

ORDINANCE NO. 1640

AN ORDINANCE OF THE CITY OF OAK HARBOR AMENDING CHAPTER 19.36 OF THE OAK HARBOR MUNICIPAL CODE ENTITLED "TEMPORARY AND SPECIAL SIGNS".

WHEREAS, the City's Comprehensive Plan, Land Use Element, Policy 1(d) says: "Business-related signs, both temporary and permanent, should serve the needs of the business owner and public to identify business locations but should not proliferate in a manner whereby the sum of all signs detracts from a positive aesthetic experience of the City's commercial areas," and;

WHEREAS, the City's Comprehensive Plan, Land Use Element, Policy 1(e) says "Signage standards should promote design sensitivity to the context in which signs are placed and scaled to both the mass of the building and the location of the sign on the lot" and;

WHEREAS, the City of Oak Harbor conducted a public hearing before the Planning Commission on March 27, April 24, and May 22, 2012. The public hearing was closed on May 22, 2012. Public meetings were held before the Planning Commission on October 25 and November 22, 2011 and February 28, 2012.

WHEREAS, the Oak Harbor Planning Commission recommended approval of the subject ordinance to the City Council and;

WHEREAS, the City of Oak Harbor issued Notice of Application on September 15, 2012 and a Determination of Non-Significance (DNS) on October 6, 2012 for a SEPA Environmental Checklist in accordance with Chapter 43.21 RCW and;

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

Section One. Section 19.36.020 of the Oak Harbor Municipal Code last adopted by Ordinance 1553 section 2 in 2009 is hereby amended to read as follows:

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) "Animation" means the use of movement or some element thereof, to depict action or create a special effect or scene.
- (3) "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.

- (4) "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.
- (5) "Banner" means a flexible material (i.e., cloth, paper, vinyl, etc.) on which a sign is painted or printed.
- (6) "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.
- (7) "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."
- (8) "Building-mounted sign" means a single- or multiple-faced sign attached to the face of a building or marquee.
- (9) "Campaign sign" means a sign which exclusively and solely advertises a candidate or candidate's public elective office, a political party, or promotes a position on a ballot issue.
- ~~(9)~~(10) "Canopy" means a freestanding structure affording protection from the elements to persons or property thereunder.
- ~~(11)~~(10) "Canopy sign" means any sign erected upon, against or directly above a canopy.
- (12) "Commercial sign" means a sign containing expression related to the economic interests of the advertiser and its audience or a sign proposing a commercial transaction.
- ~~(13)~~(14) "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.
- ~~(14)~~(12) "Electronic message center" means a sign capable of displaying words or symbols that can be electronically or mechanically changed by remote or automatic means. An electronic message center is considered a primary sign and may be either freestanding or building-mounted.
- ~~(15)~~(13) "Flashing" means pattern of changing light illumination where the sign illumination alternates suddenly between fully illuminated and fully non-illuminated for the purpose of drawing attention to the sign. Flashing is not permitted in any zoning district.
- ~~(16)~~(14) "Frame effect" means a visual effect on an electronic message center applied to a single frame to transition from one message to the next. Such usage must comply with the 2-1-2 provision.
- ~~(17)~~(15) "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.

- | (186) "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.).
- | (197) "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.
- | (1820) "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.
- | (2149) "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.
- | (220) "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.)
- | (234) "Marquee" means a covering structure projecting horizontally from and attached to a building, affording protection from the elements to persons or property thereunder.
- | (242) "Monument sign" means a primary freestanding sign, generally mounted on a solid base. Monument signs shall not contain or include reader boards.
- | (253) "Multiple-occupancy building" means a single structure housing more than one type of retail business office or commercial venture.
- | (264) "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.
- | (275) "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.
- | (286) "Occupant" means the person, firm or corporation that occupies the land or building.
- | (297) "Office building" means an office building in the commercial and residential-office land use districts as defined by the Oak Harbor zoning ordinance.
- | (2830) "Parapet" means that portion of a building wall which extends above the roof of the building.
- | (3129) "Penthouse" means a structure on top of a building roof such as houses an elevator shaft or similar form.
- | (3230) "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.

- ~~(3133)~~ "Political free speech sign" means a sign which promotes a position on a public, or social issue, 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.
- (342) "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 of incidental signs (see OHMC 19.36.030 and subsection (20) of this section) or temporary or special signs (see 19.36.080). The term "primary sign" is intended to include virtually all signs of a commercial nature.
- (353) "Property line" means the line denoting the limits of legal ownership of property.
- (3436) "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.
- (3537) "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.
- (38) "Right-of-way" means either a publicly owned fee, an easement or privilege to traverse over land. A right-of-way is for public travel. Rights-of-way may be opened or unopened, and when open usually contain street improvements.
- (396) "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.
- (3740) "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.
- (3841) "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.
- (3942) Special Signs. See "Temporary and Special Signs."
- (4043) "Special projection sign" means a sign no larger than six square feet projecting out from the side of a building.

- (~~4144~~) "Street" means any automobile thoroughfare so designated by city ordinance. "Street" includes portions thereof used for parking.
- (~~4245~~) "Subdivision signs" means signs used to identify a land development which is to be or was accomplished at essentially one time.
- (~~4346~~) Surface Area. See "Area or surface area of sign."
- (~~4447~~) "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.
- (~~4548~~) Temporary and Special Signs. Temporary and special signs are those, which are not defined as "primary signs" or "incidental signs" by this chapter. Different types of temporary and special signs included ~~in this category,~~ but are not limited to construction signs, grand opening displays, real estate signs, open house signs, residential land subdivision signs, ~~and~~ subdivision directional signs, A-frame signs, political signs, and campaign signs. (see OHMC 19.36.080).
- (~~49~~) Transitory signs. Transitory signs, also known as "human signs" are those carried by or worn by a human being usually for the purposes of a protest, demonstration, rally, or other similar event.
- (~~4650~~) "Video" means the use of live action footage shot with a video camera or similar device which is sized to fit and be displayed by an electronic message center or similar device. The use of video is not permitted in any zoning district.
- (~~4751~~) "Video board" means an electronically activated sign that creates the effect of motion or animation, except as allowed by this chapter for changing electronic message signs which are in compliance with the 2-1-2 provision, and the prohibition of RGB technology. Video board signs are not permitted in any zoning district.
- (~~4852~~) "Way open to public" means any paved or unpaved area on private property open to the general public for driving or parking.
- (~~4953~~) "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.)

Section Two. Section 19.36.060 of the Oak Harbor Municipal Code last adopted by Ordinance 1553 section 5 in 2009 is hereby readopted and to read as follows:

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 building-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(25) 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) For locations adjacent to a residential use or district, electronic displays shall be turned off between the hours of 10:00 p.m. and 6:00 a.m.

Section Three. Section 19.36.070 of the Oak Harbor Municipal Code last adopted by Ordinance 1553 section 5 in 2009 is hereby readopted and to read as follows:

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 the provisions of this title 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) of this section);
 - (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.

Section Four. Section 19.36.080 of the Oak Harbor Municipal Code last adopted by Ordinance 1553 section 5 in 2009 is hereby amended to read as follows:

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, but is not limited to, the temporary signs specified in this section on both private and public property. No permits are required for temporary and special signs. 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) Temporary signs on private property. Temporary signs on private property shall adhere to the following guidelines. Compliance with these guidelines is achieved by meeting the regulations contained in this section. Temporary signs shall not:

- (a) Obstruct designated vehicle or pedestrian traffic circulation areas. Vehicle or pedestrian traffic circulation areas include, but are not limited to drive aisles, private streets, parking areas, walkways, and paths;
- (b) Represent safety problems by creating traffic distractions;
- (c) Be in a state of disrepair including being tattered, torn, or broken;
- (d) Contain obscene language, symbols or images;
- (e) Clutter the visual landscape by not meeting the quantity and quality standards specified in this section; and,
- (f) All artistic embellishments and lettering shall have the appearance of professionalism. For the purposes of this section, professionalism means signs created by a graphic artist, sign design professional, or other design professional.

(2) Regulations for temporary signs on private property. The following signs and regulations are presumed to meet the principles outlined in subsection (a) above.

(a)(1) Construction Signs.

(i)(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.

(ii)(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.

(iii)(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.

(b)(2) General Promotions.

(i)(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.

~~(ii)(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 banners, 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.

