterans.

11. The CONSULTANT will include the provisions of this clause in every subcontract or purchase order of Twenty-five Thousand Dollars ($25,000.00) or more, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, so that such provisions will be binding upon each subcontractor or vendor. The CONSULTANT will take such action with respect to any subcontract or purchase order as the Deputy Assistant Secretary for Federal Contract Compliance may direct to enforce such provisions, including action for noncompliance.

C. Compliance with 41 CFR 60-741.5 -- Equal Opportunity Clause (Workers with Disabilities).

1. The CONSULTANT will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The CONSULTANT agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based on their physical or mental disability in all employment practices, including the following:

i. Recruitment, advertising, and job application procedures;

ii. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;

iii. Rates of pay or any other form of compensation and changes in compensation;

iv. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

v. Leaves of absence, sick leave, or any other leave;

vi. Fringe benefits available by virtue of employment, whether or not administered by the CONSULTANT;

vii. Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

viii. Activities sponsored by the CONSULTANT including social or recreational programs; and

ix. Any other term, condition, or privilege of employment.

2. The CONSULTANT agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

3. In the event of the CONSULTANT's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

4. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the CONSULTANT's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities. The CONSULTANT must ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair).

5. The CONSULTNAT will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative

action to employ and advance in employment individuals with physical or mental disabilities.

6. The CONSULTANT will include the provisions of this clause in every subcontract or purchase order in excess of Ten Thousand Dollars ($10,000.00), unless exempted by rules, regulations, or orders of the Secretary issued pursuant to section 503 of the act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The CONSULTANT will take such action with respect to any subcontract or purchase order as the Deputy Assistant Secretary for Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

EXHIBIT A-1
CERTIFICATION OF CONSULTANT

Project No. _____

I hereby certify that I am Sr. Vice President a duly authorized representative of the firm of HDR Engineering, Inc whose address is 500 108th Ave NE Ste 1200 Bellevue, WA 98004-5549 and that neither I nor the above firm I here represent has:

(a) employed or retained for a commission, percentage, brokerage, contingent fee or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this contract.

(b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract.

(c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation or consideration of any kind for, or in connection with procuring or carrying out the contract; except as here expressly stated (if any).

I further certify that the firm I here represent is authorized to do business in the State of Washington and that the firm is in full compliance with the requirements of the Board of Professional Registration.

I acknowledge that this certificate is subject to applicable State and Federal laws, both criminal and civil.

3/27/09
Date

Signature

CERTIFICATION OF CITY OFFICIAL

I hereby certify that I am the responsible City official for the City of Oak Harbor, Washington, for this AGREEMENT and that the above consulting firm or its representative has not been required directly or indirectly as an express or implied condition in connection with obtaining or carrying out this contract to:

(a) employ or retain, or agree to employ or retain, any firm or person; or

(b) pay or agree to pay to any firm, person or organization, any fee, contribution, donation or consideration of any kind, except as here expressly stated (if any).

I acknowledge that this certificate is subject to applicable State and Federal laws, both criminal and civil.

Date **Signature**

EXHIBIT A-2
CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS- PRIMARY COVERED TRANSACTIONS

1. The CONSULTANT, through the prospective primary participant, certifies to the best of its knowledge and belief, that it and its principals:

   a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any State or Federal department or city;

   b. have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission or fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

   c. are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph 1.b. of this certification; and

   d. have not within a three-year period preceding this application/proposal had one or more public transactions (federal, state or local) terminated for cause or default.

2. Where the CONSULTANT, through the prospective primary participant, is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Consultant (Firm): HDR Engineering, Inc.

3/27/09
Date

President or Authorized Official or
Consultant Signature

EXHIBIT B
SCOPE OF WORK (ADD ON)

Project No. _____

See attached documents furnished by the Consultant

Exhibit B
Scope of Work – Comprehensive Water, Sewer, Storm Drain, and Solid Waste Rate Studies

Scope of Work

The following scope of work has been developed to meet the specific needs of the City of Oak Harbor (City). For each task, HDR has attempted to identify the main objective of that task, along with the expected City staff support for the task and the project deliverables.

HDR will perform the work in accordance with Federal, State and local laws and ordinances in effect at the time of the Notice to Proceed. All services provided under this scope of work and agreement shall be performed in accordance with the general standard of care for professional services in the State of Washington.

Provided below is a detailed description of the scope of work, including City staff support and task deliverables.

Task 1—Initial Project (Kick-Off) Meeting

Task Objective: *Bring the HDR project team, City management and staff together, at the start of the project, to assure that all parties have a mutual understanding of the goals, objectives, issues and concerns related to the study.*

The initial project (kick-off) meeting is important to the overall success of this engagement since it forms the foundation for the rate study process. The initial project meeting is used as a starting point in developing a strong working relationship between HDR and the City. At the same time, this meeting allows both parties to discuss the overall goals and objectives for this study, while at the same time discussing any issues and concerns that either party may have. It is proposed that the initial project meeting be approximately 4 hours in length.

Expected City Staff Support for Task 1: For this task, the City will be expected to:

- Have their key management/project team members attend a 4 hour planning meeting.

Deliverables as a Result of Task 1: From the work accomplished above, the deliverables will be as follows:

- Identification of objectives, issues and concerns by both parties.
- Face-to-face meeting to get the study off to a positive start.