~~(iii)(e)~~ 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 during the Holiday Season. The Holiday Season is defined as October thru December of each year, of Christmas, when flashing Christmas-type lights will be allowed.~~

~~(iv)(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.

~~(c)(3)~~ Light Pole Banners.

~~(i)(a)~~ Businesses may have light pole banners on 100 percent of the total number of poles located in privately owned parking lots.

~~(ii)(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.

~~(iii)(e)~~ 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.

~~(iv)(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.

~~(v)(e)~~ No other signage of any type shall be permitted on light poles where light pole banners are displayed.

~~(d)(4)~~ Grand Openings and Anniversaries.

~~(i)(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.

~~(ii)(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.

~~(iii)(e)~~ These promotions will be no more than 30 days in length.

~~(e)(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.

~~(f)(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:

~~(i)(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.

~~(ii)(b)~~ Residential Directions “Open House” Signs. Signs advertising an open house ~~and the directions to a residence for sale~~ shall be limited to one single- or double-faced on-premises ~~for sale sign~~.

~~(iii)(e)~~ Residential Condominiums, Condominium Conversions, Apartments, Mobile Home Parks and New Subdivisions.

~~(A)(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:

~~1.(A)~~ Certification of vacant units; and

~~2.(B)~~ Statement of reason for lack of occupancy.

~~(B)(ii)~~ Allowable Number and Sizes of Signs.

~~1.(A)~~ One banner of not more than 30 feet in length and four feet in height advertising the project for sale or rent;

~~2.(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;

~~3.(C)~~ “A-frame” and other signs used internally within the project as needed for the purpose of directing traffic to model units or open house functions;

~~4.(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.

~~(iv)(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.

~~(v)(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.

~~(vi)(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)(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 of 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.~~

~~(vii)(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.

~~(viii)(h)~~ 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.

(g) 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 portable A-frame commercial signs. 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.

(h) Portable A-Frame Commercial Signs. For the purpose of this code, portable A-frame commercial signs also include sandwich board signs.

(i) Location. The portable A-frame commercial sign shall be placed solely on the property of the business for which the sign advertises. No two portable A-frames shall be closer than 10 feet from one another.

(ii) Size. Each business is permitted to have one portable A-frame commercial sign no larger than 36 inches by 48 inches.

(iii) Time limit. Portable A-frame commercial signs shall be placed during normal business hours and removed at the close of business each day.

(iv) Lighting. No direct or indirect lighting of any kind shall be permitted.

(v) Construction. A-frame commercial signs shall be constructed to be sturdy and withstand all types of weather conditions.

(vi) Lettering. No more than two-thirds of the total A-frame sign area may be reader board or changeable copy.

~~(x) No temporary vehicular mounted sign shall be placed in such a manner as to subvert the intentions of this chapter.~~

(i) Political Headquarters Signs.

~~(a)~~ (i) Party Headquarters. On-premises ~~campaign~~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)~~ (ii) Headquarters for Candidate or Ballot Issue. On-premises ~~political~~campaign 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~~fourteen (14) days after the general election.

~~(8)~~ (j) Political Free Speech and Campaign Signs on Private Property Not a Headquarters.

~~(a)~~(i) Political free speech signs and campaign signs ~~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. ~~Campaigns~~Such signs, posters or bills shall be permitted ~~only for a period of 60 days preceding the election and for~~ through a period of ~~seven~~ fourteen (14) days following such election; provided, that campaign signs, posters or bills promoting successful candidates in a primary election may remain displayed on private property until ~~seven~~fourteen (14) days following the immediately subsequent general election.

~~(b)~~(ii) Sign Dimension and Location. Political free speech signs and campaign 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 free speech signs and campaign 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)~~(iii) Removal of Campaign Signs Following Election. Any such campaign sign, poster or bill shall be removed within ~~seven~~fourteen (14) days following ~~an~~ the general election. It shall be the responsibility of the above campaign officer or responsible official to have the signs, posters or bills removed.

(iv) Political free speech signs and campaign signs on private property are not subject to the “appearance of professionalism” principle.

~~(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 include 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.~~

(3) Temporary signs on public property shall adhere to the following principles. Temporary signs on public property shall not:

(a) Detract from the primary purpose of the public property or facility;

(b) Obstruct designated vehicle, bicycle, or pedestrian traffic circulation areas; Vehicle or pedestrian traffic circulation areas include, but are not limited to drive aisles, private streets, parking areas, walkways, and paths;

(c) Represent safety problems by creating traffic distractions or visual obstructions;

(d) Be in a state of disrepair including being tattered, torn, ripped, defaced, or broken;

(e) Contain obscene language, symbols or images;

(f) Be in place for more time than is specifically authorized herein;

(g) All artistic embellishments and lettering shall have the appearance of professionalism. For the purposes of this section, professionalism means signs created by a graphic artist, sign design professional, or other design professional.

(4) Regulations for temporary signs on public property. Temporary signs on public property are subject to the following restrictions. These restrictions are presumed to meet the principles outlined in subsection (3) above.

(a) Public rights-of-way. Public rights-of-way are considered to be traditional public forums by the City, places which have been historically devoted to assembly,

debate, and free speech activities. However, for reasons of public safety, temporary signs are subject to the time, manner, and place restrictions below.

(i) General standards. The following standards apply to all temporary signs located within public rights-of-way.

(A) Location. For safety reasons, temporary signs may not be placed in visibility triangles which is the area along street frontages within 30 feet of an alley or an unsignallized intersection, or within 25 feet of a driveway. Temporary signs placed within the public-right-of-way may only be located within the landscape strip (“planter strip”) or on the public sidewalk. However, a four foot unobstructed width for pedestrians and wheelchair access on sidewalks must be maintained. No signs may be placed within vehicle or bicycle travel lanes, medians, traffic circles, parking lanes, on utility poles or, traffic sign poles, or the decorative planter pots on Pioneer Way. Signs located within the State Highway 20 right-of-way are subject to State standards.

(B) Safety. If a temporary sign is deemed to be a traffic safety hazard, then City personnel may move signs or request that the entity who placed the sign move them.

(C) Size. Temporary signs located within the public right-of-way may not be more than six square feet in size. Double-faced signs of six square feet on each side are permitted.

(D) Height. So as not to obstruct visibility for vehicular, pedestrian, and bicycle traffic, temporary signs may not be more than 3.5 feet in height when located within the public right-of-way.

(E) Public works projects. City personnel may remove temporary signs from public rights-of-way in order to conduct periodic maintenance activities. Staff will make an effort to replace the sign in its previous location. Signs may be returned to their prior location if still within the durational limit. City personnel may permanently remove temporary signs from public rights-of-way for the purposes of carrying out major public works projects. If temporary signs must be removed for maintenance reasons, City staff will make an effort to contact the sign owner or they will be available at the City Public Works Building for pickup for a 10-day period. If not claimed within 10 days, the sign will be disposed of.

(F) Removal of signs in disrepair. City personnel may remove any sign which is in a state of disrepair from the public right-of-way or public property at any time. For purposes of this subsection, a sign is in a state of disrepair if it is ripped, torn, broken, faded, obliterated, obscured, dilapidated, blown down, knocked over or in any other state which its message has ceased to be readable or legible.

(ii) Political free speech signs and campaign signs– specific standards. In addition to the general standards, the following standards apply to political

free speech signs and campaign signs placed within the public right-of-way.

- (A) Time limits. Campaign signs on public property may be placed at any time prior to an election. Except for properties fronting interstate primary or scenic highways of the state where the provisions of WAC 468-66-050 shall prevail, the deadline for removal shall be remove fourteen (14) days after the date of the election to which the sign pertains. Failure to remove campaign signs within the time limit provided shall constitute a violation of this code and shall be punishable as such. In the event that city personnel are required to remove signs from public rights-of-way after expiration of the post-election time limit, all costs associated with such removal shall be the responsibility of the candidate or campaign organization for who the sign was posted and shall be collected in addition to any other penalty applicable for failure to remove the sign.
- (B) The display of any political free speech sign or campaign sign in violation of this section or the general standards above, shall be presumed to have been done at the direction and request of the campaign officer or responsible official.
- (C) Political free speech signs and campaign signs within the public right-of-way are not subject to the “appearance of professionalism” principle.
- (D) Transitory signs. Transitory political free speech and campaign signs, such as those used for protest, picketing, demonstrations, etc. are allowed within public rights-of-way on sidewalks and on planter strips provided they do not create a public safety issue by blocking visibility and access for pedestrians, automobiles, and bicyclists using the street. Transitory signs are not subject to the “appearance of professionalism” principle.
- (iii) Commercial signs – Specific standards. In addition to the general standards, the following standards apply to commercial signs placed within the public right-of-way. The only types of commercial signs which are allowed within the public right-of-way are those signs listed here subject to the following restrictions:
- (A) Portable A-frame commercial signs. Location. A-frame commercial signs may be placed within the CBD zone in downtown. There shall be at least forty-four inches (44”) unobstructed width on the sidewalk to allow for passage of pedestrians and disabled persons when the sign is in place. Signs shall be placed within three feet (3’) of the building face. No two portable A-frames shall be closer than 10 feet from one another. Size. Each business is permitted to have one portable A-frame sign no larger than 36 inches by 48 inches. Time limit. Portable A-frame signs shall be placed during normal business hours and removed at the close of business each day.

Lighting. No direct or indirect lighting of any kind shall be permitted.

Construction. A-frame signs shall be constructed to be sturdy and withstand all types of weather conditions.

Lettering. No more than two-thirds of the total A-frame sign area may be reader board or changeable copy.

(B) Flag pole banners (a.k.a “flag banners”). Flag pole banners are allowed within the CBD zone in downtown and shall be placed within the preexisting flag pole holders along Pioneer Way. The flag pole banners may be placed during business hours, but must be removed at the close of business each day. Flag poles shall be a rigid material so that the flag pole banners do not obstruct vehicle parking and pedestrian circulation areas. Additionally, on holidays such as Martin Luther King Junior Day, President’s Day, St. Patrick’s Day, Memorial Day, Fourth of July, Labor Day, and Veterans’ Day, the flag pole holders shall not be used by businesses and shall be reserved for public purposes.

(C) Residential directions “open house” signs. In addition to the general standards, the following standards apply to residential directions “open house” signs placed within the public right-of-way.

1. Number. Four single or double faced signs per residence which is for sale or rent are allowed within the public right-of-way. However, if a realtor has more than one house open for sale or rent in a single development or subdivision, off-premises signs are limited to five for the entire development or subdivision. All signs must be located within one mile of the property for sale.

2. Time limit. 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. Open house or for sale signs must be removed the same day as the open house event ends.

3. Size. Open house signs located within the public right-of-way may not be more than six square feet in size. Double-faced signs of six square feet on each side are permitted.

(D) 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 of 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.
- (E) Community Events and Fundraisers. Celebrations such as Holland Happening, the Fourth of July, and other events scheduled for the benefit of the general community, not including sales for individual businesses, may install temporary directional signs, provided such signs are put in place no sooner than 30 days prior to the event and removed within seven days following the event.
- (F) Transitory commercial signage, also known as “sign wavers”, advertising specific goods or services.
- (b) City Parks. Public parks are considered to be a traditional public forums, which have historically been devoted to assembly, debate, and free speech activities. The following restrictions are meant to offer adequate means of expression while protecting the primary public purpose of the park as a recreational facility.
- (i) Transitory signs. Transitory signs, such as those used for protest, picketing, demonstrations, etc. are allowed within public parks. Transitory signs are not subject to the “appearance of professionalism” principle.
- (ii) Sign installation prohibited. Temporary signs may not be affixed to park equipment, land or facilities in any way. This prohibition includes the pounding of temporary signs into the ground.
- (iii) Exceptions. Certain exceptions for installation of temporary signs in parks applies as follows:
- (A) Temporary, directional, event, or notification signs installed for City authorized activities such as youth sports leagues. Such signs must be removed when the recruitment period ends.
- (B) Windjammer Park and Volunteer Park baseball fields. Signs of agencies, businesses, or organizations which sponsor youth sports activities may be placed on the outfield fences on the youth baseball fields in these two parks.
- (C) Gateway-Beeksma Park. Sign banners from governmental agencies, non-profits, or community messages of an informational nature may be placed in this park.
- (c) City Vehicles. City vehicles are considered to be non-public forums by the City meaning that they are not meant to be a location for public communication and are intended solely for their designated purpose. Temporary signage is prohibited on City vehicles, with the exception of government sponsored messages and communication which do not undermine the primary purpose of the vehicle.
- (d) City buildings. City buildings are considered to be non-public forums. Temporary signage is prohibited on City buildings with the exception of government sponsored messages and communication which do not undermine the primary purpose of the building.

Section Five. Section 19.36.090 of the Oak Harbor Municipal Code last adopted by Ordinance 1553 in 2009 is hereby readopted to read as follows:

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

Section Six. Section 19.36.100 of the Oak Harbor Municipal Code last adopted by Ordinance 1553 in 2009 is hereby readopted to read as follows:

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 institution 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.

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

Section Seven. Effective Date. This Ordinance shall be in full force (5) five days following publication.

PASSED by the City Council this ___ day of _____, 2012.

() APPROVED by its Mayor this _____ day of _____, 2012.

() Vetoed

THE CITY OF OAK HARBOR

Mayor

Attest:

Interim City Clerk

Approved as to Form:

Interim City Attorney

Published:

DRAFT

ORDINANCE NO. 1640

AN ORDINANCE OF THE CITY OF OAK HARBOR AMENDING CHAPTER 19.36 OF THE OAK HARBOR MUNICIPAL CODE ENTITLED "TEMPORARY AND SPECIAL SIGNS".

WHEREAS, the City's Comprehensive Plan, Land Use Element, Policy 1(d) says: "Business-related signs, both temporary and permanent, should serve the needs of the business owner and public to identify business locations but should not proliferate in a manner whereby the sum of all signs detracts from a positive aesthetic experience of the City's commercial areas," and;

WHEREAS, the City's Comprehensive Plan, Land Use Element, Policy 1(e) says "Signage standards should promote design sensitivity to the context in which signs are placed and scaled to both the mass of the building and the location of the sign on the lot" and;

WHEREAS, the City of Oak Harbor conducted a public hearing before the Planning Commission on March 27, April 24, and May 22, 2012. The public hearing was closed on May 22, 2012. Public meetings were held before the Planning Commission on October 25 and November 22, 2011 and February 28, 2012.

WHEREAS, the Oak Harbor Planning Commission recommended approval of the subject ordinance to the City Council and;

WHEREAS, the City of Oak Harbor issued Notice of Application on September 15, 2012 and a Determination of Non-Significance (DNS) on October 6, 2012 for a SEPA Environmental Checklist in accordance with Chapter 43.21 RCW and;

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

Section One. Section 19.36.020 of the Oak Harbor Municipal Code last adopted by Ordinance 1553 section 2 in 2009 is hereby amended to read as follows:

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) "Animation" means the use of movement or some element thereof, to depict action or create a special effect or scene.
- (3) "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.

- (4) "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.
- (5) "Banner" means a flexible material (i.e., cloth, paper, vinyl, etc.) on which a sign is painted or printed.
- (6) "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.
- (7) "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."
- (8) "Building-mounted sign" means a single- or multiple-faced sign attached to the face of a building or marquee.
- (9) "Campaign sign" means a sign which exclusively and solely advertises a candidate or candidate's public elective office, a political party, or promotes a position on a ballot issue.
- (10) "Canopy" means a freestanding structure affording protection from the elements to persons or property thereunder.
- (11) "Canopy sign" means any sign erected upon, against or directly above a canopy.
- (12) "Commercial sign" means a sign containing expression related to the economic interests of the advertiser and its audience or a sign proposing a commercial transaction.
- (13) "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.
- (14) "Electronic message center" means a sign capable of displaying words or symbols that can be electronically or mechanically changed by remote or automatic means. An electronic message center is considered a primary sign and may be either freestanding or building-mounted.
- (15) "Flashing" means pattern of changing light illumination where the sign illumination alternates suddenly between fully illuminated and fully non-illuminated for the purpose of drawing attention to the sign. Flashing is not permitted in any zoning district.
- (16) "Frame effect" means a visual effect on an electronic message center applied to a single frame to transition from one message to the next. Such usage must comply with the 2-1-2 provision.
- (17) "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.