The deliverables for Task 1 will be provided to the City within 4 weeks of the notice to proceed.

Task 2—Data Collection

Task Objective: *Review and assess the City's existing water, sewer, storm drain, and solid waste data, and provide a written data request detailing the data required to complete the study.*

The initial written data request details the data and information required to conduct the study.

HDR will provide a written data request to the City prior to the initial kick-off meeting so that it can be discussed at the meeting and any problem areas quickly resolved. The data and information requested for this study should be, for the most part, readily available information (e.g., financial, statistical, customer, etc.). The key issue for data collection purposes may be the level of detail that is readily available and needed for the study. It is important to keep in mind that a cost of service study requires data and information that is more detailed than the data typically reported for annual financial statement purposes.

For those areas where the data is not readily available, or will require significant labor and expense on the City's part to provide, HDR and the City will determine the "sensitivity" or "importance" of the data required and if alternative data sources are available. As with any study, it is imperative that the City provide a timely response for the data requested.

Expected City Staff Support for Task 2: For this task, the City will be expected to:

- Gather the data requested in the written data request provided by HDR. (Note: typically requires 40 – 60 hours of total staff time to provide).
- Confirmation of the City's Goals and Objectives.

Deliverables as a Result of Task 2: From the work accomplished above, the deliverables will be as follows:

- An initial written data request to the City.
- Identification of any data constraints.

The Data Request will be provided to the City prior to the Initial Kick-Off meeting. Data constraints will be provided to the City during the development of tasks 3-7.

Task 3—Review of Existing Financial/Rate Setting Policies, Philosophies, and Practices

Task Objective: *Determine the extent of any financial/rate setting policies, philosophies or practices in use by the City and, as appropriate, recommend/develop additional policies/practices.*

One portion of our scope of services that we believe is very important is our emphasis on developing financial policies/practices around which rates should be set. We emphasize this aspect of the rate setting process for two reasons. First, we believe that a utility should be run in a business-like manner, and therefore, should be managed in a financially prudent manner. As such, financial policies should be established accordingly. These policies may include issues such as maintaining minimum reserve levels, meeting target debt service coverage requirements, properly funding from rates an amount for renewals and replacements, etc. The other reason for emphasizing this aspect of the process, is that by developing financial (rate setting) policies, the City is taking a step towards stability in the decision making process. That is, the policies are adopted based upon prudent financial management of the utility, and decisions should not necessarily be driven by the politics or timing of the process. While adopting financial policies/practices for the rate setting process will <u>never</u> eliminate the politics of the process, in our opinion, it will help to minimize the politics inherent to setting rates.

As a part of this task, HDR will review the existing financial/rate policies and practices of the

City to ensure conformance with those policies. HDR will review any existing rate setting policies and develop, propose, and recommend, as appropriate, additional financial/rate policies for possible adoption by the City. All analyses developed as a part of this study will conform to the City's existing financial/rate policies, or will be based upon "generally accepted" financial/rate practices of the water, sewer, storm drain, and solid waste utility industry.

Expected City Staff Support for Task 3: For this task, the City will be expected to:

- Gather existing written policies and provide to HDR. Discuss any existing financial/rate philosophies or practices.
- As needed, provide clarification of existing policies.
- As needed, assist HDR is developing recommended policies for possible adoption.
- Participation in a two hour meeting to review the recommended financial polices.

Deliverables as a Result of Task 3: From the work accomplished above, the deliverables will be as follows:

- Review of the existing financial/rate setting policies and practices of the City.
- Develop additional policies/practices to help provide financial stability to the City and aid in simplifying the financial planning and rate setting process over the long-term.
- A two hour meeting to review the final financial policies with key City staff team members.

A draft of the Financial Policies will be provided to the City and a review meeting held within 8 weeks of the notice to proceed.

Task 4—Revenue Requirement Analysis

Task Objective: *Using a "generally-accepted" rate setting methodology, develop the City's water, sewer, storm drain, and solid waste revenue requirements for a multi-year period. The analysis will utilize the City's capital infrastructure planning documents (e.g., Capital Plan/Master Plan), while ensuring adequate funds for operating and capital needs. The revenue requirement analyses will establish the cost-based 'level' of revenue to be collected from rates and, if necessary, a plan to transition rates to cost-based levels.*

The development of the water, sewer, storm drain, and solid waste revenue requirement analyses is the first major analytical portion of the comprehensive rate study process. This portion of the study entails reviewing, for each utility, the various sources of funds (revenues) and comparing them to the applications of funds (expenses) for the utility. This task considers the prudent and proper funding for O&M and capital expenditures for each utility, and determines the need for any rate adjustments over the time period selected. A more detailed discussion of the various steps involved in developing the City's revenue requirements for each utility is provided below.

Step 1 – Selection of a Test Period – The first step in the development of the revenue requirements is the selection of a "test period". A "test period" refers to a time frame of reference for the accumulation of revenues, expenses and consumption data. In this case, it would seem to be appropriate to review costs over the six year period of 2009 – 2014 for water, storm, and solid waste. However, the test period for sewer will review the ten year period of 2009 - 2018. By reviewing costs over this extended time frame, the City can determine if any major rate impacts are on the horizon and potentially take steps today to help minimize future

impacts (e.g. rate adjustment transition, accumulation of capital reserves, etc.).