- (18) "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) "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.
- (20) "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.
- (21) "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.
- (22) "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.)
- (23) "Marquee" means a covering structure projecting horizontally from and attached to a building, affording protection from the elements to persons or property thereunder.
- (24) "Monument sign" means a primary freestanding sign, generally mounted on a solid base. Monument signs shall not contain or include reader boards.
- (25) "Multiple-occupancy building" means a single structure housing more than one type of retail business office or commercial venture.
- (26) "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.
- (27) "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.
- (28) "Occupant" means the person, firm or corporation that occupies the land or building.
- (29) "Office building" means an office building in the commercial and residential-office land use districts as defined by the Oak Harbor zoning ordinance.
- (30) "Parapet" means that portion of a building wall which extends above the roof of the building.
- (31) "Penthouse" means a structure on top of a building roof such as houses an elevator shaft or similar form.
- (32) "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.

- (33) "Political free speech sign" means a sign which promotes a position on a public, or social issue.
- (34) "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 of incidental signs (see OHMC 19.36.030 and subsection (20) of this section) or temporary or special signs (see 19.36.080). The term "primary sign" is intended to include virtually all signs of a commercial nature.
- (35) "Property line" means the line denoting the limits of legal ownership of property.
- (36) "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.
- (37) "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.
- (38) "Right-of-way" means either a publicly owned fee, an easement or privilege to traverse over land. A right-of-way is for public travel. Rights-of-way may be opened or unopened, and when open usually contain street improvements.
- (39) "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.
- (40) "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.
- (41) "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.
- (42) Special Signs. See "Temporary and Special Signs."
- (43) "Special projection sign" means a sign no larger than six square feet projecting out from the side of a building.

- (44) "Street" means any automobile thoroughfare so designated by city ordinance. "Street" includes portions thereof used for parking.
- (45) "Subdivision signs" means signs used to identify a land development which is to be or was accomplished at essentially one time.
- (46) Surface Area. See "Area or surface area of sign."
- (47) "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.
- (48) Temporary and Special Signs. Temporary and special signs are those, which are not defined as "primary signs" or "incidental signs" by this chapter. Different types of temporary and special signs include, but are not limited to construction signs, grand opening displays, real estate signs, open house signs, residential land subdivision signs, subdivision directional signs, A-frame signs, political signs, and campaign signs. (see OHMC 19.36.080).
- (49) Transitory signs. Transitory signs, also known as "human signs" are those carried by or worn by a human being usually for the purposes of a protest, demonstration, rally, or other similar event.
- (50) "Video" means the use of live action footage shot with a video camera or similar device which is sized to fit and be displayed by an electronic message center or similar device. The use of video is not permitted in any zoning district.
- (51) "Video board" means an electronically activated sign that creates the effect of motion or animation, except as allowed by this chapter for changing electronic message signs which are in compliance with the 2-1-2 provision, and the prohibition of RGB technology. Video board signs are not permitted in any zoning district.
- (52) "Way open to public" means any paved or unpaved area on private property open to the general public for driving or parking.
- (53) "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.)

Section Two. Section 19.36.060 of the Oak Harbor Municipal Code last adopted by Ordinance 1553 section 5 in 2009 is hereby readopted and to read as follows:

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 building-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(25) 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) For locations adjacent to a residential use or district, electronic displays shall be turned off between the hours of 10:00 p.m. and 6:00 a.m.

Section Three. Section 19.36.070 of the Oak Harbor Municipal Code last adopted by Ordinance 1553 section 5 in 2009 is hereby readopted and to read as follows:

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 the provisions of this title 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) of this section);
 - (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.

Section Four. Section 19.36.080 of the Oak Harbor Municipal Code last adopted by Ordinance 1553 section 5 in 2009 is hereby amended to read as follows:

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, but is not limited to, the temporary signs specified in this section on both private and public property. No permits are required for temporary and special signs.

- (1) Temporary signs on private property. Temporary signs on private property shall adhere to the following guidelines. Compliance with these guidelines is achieved by meeting the regulations contained in this section. Temporary signs shall not:
 - (a) Obstruct designated vehicle or pedestrian traffic circulation areas. Vehicle or pedestrian traffic circulation areas include, but are not limited to drive aisles, private streets, parking areas, walkways, and paths;
 - (b) Represent safety problems by creating traffic distractions;
 - (c) Be in a state of disrepair including being tattered, torn, or broken;
 - (d) Contain obscene language, symbols or images;
 - (e) Clutter the visual landscape by not meeting the quantity and quality standards specified in this section; and,
 - (f) All artistic embellishments and lettering shall have the appearance of professionalism. For the purposes of this section, professionalism means signs created by a graphic artist, sign design professional, or other design professional.
- (2) Regulations for temporary signs on private property. The following signs and regulations are presumed to meet the principles outlined in subsection (a) above.
 - (a) Construction Signs.
 - (i) 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.
 - (ii) 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.
 - (iii) 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.
 - (b) General Promotions.
 - (i) 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.
 - (ii) 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 banners. 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.

- (iii) 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 during the Holiday Season. The Holiday Season is defined as October thru December of each year.
 - (iv) 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. 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.
- (c) Light Pole Banners.
- (i) Businesses may have light pole banners on 100 percent of the total number of poles located in privately owned parking lots.
 - (ii) Size of banners shall be limited to three feet by seven feet free flying or two feet by six feet when attached by brackets.
 - (iii) 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.
 - (iv) There is no time limit for light pole banners. However, when the banners become dilapidated or otherwise ruined, they must be removed or replaced.
 - (v) No other signage of any type shall be permitted on light poles where light pole banners are displayed.
- (d) Grand Openings and Anniversaries.
- (i) 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.
 - (ii) 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.
 - (iii) These promotions will be no more than 30 days in length.

- (e) 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.
- (f) 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:
- (i) 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.
 - (ii) Residential Directions “Open House” Signs. Signs advertising an open house shall be limited to one single- or double-faced on-premises sign.
 - (iii) Residential Condominiums, Condominium Conversions, Apartments, Mobile Home Parks and New Subdivisions.
 - (A) 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:
 - 1. Certification of vacant units; and
 - 2. Statement of reason for lack of occupancy.
 - (B) Allowable Number and Sizes of Signs.
 - 1. One banner of not more than 30 feet in length and four feet in height advertising the project for sale or rent;
 - 2. 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;
 - 3. “A-frame” and other signs used internally within the project as needed for the purpose of directing traffic to model units or open house functions;
 - 4. 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.

- (iv) 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.
- (v) 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.
- (vi) 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. 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.
- (vii) 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.
- (viii) 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.
- (g) 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 portable A-frame commercial signs. 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.

- (h) Portable A-Frame Commercial Signs. For the purpose of this code, portable A-frame commercial signs also include sandwich board signs.
 - (i) Location. The portable A-frame commercial sign shall be placed solely on the property of the business for which the sign advertises. No two portable A-frames shall be closer than 10 feet from one another.
 - (ii) Size. Each business is permitted to have one portable A-frame commercial sign no larger than 36 inches by 48 inches.
 - (iii) Time limit. Portable A-frame commercial signs shall be placed during normal business hours and removed at the close of business each day.
 - (iv) Lighting. No direct or indirect lighting of any kind shall be permitted.
 - (v) Construction. A-frame commercial signs shall be constructed to be sturdy and withstand all types of weather conditions.
 - (vi) Lettering. No more than two-thirds of the total A-frame sign area may be reader board or changeable copy.

- (i) Political Headquarters Signs.
 - (i) Party Headquarters. On-premises campaign 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.
 - (ii) Headquarters for Candidate or Ballot Issue. On-premises campaign 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. Such signs shall be removed within fourteen (14) days after the general election.

- (j) Political Free Speech and Campaign Signs on Private Property Not a Headquarters.
 - (i) Political free speech signs and campaign signs may be displayed on private property. Campaigns signs, posters or bills shall be permitted through a period of fourteen (14) days following such election; provided, that campaign signs, posters or bills promoting successful candidates in a primary election may remain displayed on private property until fourteen (14) days following the immediately subsequent general election.
 - (ii) Sign Dimension and Location. Political free speech signs and campaign 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.

Political free speech signs and campaign signs located along SR-20 within the city limits of Oak Harbor must be located on private property.