Step 2 – Method of Accumulating Costs – Once the "test period" has been determined, the next decision is to determine the basis or method of accumulating costs. There are two choices for accumulating costs for revenue requirement/financial planning purposes; the "cash" or "utility/accrual" basis. Two items should be noted, first the terms "cash" and "accrual" used in this context are not the same terms used in the accounting sense. These terms, as used for rate setting purposes, relate to the cost components to be included within the revenue requirements. The second important point is that in practice, the "cash" basis approach is most commonly used by municipal (public) utilities for determining and setting their revenue requirements since this closely follows their budgeting process. This is the methodology HDR would recommend to establish revenue requirements for the City.

Step 3 – Accumulation of Revenues and Expenses – Once the test period and method of accumulating costs has been determined, HDR in conjunction with City management and staff will develop the test period revenue requirements for each utility.

Revenue requirements are composed of two major types of costs; operational and capital expenses. The operational costs are generally projected from historical or budgeted costs, using assumed escalation factors, and adjusted for any known changes in operations (e.g., additional personnel, growth/expansion, etc.). The City's operational costs appear to be composed of O&M expenses and administration and billing costs. While the projection of the operational costs is typically fairly straightforward, the capital cost projections are generally the focus of the analysis, and require more thought and planning. As part of the process HDR will review the various excise taxes paid by the utilities to assure proper payment and the City is basing the tax on the appropriate revenues. In addition, a review of the City's most recent year historical expenses and current year budgeted expenses will be undertaken and a determination made as to the basis for the escalation of O&M expenses for the projected time period under review.

Within this study, the starting point for projecting capital costs (expenditures) will be the City's capital improvement plans for each utility, or any other relevant capital planning and capital budgeting documents. In the financial planning process, consideration must be given to maximizing the capital improvements (expenditures) for the system, while minimizing rates to its customers. This is accomplished in a variety of ways. However, the most important aspect of this discussion is that there are multiple methods of financing capital expenditures, and it is through this process that rates can be minimized. Figure 2-1 provides an overview of the general approach that is used to develop a capital expense plan for the revenue requirement analysis.

Figure 2-1
Overview of the General Methodology For Reviewing the Financing of Capital Project Expenses

+ **Total Capital Projects –**
  - ✓ Replacement and Refurbishment Capital Projects
  - ✓ Legally Mandated Capital Projects
  - ✓ System Growth and Expansion Capital Projects
– **Outside Funding Sources –**
  - ✓ Capital Reserves
  - ✓ Grants
  - ✓ Low-Interest Loans (State and/or Federal)
  - ✓ Connection Fees/SDCs/Contributed Capital
  - ✓ Short-Term Borrowing
  - ✓ Borrowed Funds/Long Term Debt (e.g. Revenue Bond)

= **Capital Projects Financed with Rate Revenues (≥ Deprec. Exp.)**

The basic framework shown above is developed on a year-by-year basis for each of the projected six years for each utility. In summary form, the general approach is to list for each utility, the capital projects in each year, and then determine the various outside funding sources for each of the projects. These outside funding sources may be low-interest loans, grants, customer capital contributions, connection fees/SDCs, etc. The balance of projects not funded by the available sources of funds must be financed from a combination of long-term debt and rates. It is the balancing of the use of long-term debt to the impact upon rates, which is critical to the analysis.

In balancing the use of debt to equity (rate) financing of capital projects, a number of financial planning aspects are taken into account. First, the utility's debt service coverage ratio is an important financial measure or indication of the utility's ability to repay debt. The strength of the debt service coverage ratio is a direct function of the amount of capital projects that are financed from rate revenues. At a minimum, we assume that a utility should fund an amount equal to or greater than the utility's annual depreciation expense for renewal and replacement capital projects. By following this simple financial rule, the utility is not only assured of a strong debt service coverage ratio, but at the same time, it assures that existing plant in service will be maintained at acceptable service levels with the need for minimal long-term debt financing. However, at the same time, by properly funding for this component of the capital projects, it should provide the utility with greater flexibility in its ability to borrow for capital projects.

At the conclusion of developing the draft revenue requirements, HDR always meets with our client's to review the draft results of the analysis. The objective of this meeting is to review the overall methodology, while discussing and reviewing the various inputs and assumptions to the model. In this way, City staff will clearly understand the approach and methodology used by HDR to develop the analyses, as well as the inputs or key assumptions that went into the draft revenue requirement analyses.

With the development of the revenue requirement model for each utility, the City will be able to analyze various scenarios (e.g., wastewater treatment alternatives, impacts of water conservation,

etc.). These models will provide information on the financial parameters and potential rate impacts of a particular course of action.

In summary, given a better understanding of the overall magnitude of the needed capital projects, a final financing plan can be developed which meets the City's goals and objectives for each utility, while attempting to minimize rates and costs over time.

Expected City Staff Support for Task 4: For this task, the City will be expected to:

- Provide "as needed" assistance to clarify the City's data and information as it relates to developing the revenue requirements.
- Provide "as needed" data refinements or additional data needs as determined during the process of developing the revenue requirements.
- Attend a one day project meeting to review the draft revenue requirements for each utility.

Deliverables as a Result of Task 4: From the work accomplished above, the deliverables will be as follows:

- A projected water, storm drain, and solid waste revenue requirement analysis for a projected six-year period that considers the necessary operating and capital needs of each utility.
- A projected sewer revenue requirement analysis for a projected ten-year period that considers the necessary operating and capital needs of the sewer utility.
- A capital financing plan within the revenue requirement analysis, utilizing the City's comprehensive plans or capital budget, which attempts to maximize capital expenditures, while minimizing the rate impacts to customers over time.
- If needed, a transition plan to "phase in" any needed rate adjustments.
- Recommendations regarding key financial indicators (debt service coverage, capital funding/replacement through rates, reserve levels, etc.).
- Facilitate a one day project meeting to review the draft revenue requirements for each utility.

The revenue requirement analysis and review meeting will be provided to the City within 12 weeks of the notice to proceed.

Task 5—Cost of Service Analysis

Task Objective: *Develop an average embedded cost of service study to equitably allocate the revenue requirements of the water, sewer, storm drain, and solid waste utilities to the customers served by the City.*

Given the results of the revenue requirements, the City's water, sewer, storm drain, and solid waste costs will be allocated to the various customer classes of service using an average embedded cost of service methodology. In simplified terms, a cost of service study attempts to equitably allocate the revenue requirements of each utility between the various customer classes of service (e.g., residential, multi-family, commercial, etc.). A brief discussion of the major steps associated with a water, sewer, storm drain, and solid waste cost of service analysis is provided below.

Step 1 – Selection of Test Period – The first step of a cost of service is to select a time period for the allocation of costs. This is similar to the revenue requirement time period selection process noted above. A cost of service analysis, however, typically reviews a one year

time period, or the period over which rates will ultimately be set. In the City's case, allocating the 2010 revenue requirements for each utility, for cost of service purposes, would appear to be appropriate.

STEP2 – FUNCTIONALIZATION AND CLASSIFICATION OF EXPENSES – The next step in the cost of service analysis is to *functionalize* the data. Functionalization refers to the arrangement of cost data into its basic cost categories (e.g., for the water utility, source of supply/production, treatment, transmission, distribution, etc.). This task is likely simplified through the City's use of a uniform system of accounts. Given functionalized costs, the costs are then *classified* to their various cost components. For the water utility, classification involves determining whether each specific cost or account item was incurred to meet a consumer's capacity, commodity, fire protection, or customer related need. In contrast, for a wastewater utility, classification involves determining whether each specific cost or account item was incurred to meet a consumer's volume, strength, or customer-related need. For the storm drain, classification is based on the costs related to total impervious area, collection, and customer related costs. For a solid waste utility, the costs are typically segregated between collection, disposal, and customer related costs. While the basic cost components noted above for each utility are the cornerstone to the analysis, they are by no means the only cost components to be utilized for each of the studies. A thorough review of the various types of costs that the City incurs for each utility will be undertaken and specific cost classifiers developed. Classification will be based upon generally accepted cost of service techniques.

It should also be noted that the classification of the storm drain expenses is different then the analysis for the water, sewer, and solid waste analyses. The cost allocation is based on the impervious area and customer number. As a result, the cost of service is more of a unit cost basis of developing the cost based rates.

STEP 3 – DETERMINATION OF CLASSES OF SERVICE – Development of the cost of service for each utility begins with determining the classes of service that will be used for purposes of establishing cost allocations and rates. The process of establishing classes of service is to group customers into homogeneous groups. That is, customers with similar usage and/or facility requirements.

HDR will first discuss this issue with the City to determine the City's overall objectives. Given that understanding, HDR will then review the data and information that is available for each utility on the various customer classes of service to determine final classes of service for cost allocation purposes. These will be based upon grouping customers with similar facility requirements and usage patterns for each customer group (e.g. residential, multi-family, commercial, etc.). The City's existing rate classes will be the starting point for this analysis. During the review of the existing classes of service any modifications or concerns will be discussed with City staff and any agreed upon changes will be included in the cost of service analysis.

STEP 4 – ALLOCATION OF EXPENSES – The next analytical process involved in each of the cost of service analyses is the allocation of the classified plant in service and expenses to each of the customer classes of service. Once the classes of service have been determined, the process of developing allocation factors is undertaken. In developing the allocation factors, HDR will develop factors that are "fair and equitable" to all customers, and rely upon City-specific data, when available.

Step 5 – Summary of the Cost of Service – Given the development of all the allocation factors, the final task allocates the expenses to each class of service. From this process, a summary page of the cost of service study for each utility is provided. The summary page for the cost of service study compares the difference between the current level of rate revenues received from each class of service, and the allocated cost of service for each class.

The cost of service will also provide average unit costs, or cost-based rates for each utility, which are important to the development of final rate designs. Average unit costs provide the City with an understanding of the cost/rate relationship between fixed and variable costs. In summary, the development of average unit costs will provide "cost of service" based water, wastewater and solid waste rates for all classes of service for the City.

At the conclusion of the development of the draft cost of service analysis HDR will meet with City staff to review the results of the analysis. Similar to the revenue requirement review, the meeting will allow for the "transfer of knowledge" between HDR and the City's project team. During the review of the draft cost of service analysis, HDR will explain the methodology and assumptions of the analysis the will determine the cost based rates for the City's water, sewer, storm drain, and solid waste utilities.