- (iii) Removal of Campaign Signs Following Election. Any such campaign sign, poster or bill shall be removed within fourteen (14) days following the general election. It shall be the responsibility of the above campaign officer or responsible official to have the signs, posters or bills removed.
 - (iv) Political free speech signs and campaign signs on private property are not subject to the “appearance of professionalism” principle.
- (3) Temporary signs on public property shall adhere to the following principles. Temporary signs on public property shall not:
- (a) Detract from the primary purpose of the public property or facility;
 - (b) Obstruct designated vehicle, bicycle, or pedestrian traffic circulation areas; Vehicle or pedestrian traffic circulation areas include, but are not limited to drive aisles, private streets, parking areas, walkways, and paths;
 - (c) Represent safety problems by creating traffic distractions or visual obstructions;
 - (d) Be in a state of disrepair including being tattered, torn , ripped, defaced, or broken;
 - (e) Contain obscene language, symbols or images;
 - (f) Be in place for more time than is specifically authorized herein;
 - (g) All artistic embellishments and lettering shall have the appearance of professionalism. For the purposes of this section, professionalism means signs created by a graphic artist, sign design professional, or other design professional.
- (4) Regulations for temporary signs on public property. Temporary signs on public property are subject to the following restrictions. These restrictions are presumed to meet the principles outlined in subsection (3) above.
- (a) Public rights-of-way. Public rights-of-way are considered to be traditional public forums by the City, places which have been historically devoted to assembly, debate, and free speech activities. However, for reasons of public safety, temporary signs are subject to the time, manner, and place restrictions below.
 - (i) General standards. The following standards apply to all temporary signs located within public rights-of-way.
 - (A) Location. For safety reasons, temporary signs may not be placed in visibility triangles which is the area along street frontages within 30 feet of an alley or an unsignallized intersection, or within 25 feet of a driveway. Temporary signs placed within the public-right-of-way may only be located within the landscape strip (“planter strip”) or on the public sidewalk. However, a four foot unobstructed width for pedestrians and wheelchair access on sidewalks must be maintained. No signs may be placed within vehicle or bicycle travel lanes, medians, traffic circles, parking lanes, on utility poles or, traffic sign poles, or the decorative planter pots on Pioneer Way. Signs located within the State Highway 20 right-of-way are subject to State standards.

- (B) Safety. If a temporary sign is deemed to be a traffic safety hazard, then City personnel may move signs or request that the entity who placed the sign move them.
- (C) Size. Temporary signs located within the public right-of-way may not be more than six square feet in size. Double-faced signs of six square feet on each side are permitted.
- (D) Height. So as not to obstruct visibility for vehicular, pedestrian, and bicycle traffic, temporary signs may not be more than 3.5 feet in height when located within the public right-of-way.
- (E) Public works projects. City personnel may remove temporary signs from public rights-of-way in order to conduct periodic maintenance activities. Staff will make an effort to replace the sign in its previous location. Signs may be returned to their prior location if still within the durational limit. City personnel may permanently remove temporary signs from public rights-of-way for the purposes of carrying out major public works projects. If temporary signs must be removed for maintenance reasons, City staff will make an effort to contact the sign owner or they will be available at the City Public Works Building for pickup for a 10-day period. If not claimed within 10 days, the sign will be disposed of.
- (F) Removal of signs in disrepair. City personnel may remove any sign which is in a state of disrepair from the public right-of-way or public property at any time. For purposes of this subsection, a sign is in a state of disrepair if it is ripped, torn, broken, faded, obliterated, obscured, dilapidated, blown down, knocked over or in any other state which its message has ceased to be readable or legible.
 - (ii) Political free speech signs and campaign signs— specific standards. In addition to the general standards, the following standards apply to political free speech signs and campaign signs placed within the public right-of-way.
 - (A) Time limits. Campaign signs on public property may be placed at any time prior to an election. Except for properties fronting interstate primary or scenic highways of the state where the provisions of WAC 468-66-050 shall prevail, the deadline for removal shall be remove fourteen (14) days after the date of the election to which the sign pertains. Failure to remove campaign signs within the time limit provided shall constitute a violation of this code and shall be punishable as such. In the event that city personnel are required to remove signs from public rights-of-way after expiration of the post-election time limit, all costs associated with such removal shall be the responsibility of the candidate or campaign organization for who the sign was posted and shall be collected in addition to any other penalty applicable for failure to remove the sign.

- (B) The display of any political free speech sign or campaign sign in violation of this section or the general standards above, shall be presumed to have been done at the direction and request of the campaign officer or responsible official.
 - (C) Political free speech signs and campaign signs within the public right-of-way are not subject to the “appearance of professionalism” principle.
 - (D) Transitory signs. Transitory political free speech and campaign signs, such as those used for protest, picketing, demonstrations, etc. are allowed within public rights-of-way on sidewalks and on planter strips provided they do not create a public safety issue by blocking visibility and access for pedestrians, automobiles, and bicyclists using the street. Transitory signs are not subject to the “appearance of professionalism” principle.
- (iii) Commercial signs – Specific standards. In addition to the general standards, the following standards apply to commercial signs placed within the public right-of-way. The only types of commercial signs which are allowed within the public right-of-way are those signs listed here subject to the following restrictions:
- (A) Portable A-frame commercial signs. Location. A-frame commercial signs may be placed within the CBD zone in downtown. There shall be at least forty-four inches (44”) unobstructed width on the sidewalk to allow for passage of pedestrians and disabled persons when the sign is in place. Signs shall be placed within three feet (3’) of the building face. No two portable A-frames shall be closer than 10 feet from one another. Size. Each business is permitted to have one portable A-frame sign no larger than 36 inches by 48 inches. Time limit. Portable A-frame signs shall be placed during normal business hours and removed at the close of business each day. Lighting. No direct or indirect lighting of any kind shall be permitted. Construction. A-frame signs shall be constructed to be sturdy and withstand all types of weather conditions. Lettering. No more than two-thirds of the total A-frame sign area may be reader board or changeable copy.
 - (B) Flag pole banners (a.k.a “flag banners”). Flag pole banners are allowed within the CBD zone in downtown and shall be placed within the preexisting flag pole holders along Pioneer Way. The flag pole banners may be placed during business hours, but must be removed at the close of business each day. Flag poles shall be a rigid material so that the flag pole banners do not obstruct vehicle parking and pedestrian circulation areas. Additionally, on holidays such as Martin Luther King Junior Day, President’s Day, St. Patrick’s Day, Memorial Day, Fourth of July, Labor Day, and

Veterans' Day, the flag pole holders shall not be used by businesses and shall be reserved for public purposes.

- (C) Residential directions "open house" signs. In addition to the general standards, the following standards apply to residential directions "open house" signs placed within the public right-of-way.
1. Number. Four single or double faced signs per residence which is for sale or rent are allowed within the public right-of-way. However, if a realtor has more than one house open for sale or rent in a single development or subdivision, off-premises signs are limited to five for the entire development or subdivision. All signs must be located within one mile of the property for sale.
 2. Time limit. 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. Open house or for sale signs must be removed the same day as the open house event ends.
 3. Size. Open house signs located within the public right-of-way may not be more than six square feet in size. Double-faced signs of six square feet on each side are permitted.
- (D) 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 of 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.
- (E) Community Events and Fundraisers. Celebrations such as Holland Happening, the Fourth of July, and other events scheduled for the benefit of the general community, not including sales for individual businesses, may install temporary directional signs, provided such signs are put in place no sooner than 30 days prior to the event and removed within seven days following the event.
- (F) Transitory commercial signage, also known as "sign wavers", advertising specific goods or services.
- (b) City Parks. Public parks are considered to be a traditional public forums, which have historically been devoted to assembly, debate, and free speech activities. The following restrictions are meant to offer adequate means of expression while protecting the primary public purpose of the park as a recreational facility.

- (i) Transitory signs. Transitory signs, such as those used for protest, picketing, demonstrations, etc. are allowed within public parks. Transitory signs are not subject to the “appearance of professionalism” principle.
- (ii) Sign installation prohibited. Temporary signs may not be affixed to park equipment, land or facilities in any way, This prohibition includes the pounding of temporary signs into the ground.
- (iii) Exceptions. Certain exceptions for installation of temporary signs in parks applies as follows:
 - (A) Temporary, directional, event, or notification signs installed for City authorized activities such as youth sports leagues. Such signs must be removed when the recruitment period ends.
 - (B) Windjammer Park and Volunteer Park baseball fields. Signs of agencies, businesses, or organizations which sponsor youth sports activities may be placed on the outfield fences on the youth baseball fields in these two parks.
 - (C) Gateway-Beeksma Park. Sign banners from governmental agencies, non-profits, or community messages of an informational nature may be placed in this park.
- (c) City Vehicles. City vehicles are considered to be non-public forums by the City meaning that they are not meant to be a location for public communication and are intended solely for their designated purpose. Temporary signage is prohibited on City vehicles, with the exception of government sponsored messages and communication which do not undermine the primary purpose of the vehicle.
- (d) City buildings. City buildings are considered to be non-public forums. Temporary signage is prohibited on City buildings with the exception of government sponsored messages and communication which do not undermine the primary purpose of the building.