Expected City Staff Support for Task 5: For this task, the City will be expected to:

- Attend a one day project meeting to review the findings and results of the cost of service analyses for each utility.
- Provide any "as needed" data refinements or additional data needs as determined during the process of developing the cost of service analysis

Deliverables as a Result of Task 5: From the work accomplished above, the deliverables will be as follows:

- Review of the current customer classes of service for each of the utilities and determine any revisions for cost allocation purposes.
- A "fair and equitable" allocation of the revenue requirements to the various classes of service for the City's water, sewer, storm drain, and solid waste utilities.
- A summary of the average unit costs (cost-based rates) for the various customer classes of service for each of the utilities.
- Attend and facilitate a one day project meeting to review the results of the cost of service study for the City's utilities.

The Cost of Service analysis for each of the utilities and the project review meeting will be provided to the City within 14 weeks of the notice to proceed.

Task 6—Rate Design Analysis

Task Objective: *Utilize the cost information developed as a part of the previous tasks and develop water, sewer, storm drain, and solid waste rate design options for possible adoption by the City. Review any alternative rate designs that meet the City's rate design goals and objectives (e.g., conservation, revenue stability, etc.).*

A starting point for the rate design process is to gain an understanding of the rate design goals and objectives the City is striving for in this study. These objectives may include ease of administration, simplicity, revenue stability, efficient use (conservation), etc. Understanding the

City's rate design objectives will assist HDR in the development of any needed rate design alternatives.

In designing the rate options for each utility, the cost of service information and average unit cost information for each utility will be utilized as a starting point. As a part of this task, the City's present rate designs for each utility will be reviewed to ensure that they conform to contemporary rate-setting goals and objectives.

HDR will review the rate objectives of the City and provide up to three (3) rate alternatives for each utility that are designed to meet those objectives. For each rate design developed, a bill comparison and graph will be provided that shows a comparison between the present bill and the proposed bill at various levels of usage. Bill comparisons are useful in assessing the potential impacts to a wide variety of customers. Any rate alternatives will be reviewed with City staff and the final proposed rate will be presented to the City Council for adoption.

Expected City Staff Support for Task 6: For this task, the City will be expected to:

- Discuss the City's rate design goals and objectives with HDR.
- Review rate design alternatives for appropriateness.
- Attend a half day project meeting to review the alternative rate designs for each utility.

Deliverables as a Result of Task 6: From the work accomplished above, the deliverables will be as follows:

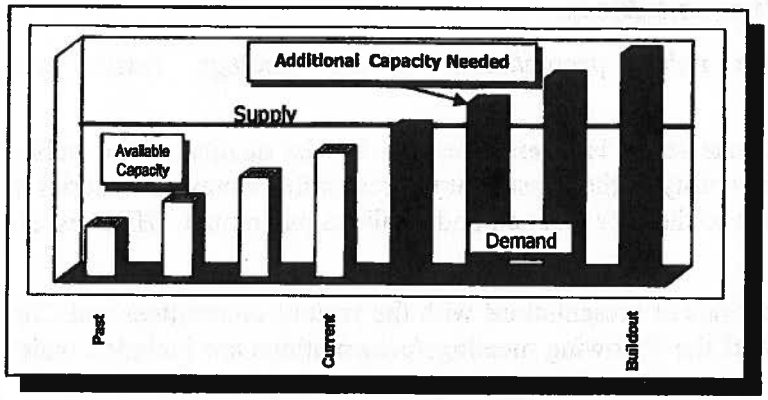
- Review of the City's current water, sewer, storm drain, and solid waste rates.
- Develop up to three (3) various rate design alternatives.
- Bill comparisons and graphs for the rate design alternatives developed.
- Attend and facilitate a half day project meeting to review the alternative rate designs for each utility.

The Rate Design alternatives and review meeting will be provided to the City within 18 weeks of the notice to proceed.

Task 7—Review and Development of System Development Fees and Connection fees (Water, Sewer, and Storm Drain Only)

Task Objective: *Develop a cost based water connection and system development fee, sewer system development fee, and review the need and possible development of the storm drain system development fee to charge to new development as they connect to the system based on the available or future capacity of the City's system.*

The methodology used to analyze the City's water system development fees differs from the methodology used to analyze rates. In contrast, the development of system development fees are designed to pay for the capacity costs associated with system growth. In establishing the system development fee for the City, HDR will determine the cost of an additional increment of capacity (e.g., an equivalent residential unit). As a part of the analysis, HDR and the City will separate the capital facility plan between growth and non-growth related projects for each of the three utilities. It is anticipated that the methodology and key issues will be resolved very early on in the study process to assure that the appropriate data is developed and incorporated into the system development fee methodology. As a part of the study process, HDR will review any



associated credits required to be given to new development to assure that customers do not "pay twice"; that is, once through rates and once through the system development fee. This will include review of any outstanding debt issues which are paid via rates.

HDR will provide a written report to summarize the findings, conclusions, and recommendations of the system development fee analysis. Given the nature and complexity of these fees, HDR will prepare a separate report discussing the establishment of the fees. Given the legal implications of establishing these fees, it is better filed as a report separate from the rate study report. Included within the Technical Appendices of our reports are the exhibits (analyses) supporting the study's findings and recommendations. HDR will provide one (1) electronic version of the draft report and five (5) copies of the final report.

In addition to the review and development of the system development fee for the water, sewer, and storm drain utilities, the City is requesting a review of the water connection fee. Whereas the system development fee is based on the available capacity to serve each new customer connecting to the system, the water connection fee is charged to new customer connecting to the system to reimburse the City for the time and materials to install and connect the customer. This connection fee is based on the actual cost incurred to provide this service. HDR will provide a review of the existing methodology used to set this fee and provide recommendations or modifications to the calculation of the fee and calculate the proposed fee.

Expected City Staff Support for Task 7: For this task, the City will be expected to:

- Assist as necessary in clarifying the data.
- Assist HDR in the splitting the capital projects between existing and future customers.
- Provide comments on the draft report.

Deliverables as a Result of Task 7: From the work accomplished above, the deliverables will be as follows:

- A cost based system development fee for the water and sewer utilities and possible fee for the storm drain utility.
- A cost based water connection fee.
- One electronic draft system development fee report.
- Five copies of the final system development fee report.

The System Development Charges and Connection Fee will be provided to the City within 16 weeks of the notice to proceed.

Task 8—Meetings/Public Presentations

Task Objective: *Provide effective public presentations of the findings, results and recommendations of the study.*

The overall quality and value of a rate study is often measured by the quality of the public presentation process. In addition, the ability of the consultant to present this technical material in a manner that is easily understandable to the City Council and public is paramount. HDR excels in this aspect of the study.

HDR will provide up to four (4) meetings or presentations with the various committees and City Council. In discussion with City staff the following meetings/presentations are included under the scope of work:

1. Finance Committee meeting to review the results of the revenue requirement and cost of service analyses for each of the utilities.
2. Finance Committee meeting to review the recommended rate design analyses.
3. Public Works Committee meeting to review the results and recommendations of the comprehensive rate studies.
4. City Council meeting to present the final recommendations and results of the comprehensive rate studies.

If additional meetings are necessary they can be provided at the current hourly billing rates.

Throughout this project, HDR will schedule, as appropriate, project meetings with the City staff to keep them abreast of the progress of the study and to assure that the assumptions and methodology used within the study are consistent with the City's thinking. Throughout this engagement, HDR will undertake to provide as much educational services to the City's staff members as possible. This "transfer of knowledge" should allow for subsequent analysis and updates of these studies with little or no outside technical assistance.

Expected City Staff Support for Task 8: For this task, the City will be expected to:

- Review and comment on any proposed handouts for the City Council meeting.
- Schedule the meetings with the various committees and Council.
- Provide a meeting room for the meetings/presentations.

Deliverables as a Result of Task 8: From the work accomplished above, the deliverables will be as follows:

- Two meetings with the Finance Committee to review the results and recommendations of the comprehensive rate studies.
- One meeting with the Public Works Committee to review the results and recommendations of the comprehensive rate studies.
- One public presentation to the City Council to present the results of the comprehensive water, sewer, storm drain, and solid waste rate studies.

The Meetings/Public presentations will be provided to the City at the conclusion of the technical analysis and will be provided within 24 weeks of the notice to proceed.

Task 9—Written Report of Findings and Recommendations

Task Objective: *Provide a written report to summarize the findings, conclusions, and recommendations of the water, sewer, storm drain, and solid waste rate studies.*

Upon completion of the rate analysis, HDR will develop a draft written report of the rate study which is intended to be comprehensive in nature and document our findings, conclusions and recommendations. Within all of our reports, HDR provides technical appendices of all the technical analyses undertaken. HDR will provide an electronic copy of the draft final report to the City for review and comment. Any comments, suggestions or corrections from the City concerning the draft final report will be incorporated into the final report. Ten (10) copies and a PDF version of the final report will be provided to the City.

Expected City Staff Support for Task 9: For this task, the City will be expected to:

- Review and comment on the draft final written report

Deliverables as a Result of Task 9: From the work accomplished above, the deliverables will be as follows:

- An electronic copy of the draft final report.
- Ten copies of the final written report.

The Written Reports will be provided to the City at the conclusion of the presentation to the City Council and will be provided within 24 weeks of the notice to proceed.

Task 10—Computer Models

Task Objective: *Provide a copy of all models developed as a part of this study, complete with user documentation and one-day of training.*

The financial/rate model developed for the City will be provided at the end of the study. The model will be developed using Excel. As the model is developed, HDR will work closely with City staff to attempt to provide a model that is easy to use and understand.

Expected City Staff Support for Task 10: For this subtask, the City will be expected to:

- None.

Deliverables as a Result of Task 10: From the work accomplished above, the deliverables will be as follows:

- A copy of the computer spreadsheet model used to develop the City's study.

The Computer Models will be provided to the City at the conclusion projectand will be provided within 24 weeks of the notice to proceed.

Estimated Project Time Schedule

A rate study of this complexity generally requires 16 to 24 weeks to complete, depending upon a number of factors. These factors include the amount of time required by the City to collect the necessary data, the ability to schedule meetings with City staff in a timely manner and, most importantly, receive policy direction from the City's management for the study. Given our discussion with City staff at this time, the following project time schedule has been developed.