Section Five. Section 19.36.090 of the Oak Harbor Municipal Code last adopted by Ordinance 1553 in 2009 is hereby readopted to read as follows:

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

Section Six. Section 19.36.100 of the Oak Harbor Municipal Code last adopted by Ordinance 1553 in 2009 is hereby readopted to read as follows:

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 institution 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.

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

Section Seven. Effective Date. This Ordinance shall be in full force (5) five days following publication.

PASSED by the City Council this ___ day of _____, 2012.

() APPROVED by its Mayor this _____ day of _____, 2012.

() Vetoed

THE CITY OF OAK HARBOR

Mayor

Attest:

Interim City Clerk

Approved as to Form:

Interim City Attorney

Published: _____

DRAFT

Planning Commission Minutes
October 25, 2011

**PLANNING COMMISSION
REGULAR MEETING
CITY HALL – COUNCIL CHAMBERS
October 25, 2011**

ROLL CALL: **Present:** Bruce Neil, Keith Fakkema, Jeff Wallin, Greg Wasinger, Kristi Jensen and Jill Johnson. **Absent:** Gerry Oliver.

Staff Present: Development Services Director, Steve Powers; Senior Planners, Ethan Spoo and Cac Kamak and Associate Planner, Melissa Sartorius.

Chairman Neil called the meeting to order at 7:30 p.m.

MINUTES: MR. FAKKEMA MOVED, MR. WALLIN SECONDED, MOTION CARRIED TO APPROVE THE SEPTEMBER 27, 2011 MINUTES AS PRESENTED.

PUBLIC COMMENT:

No comments.

SIGN CODE UPDATE – Public Hearing

Mr. Spoo reported that Planning Commission will have at least two meetings on this topic. This month staff will present some background, shortcomings of the existing code, principles for new code language and initial research. Next month the draft code will be presented.

Background

On July 12, 2011, the City Council adopted an interim ordinance. Interim ordinances are effective for a period not to exceed six months. The interim ordinance deleted a provision in the “Temporary and Special Signs” code that limits placement of political signs to “a period of 60 days preceding the election”. By January 12, 2012, the City Council must either extend the interim ordinance for another six months accompanied by a work plan or adopt a permanent ordinance.

Shortcomings of the Existing Code

Mr. Spoo pointed out that section 19.36.080(8)(d) prohibits political signs on public property and 19.36.080(8)(a) establishes that a time limit of 60 days preceding an election. *Collier vs. City of Tacoma*, has established that political signs must be allowed on certain types of public property subject to time, place, and manner restrictions and pre-election time limits have been deemed to be unconstitutional.

Mr. Neil asked if the Collier case means that someone can put a political sign up three years before the event. Mr. Spoo answered yes, that is our understanding.

Mr. Neil asked if they can put up a sign in Windjammer Park. Mr. Spoo answered yes, parks are considered to be public fora, but that doesn’t mean there can’t be certain restrictions for where the signs can go.

Mr. Spoo continued; there are different types of public property. Some of those locations are appropriate for placement of political signs and some are not. The way the courts have distinguished between these types of public property is using something called forum analysis. There are three different types of public forums: traditional public forums, limited public forums, and non-public forums.

Traditional public forums are places where public debate has traditionally been allowed in the past. The public right-of-way is one of those places. Think marches, rallies, etc. Limited public forums are places where public debate and signage might be appropriate at some times, but not others. Finally, there is what is called a non-public forum where political signage and debate is

clearly not allowed. An example would be a police car. Clearly, this would detract from the police car's main purpose. Even though we have different classes of public property, the community can impose time, manner, place restrictions subject to legitimate government purpose, as long as those restrictions aren't any more restrictive than necessary.

Mr. Spoo outlined some of the time, manner, place restrictions that are proposed for the new code. Mr. Spoo explained that the pre-election time limit will be removed since pre-election time limits are not permissible. Manner restrictions can be applicable subject to a legitimate public concern. Safety has been seen as a legitimate public concern (limiting the size and the height of signs in the public right-of-way so that drivers can see pedestrians, bicyclists, etc.). Place: the same safety principle applies. You don't want signs at locations that obstruct views and visibility and you also don't want the signs in traffic lanes. So we will be proposing restrictions to only allow signs to be placed in the public right-of-way or on the sidewalk at appropriate locations.

Mr. Spoo provided, for the record, a letter (Attachment A) to the Planning Commission from the American Civil Liberties Union of Washington (ACLU) which was given to the Planning Commission at the pre-meeting. The letter expresses concern about the City's retention of a post-election time limit of seven days on political signage.

Mr. Spoo provided another handout (Attachment B) to the Planning Commission which supported retention of the post-election time limit. The handout came from the Municipal Research Services Center of Washington (MRSC).

Planning Commission Questions/Discussion

Mr. Neil asked if someone could put up a political sign on the City of Oak Harbor entrance sign or on the trees along SR20 and if the signs could stay up there forever. Mr. Powers explained that tonight the Planning Commission is being presented with a couple of concepts that have to be addressed. It is complicated and there are many court cases that help form the case law that the City has to respond to. The short answer is that the community is able to limit the placement and the length of time on the signs if the community can clearly articulate a public purpose behind those limitations. As for the example of the trees along the highway, there is a public purpose in saying that you can't nail your sign to the public's tree. There is a public investment, community ideal and goal that is part of the landscaping theme. So we could probably successfully limit the ability for someone to nail their sign to the public's tree.

Ms. Jensen asked staff to provide the State's definition of pre-election and asked if there was a certain time that a candidate would have to register as a candidate? Ms. Johnson also commented that there are candidates that file immediately for fund raising purposes, so there are perpetual candidates which make the post-election time limit open to question.

Mr. Spoo indicated that he may be able to get a definition in the State law but that his impression was that you cannot impose any pre-election time limit. In most cities this issue works itself out practically because generally a candidate won't buy signs three years ahead of an election.

Mr. Powers pointed out that you can have political speech without being a candidate, so trying to say that the sign shouldn't go up until they file declaring their intention to run for election is a limitation on that speech.

Ms. Johnson asked if there is a definition of a political sign. Can a sign say "I don't like the military", "I don't like war", "I don't like police" or "I don't like whatever". We are assuming these are advocacy signs but what if they are signs in opposition of a value that this community holds closely. Are those signs allowed in public spaces at any time as long as they meet the height requirement?

Mr. Powers said that his operating assumption would be that all of that is political speech and protected in some fashion. The question is what community standards that the citizens of Oak Harbor would like to see put into the code that address time, manner and place but not content. This is why we made a special effort to say political signs and elections signs because it can be a particular candidate or a particular topic.

Mr. Wallin asked if we can address the quantity of signs.

Mr. Spoo said he didn't think that you can limit the number of signs, for instance, an apartment complex may have 15 apartments with 15 people that might want to put up signs up regarding 10 different issues each and to say that there can only be two signs per property could be challenging.

Mr. Neil asked if the code will apply to the dancing pizza signs.

Mr. Spoo replied, those signs would fall under the temporary signs category and you have to treat commercial and non-commercial speech the same and they would be subject to the same restrictions that apply to political signs.

Mr. Powers explained that staff has tried to narrow the scope of what we are dealing with. Political signs are in the category of temporary signs so we will need to address all of the standards that relate to temporary signs which include A-frame signs, but he didn't know that we will get into the dancing pizza signs. We are not proposing any amendments to the permanent signs.

Ms. Johnson asked if temporary signage means the way it is designed or the length of time that it is up.

Mr. Powers indicated that there are definitions in the code that relate to the length of time and structural make-up (signs that can be easily put in place and removed).

Ms. Johnson asked if there can be a timeframe on commercial speech but not an individual's right to speech.