Figure B-1
Proposed Time Schedule

Task	Task Description	April	May	June	July	Aug.	Sept.
Water, Sewer, Storm Drain, & Solid Waste Studies							
1	Initial Kick-Off						
2	Data Collection						
3	Financial Policy Review/Development						
4	Revenue Requirement Analysis						
5	Cost of Service Analysis						
6	Rate Design Analysis						
7	System Development Fee Analysis						
8	Meetings/Public Presentation						
9	Written Report						
10	Computer Model						

■ = Staff Meeting ■ =Committee Meeting ■ = City Council Meeting

The development of the above schedule is based upon our understanding of the City's needs. At the same time, this schedule provides ample opportunity for the HDR and the City to have the necessary review time and policy discussions to develop an appropriate and effective plan.

EXHIBIT C
PAYMENT (NEGOTIATED HOURLY RATE PLUS COSTS)

The CONSULTANT shall be paid by the CITY for completed work and services rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work. If a federal highway project, the CONSULTANT shall conform with all applicable portions of 48 CFR 31.

1. **Hourly Rates**

   The CONSULTANT shall be paid by the CITY for work done, based upon the negotiated hourly rates shown in Exhibits "D-1" and "D-2" attached hereto and by this reference made part of this AGREEMENT. The rates listed shall be applicable for the first twelve (12) month period and shall be subject to negotiation for the following twelve (12) month period upon request of the CONSULTANT or the CITY. If negotiations are not conducted for the second or subsequent twelve (12) month periods within ninety (90) days after completion of the previous period, the rates listed in this AGREEMENT or subsequent written authorization(s) from the CITY shall be utilized for the life of the AGREEMENT. The rates are inclusive of direct salaries, payroll additives, overhead and fees.

   In the event renegotiation of the hourly rates is conducted, the CITY reserves the right to audit for any change in the overhead rate currently in use by the CONSULTANT and modify the hourly rates to be paid to the CONSULTANT subsequent to the renegotiation accordingly. Any changes in CONSULTANT's fixed hourly rates may include salary or overhead adjustments.

2. **Direct Non-salary Costs**

   Direct non-salary costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges, and fees of subconsultants. Air or train travel will only be reimbursed to economy class levels unless otherwise approved by the CITY. Automobile mileage for travel will be reimbursed as the current rate approved for CITY employees and shall be supported by the date and time of each trip with origin and designation of such trips. Subsistence and lodging expenses will be reimbursed at the same rate as for CITY employees. The billing for non-salary cost, directly identifiable with the PROJECT, shall be an itemized listing of the charges supported by the original bills, invoices, expense accounts, and miscellaneous supporting data retained by the CONSULTANT. Copies of the original supporting documents shall be supplied to the CITY upon request. All above charges must be necessary for the services provided under this AGREEMENT.

3. **Management Reserve Fund**

The CITY may desire to establish a Management Reserve Fund to provide the Agreement Administrator the flexibility of authorizing additional funds to the AGREEMENT for allowable unforeseen costs, or reimbursing the CONSULTANT for additional work beyond that already defined in this AGREEMENT. Such authorization(s) shall be in writing and shall not exceed the lesser of Fifty Thousand Dollars ($50,000.00) or ten percent (10%) of the Total Amount Authorized as shown in the heading of this AGREEMENT. The amount included for the Management Reserve Fund is shown in the heading of this AGREEMENT. This fund may be replenished in a subsequent supplement agreement. Any changes requiring additional costs in excess of the "Management Reserve Fund" shall be made in accordance with Section 11, "Extra Work".

4. **Maximum Amount Payable**

The maximum amount payable for completion of work under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT. The maximum amount payable includes the Management Reserve Fund, but does not include payment for extra work as stipulated in Section 11, "Extra Work" of the General Requirements. No minimum amount payable is guaranteed under this AGREEMENT.

5. **Monthly Progress Payments**

Progress payments may be claimed on a monthly basis for all costs authorized in (1) and (2) above. The monthly invoices shall be supported by detailed statements for hours expended at the rates established in Exhibits "D-1" and "D-2", including names and classifications of all employees, and invoices for all direct non-salary expenses. To provide a means of verifying the invoiced salary costs for the CONSULTANT's employees, the CITY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the project at the time of the interview.

6. **Inspection of Cost Records**

The CONSULTANT and his/her subconsultants shall keep available for inspection by representatives of the CITY, State, and the United States, for a period of three (3) years after final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim, or audit is started before the three (3) year period, the records shall be retained until all litigation, claims, or audit filings involving the records have been resolved. The three (3) year retention period begins when the CONSULTANT receives final payment.

7. **Final Payment**

Final payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the CITY after the completion of the work under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such final payment by the CONSULTANT shall constitute a release of all claims for payment which the CONSULTANT may have against the CITY unless such claims are specifically reserved in writing and transmitted to the CITY by the CONSULTANT prior to its acceptance. Said final payment shall not, however, be a bar to any claims that the CITY may have against the CONSULTANT or to any remedies the CITY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit, all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the CITY within ninety (90) days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT of any claims relating to the validity of a finding by the CITY of overpayment.

Attachment D-1
Project Cost Estimates

Introduction

In developing our fee estimates, HDR utilized current hourly billing rates, and estimated the hours, by task and by individual. This discussion is provided below.

Estimated Project Fees

Given the hourly billing rates and estimated labor hours by task, the total estimated fees for the City's comprehensive rate studies could be developed. To assist the City in reviewing our proposal, the total fees have been developed by individual task. Provided below in Table C-1 is a summary of the estimated fees for the City's water, sewer, storm drain, and solid waste rate studies.