Mr. Powers said that there are questions about whether commercial speech needs to be treated the same as political speech. That is a topic that is outside the scope of this particular amendment. Our immediate concern was responding to the issue raised that lead to the interim ordinance being adopted. But it is likely we will have to address that in the future.

Ms. Johnson and Mr. Neil felt that free speech should extend to businesses, candidates and individuals equally and asked how you could have a different set of criteria for business than we have for candidates.

Mr. Powers clarified that we can't regulate separately or differently on content. In the temporary sign aspect we will have to treat all signs that go on public property in a uniform fashion and all signs that go on private property in a uniform fashion. The challenge is to figure out what the community wants to see in the regulations that we can reasonably pin to time, place and manner.

Mr. Wasinger asked who is in charge of policing signage.

Mr. Powers said that the sign code is in the zoning title of the Municipal Code so it falls under the Development Services Department in a couple of different aspects. The Building Division issues permits for those signs that require permits. For those signs that don't require permits and are placed illegally, the Building Division will also operate as our code compliance arm of the City. So they notify the people that the signs are placed inappropriately.

Ms. Jensen asked what Tacoma did.

Mr. Spoo said that Tacoma did the same thing that we are doing which is to remove the 60 day pre-election time limit and they also had to allow political signs within planter strips, public sidewalks and parks.

Ms. Jensen asked how Tacoma's code reads now to comply with the court case and make the people of Tacoma happy.

Mr. Spoo said that it may not have made the people of Tacoma happy and we understand that there are some issues that we have to deal with in the community in which the direction to us is fairly strong. Mr. Powers reminded the Commissioners of the discussion regarding adult entertainment and the process by which we put regulations into place as a community and in some sense those arguments are the same. This is one of those issues that the Commission cannot just say no to, but what we can do is to try to tailor those regulations so they apply to the City of Oak Harbor in as good a way as possible. That theory worked for adult entertainment regulations. That same sort of thought process can work for the temporary signs.

Ms. Jensen asked if we can designate certain planter strips or certain parks.

Mr. Spoo indicated that you have to have a legitimate public purpose; safety is generally considered the legitimate purpose. Mr. Powers added that aesthetics is much tougher to argue but not necessarily impossible. We have to be able to clearly articulate what those reasons are. From the aesthetics standpoint it would have to clearly be based on some existing standards or policies that the City has in place that get to the issue of community design and aesthetics. Even then it might not be successful.

Mr. Powers concluded the discussion by noting that the meeting has accomplished its goal which was to get the Planning Commission's comments and creative juices flowing. Staff will find other codes that are compliant with the case law to provide good examples for the Commission to see how other communities have responded to this particular challenge. Commissioner's suggested looking at communities of similar size.

Ms. Jensen asked about the sign limitations for residential directions "Open House Signs" that was highlighted on page 12 of the agenda packet. Mr. Spoo said that section was highlighted because that is one of the only other types of signs in the existing code that was allowed in the public right-of-way and had a limitation on the number of signs. The limitation on the number of signs will probably be deleted in the draft code.

Mr. Wallin commented that if we are going to allow signs in the public right-of-way can we put limitations on the way that the signs are put in the ground? If there is a planter and you put 50 signs in a public planter, the planter will be trashed.

Mr. Powers thought that would be a budget issue to the community because the City would have to repair the damage. The City would be better served by setting the parameters for the structure of a sign that could go there.

Ms. Jensen commented that the Planning Commission was uncomfortable with open-ended regulations because they are thinking of the person that will take advantage and the negative effect it could have on the City.

Mr. Powers acknowledged the struggle that the Planning Commission has with topics that relate to aesthetics and design and that it is natural for the Commission to worry about what will result if the bar isn't set high enough in terms of the design of a building or the character of landscaping or the character of a housing development. It is very understandable that the Planning Commission would express concerns about aesthetics.

Ms. Jensen also noted the discomfort in allowing signs that are anti something that is close to the community's heart. Mr. Powers reminded the Commission that fundamentally it is a free

speech issue and the citizens have the right to express their opinion on a topic, event or issue so we can't only have signs that say "hooray" for something without allowing signs that say "boo" to something.

CAPITAL IMPROVEMENT PLAN 2011-2016 – Public Hearing

Mr. Kamak reported that the 2011 Comprehensive Plan Amendment Process began in October 2010. Call for projects was advertised in November 2010, no applications for sponsored amendments were received so the only items on the docket were the continuing work on the UGA Capacity Analysis and amendments to the Capital Improvements Plan (CIP). The UGA Capacity Analysis is still in work and there is a hearing at the end of the month that will hopefully create a framework for continued work on the UGA Capacity Analysis with the County. So the UGA Capacity Analysis will remain on the docket for two or three years while work continues. We hope that by 2015 there will be some sort of resolution coming forth.

The CIP is updated every year and what is normally updated are the project lists. As projects are completed and new projects are added during the course of the year through Council action, those projects are added to or deleted from the list. This year there are minor amendments to the plan. The years are updated to reflect the planning period 2011-2016, financial numbers get updated every year to reflect current revenues and expenditures. The Pioneer Way project is being removed from the list as it is close to completion as well as the revenue and expenditures associated with the project. Projects schedules have also been updated.

Some of the major projects that will be coming forward in the next six years are the NE 7th Avenue improvements and the SE 4th Avenue waterline replacement and street improvements. In terms of parks, the Windjammer Park has a lot of structures that are coming to the end of their lifespan so some of those buildings will need to be replaced. Trail connections and extensions will be pursued as opportunities arise as well as acquiring new park land to accommodate the population. The waste water treatment plant and the 42-inch outfall are also coming forward. Other updates include an update to reflect the City Council's decision to return the federal grant for the Municipal Pier project but to keep the project on the books. The cost for the Marina Redevelopment project was updated to reflect the gangway and dredging improvements.

Mr. Kamak provided updated pages to reflect a change in the Animal Shelter situation. Originally it was thought that the shelter could stay on Navy property since the gate security was removed but now the gate security has been reinstated and brings back the need to find a place for the shelter in the City.

The one addition to the project list is the old high school stadium along Midway Boulevard. There is a possibility of the City using that facility. The old stadium is in an area that has been identified in the Parks and Recreation Plan that has a need for a park. Minor improvements can be made to use the facility as a neighborhood/community park.

Planning Commission Questions

Ms. Jensen asked why we have to have a levy for the pool and not for the other park areas.

Mr. Kamak explained that the pool is maintained by the North Whidbey Parks and Recreation and they are different from the City.

Ms. Johnson asked how we have money for acquisition but not for maintenance of parks.

Mr. Powers explained that the State says that certain funds can be used for acquisition and certain funds that can be used for maintenance. Impact fees are restricted funding sources that can be used for acquisition of land, development of new parks and if we can reasonably demonstrate that new improvements in existing parks are necessary to serve new growth.

Planning Commission Minutes
November 22, 2011

**PLANNING COMMISSION
REGULAR MEETING
CITY HALL – COUNCIL CHAMBERS
November 22, 2011**

ROLL CALL: Present: Bruce Neil, Keith Fakkema, Jeff Wallin, Greg Wasinger, Kristi Jensen, Gerry Oliver and Jill Johnson.

Staff Present: Development Services Director, Steve Powers; Senior Planners, Ethan Spoo and Cac Kamak and Associate Planner, Melissa Sartorius.

Chairman Neil called the meeting to order at 7:30 p.m.

MINUTES: MS. JENSEN MOVED, MR. FAKKEMA SECONDED, MR. OLIVER ABSTAINED, MOTION CARRIED TO APPROVE THE OCTOBER 25, 2011 MINUTES AS PRESENTED.

PUBLIC COMMENT:

None present for comment.

SIGN CODE UPDATE – Public Meeting

The Planning Commission continued its discussion of amendments to OHMC 19.36.080 (“Temporary and Special Signs”). Staff addressed Planning Commission questions from the October meeting about the temporary sign code amendments. The proposed Code amendments address time, manner, and place provisions for temporary signs, especially political signs, located on public property.