Table D-1
Summary of the Estimated Fees for the
City's Water, Sewer, Storm Drain, and Solid Waste Rate Studies

	Total
Labor:	
Task 1 – Initial Project Meeting	$2,770
Task 2 – Data Collection	1,875
Task 3 – Financial Policies	3,610
Task 4 – Revenue Requirement Analysis	26,190
Task 5 – Cost of Service Analysis	33,610
Task 6 – Rate Design Analysis	16,540
Task 7 – System Development Charge Analysis	25,040
Task 8 – Meetings/Public Presentations (4)	9,315
Task 9 – Written Report	9,420
Task 10 – Computer Models	0
Grand Total Labor	$128,370
Expenses:	
Total Expenses	$6,625
Grand Total "Not to Exceed" Fees	**$134,995**

The above fee estimate is based upon the work plan/scope of services previously presented as Attachment A. Should the City request any additional services under this contract, the services will be provided at the hourly billing rates stated above. In addition to the above summary of the estimated fees by utility, attached are the detailed cost sheets for the combined and separate utilities.

EXHIBIT D-1
CONSULTANT FEE DETERMINATION - SUMMARY SHEET

Project:_____

Direct Salary Cost (DSC):

Classification	Man Hours	x	Rate	=	Cost
_____	_____		_____		$_____
_____	_____		_____		$_____
_____	_____		_____		$_____
_____	_____		_____		$_____
_____	_____		_____		$_____
_____	_____		_____		$_____
_____	_____		_____		$_____
_____	_____		_____		$_____
_____	_____		_____		$_____
_____	_____		_____		$_____
_____	_____		_____		$_____
_____	_____		_____		$_____
			Total DSC =		$_____

Overhead (OH Cost -- including Salary Additives):
OH Rate x DSC of _____ % x $_____ $_____

Fixed Fee (FF):
FF Rate x DSC of _____ % x $_____ $_____

Reimbursables:
Itemized $_____

Subconsultant Costs (See Exhibit "G"): $_____

Grand Total $_____

Prepared by_____ Date_____

Attachment D-2
Billing Rates

Introduction

The current hourly billing rates for HDR staff involved in the City's project are provided below. These hourly billing rates will remain effective until December 31, 2009.

Hourly Billing Rates

The following hourly billing rates were used to establish the proposed fees for this study.

Individual	Project Role	Hourly Rate
Shawn Koorn	Project Manager	$175.00
Tom Gould	Project Principal	$245.00
Randy Goff	SDC QA/QC	$215.00
Cil Pierce	Task Manager – SDCs	$160.00
Judy Dean	Senior Financial Analyst	$145.00
Kevin Lorentzen	Financial Analyst	$125.00
Kristina Larkey	Financial Analyst	$90.00
Others	Project Clerical Support	$90.00

EXHIBIT D-2
CONSULTANT FEE DETERMINATION - SUMMARY SHEET
(Specific Rates of Pay)

Fee Schedule

Discipline or Job Title	Hourly Rate	Overhead @____%	Profit @____%	Rate Per Hour

EXHIBIT F
PAYMENT UPON TERMINATION OF AGREEMENT BY CITY OTHER THAN FOR FAULT OF THE CONSULTANT
(Refer to General Requirements, Section 3)

Specific Rates of Pay Contracts
A final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT plus any direct non-salary costs incurred at the time of termination of this AGREEMENT.

EXHIBIT G-1
SUBCONSULTANT FEE DETERMINATION -- SUMMARY SHEET

Project: _____

Direct Salary Cost (DSC):

Classification	Man Hours	x	Rate	=	Cost
_____	_____		_____		$_____
_____	_____		_____		$_____
_____	_____		_____		$_____
_____	_____		_____		$_____
_____	_____		_____		$_____
_____	_____		_____		$_____
_____	_____		_____		$_____
_____	_____		_____		$_____
_____	_____		_____		$_____
_____	_____		_____		$_____
_____	_____		_____		$_____
_____	_____		_____		$_____
			Total DSC =		$_____

Overhead (OH Cost -- including Salary Additives):
OH Rate x DSC of _____ % x $_____ $_____

Fixed Fee (FF):
FF Rate x DSC of _____ % x $_____ $_____

Reimbursables:
Itemized $_____

Grand Total $_____

Prepared by_____ Date_____

EXHIBIT G-2
BREAKDOWN OF SUBCONSULTANT'S OVERHEAD COST

(Sample only -- Actual line item and cost categories and percentages for your firm should be submitted.)

Fringe Benefits

FICA ....._____
Unemployment....._____
Medical Aid and Industrial Insurance....._____
Company Insurance and Medical....._____
Vacation, Holiday, and Sick Leave....._____
Commission, Bonuses/Pension Plan....._____

Total Fringe Benefits ....._____

General Overhead

State B&O Taxes ....._____
Insurance....._____
Administration and Time Not Assignable ....._____
Printing, Stationary, and Supplies....._____
Professional Services ....._____
Travel Not Assignable ....._____
Telephone and Telegraph Not Assignable....._____
Fees, Dues, Professional Meetings ....._____
Utilities and Maintenance ....._____
Professional Development....._____
Rent....._____
Equipment Support ....._____
Office Miscellaneous, Postage....._____

Total Generated Overhead....._____

TOTAL....._____