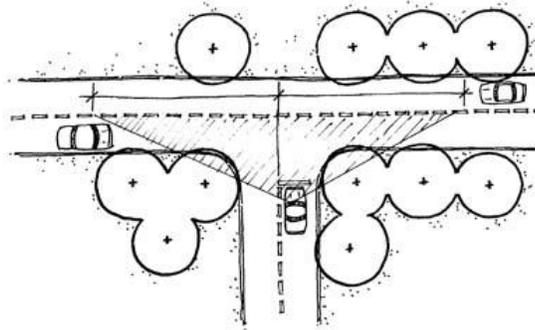
Mr. Spoo highlighted the following Planning Commission questions and answers:

- **Question:** Does the *Collier vs. City of Tacoma* case mean that someone can put up a political sign for an unlimited amount of time prior to the event or election? What is the State’s definition of “pre-election” in regards to time limits?
- **Answer:** According to the Municipal Research Services Center (MRSC) of Washington, pre-election time limits are unconstitutional. “It is not legally possible to limit the time in advance of an election that political signs can be posted in the places where political signs are allowed.” The State does not define pre-election.
- **Question:** Can someone put up a political sign on the “Welcome to Oak Harbor” entrance sign or on the trees along SR20 because these are within the public right-of-way? If so, couldn’t these signs stay up for an indefinite period of time?
- **Answer:** The *Collier* case concluded that political signs cannot be prohibited within the public right-of-way. However, the Washington State Department of Transportation (WSDOT) has issued an opinion prohibiting political signs within state highway rights-of-way. City staff does not know whether the WSDOT prohibition is correct or how it aligns with the conclusions of *Collier*.
- **Question:** What is the definition of a political sign? Does the City have any ability to limit the content of political signs?
- **Answer:** OHMC 19.36.020(31) defines political signs as “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.” According to longstanding case law, with the exception of obscenity, the City cannot regulate the content of signs.

- **Question:** How have other communities handled these issues?
- **Answer:** Staff attached relevant codes from Pierce County, City of Redmond, and City of Kirkland to the agenda packet. Staff provided the codes as examples, but their legality or constitutionality has not been researched.

Mr. Spoo provided an additional handout (Attachment A) regarding the City of Redmond.

Mr. Spoo displayed the following depiction of the “vision triangle” while explaining that signage would not be allowed within the “vision triangle” for safety reasons.



Mr. Spoo also reported that the City Council will be considering a six-month extension of the interim sign code which will extend the interim ordinance to June 2012.

Planning Commission Discussion

Mr. Neil asked if the “dancing pizza” signs would be addressed. Mr. Spoo said that these types of signs fall outside of the scope of this amendment.

Ms. Jensen asked to have real estate signs addressed in the draft code. Mr. Spoo indicated that real estate signs will be addressed.

Ms. Johnson asked if signs could be addressed in the Comprehensive Plan in terms of aesthetics. Mr. Powers said that the Urban Design Element does not have specific policies or goal statements directed at signage but there are statements that address community aesthetics and possibly the aesthetics of the right-of-way or discussions about appropriate design treatments for gateway entries into the community. If the Commission thinks work needs to be done from a goals and policies perspective to lay a clearly defined foundation for our sign code in the Comprehensive Plan that can be discussed in the Comprehensive Plan Docket agenda item that will follow. As for the “dancing pizza” signs, Mr. Powers noted that six months is not a lot of time to address sign codes and if the project takes longer we may not be able to meet the six month deadline but staff could provide some language for review.

Mr. Neil said that he believed that the dancing signs were a distraction at intersections.

Mr. Wallin commented that he has seen sign ordinances that have stipulations regarding the “vision triangle”.

Mr. Oliver commented that he knew a special needs person that makes his money by carrying a sign and would hate to take away that job option.

Ms. Johnson asked if the City can allow a certain amount of “visual retail space” to control community aesthetics. Mr. Spoo said that he had seen that done in some of the city codes but that he couldn’t speak to its constitutionality. Mr. Powers added that it would have to be framed from something other than an aesthetic perspective.

Mr. Wallin commented that he has seen where other communities have a permit process and each candidate is allowed a certain number of spots on public property and they pay a permit fee. He wasn't sure about allowing signs on public right-of-ways because most of the cities that he looked at didn't allow signs on public right-of-ways. He found another Seattle document that said you aren't allowed to put signs in public right-of-ways. He also stated that the Supreme Court has upheld and allowed cities to maintain the part of the Code that doesn't allow temporary signs. We can't just say political signs but have to address all signs in the same way so it will stand up constitutionally.

Mr. Powers said that the consequence of treating all signs the same is that the regulations would include real estate signs and signs used to advertise charity/civic organization fund raisers.

Ms. Johnson said that she wouldn't mind that consequence. She didn't think that public property was an appropriate place for commercial, charity or political communication. Ms. Johnson also asked if the "vision triangle" applied to private property as well, e.g. the corner of Whidbey Avenue and SR20. Mr. Spoo said that the "vision triangle" would apply to private property as well.

Ms. Johnson commented that if there was a planter in front of a store and a political sign is placed there it implies commercial endorsement, is there language that says you have to get the storeowner's permission to put your sign there. Mr. Spoo said that Municipal Research Services Center (MRSC) recommends that you get the signature of the adjacent property owner even though it is in the public right-of-way.

Ms. Johnson asked about liability and who would be responsible if there was an injury or damage from a sign on public property. Mr. Spoo believed it would be the person that put the sign up. Ms. Johnson believed signs on public property should not expose the City to undue financial risk.

There was discussion about signs that were obscene versus uncomfortable. Mr. Powers noted there are many subtopics to the sign code and when cities dive into sign codes the process can take a year or more. Mr. Powers stressed that this amendment was to address what is political speech and how we can or cannot regulate it and recommended that the Commission narrow the discussion to that issue.

Mr. Neil commented that he wanted everyone to have their political signs but he didn't want to see fifty political signs in Windjammer Park and he didn't want to see them along the tree line all year long. He wanted to see the sign code be as restrictive as possible but to be constitutional as well.

Ms. Jensen asked if the City Attorney would be able to address some of Planning Commission's questions. Mr. Power indicated that he has spoken with the City Attorney about attending one of the Planning Commission meetings.

Mr. Wasinger asked if temporary signage was tied to permanent signage for retail. Mr. Powers indicated that the sign provisions regarding banners changed about six years ago. There is a limitation on banners if you don't have permanent signs. Mr. Powers didn't believe that there are regulations which limit the temporary signs for permanent commercial properties other than placement of the a-frame signs which don't count toward the total number of signs. The Code sets limit on the number of signs which each property can have. It is a function of the size of the building and the facade and other characteristics that come into play.

Ms. Johnson commented that signage may be economy driven. When the economy is down people don't have the money for the nicer signs so there is signage overload and the signs look junky.

Mr. Oliver asked if murals on the side of buildings were considered signage. Mr. Powers said that there is a section in the sign code that provides a definition of signs which essentially says if a commercial message is involved, it is signage. If it is purely art and is not advertising a particular business then it would not be seen as signage.

Ms. Jensen pointed out the sandwich boards at the top of Dock Street and asked if it would be better to have a kiosk. Mr. Powers noted that the sandwich boards were allowed temporarily to help during the Pioneer Way construction project. He also noted that we can't have off-premise signs for certain business and not for others. Off-premise signage is typically where billboards have been addressed. Most communities don't allow off-premise signage.

Mr. Fakkema asked if it was possible to say that no one candidate could have his/her signs closer than 100 yards from one sign to the next. Mr. Spoo said that his best guess was no, because it gets back to the issue of not limiting the number of signs due to free speech rights.

Mr. Spoo indicated that staff would look closer at whether the City can prohibit signs in the public right-of-way as Mr. Wallin has pointed out that other cities have done. Staff will also invite the City Attorney to answer questions at the next meeting.

Mr. Wallin wanted to look into the possibility of being specific about eliminating signage in parks and light poles but allow signs in planter strips and other appropriate areas.

2012 COMPREHENSIVE PLAN AMENDMENT DOCKET – Public Meeting

Mr. Kamak explained that a preliminary docket is compiled each year with input from the public and the Planning Commission. This is done prior to a December 1st deadline and therefore this November Planning Commission meeting is a good time to discuss potential ideas and items for the preliminary docket.

Mr. Kamak explained that there are three types of Comprehensive Plan Amendments:

- **Sponsored Amendments**
Sponsored amendments can either be *private* or *public*. An example of a *private* amendment is a request for changes to land use designations that result in a change to the Future Land Use Map in the Comprehensive Plan. *Public* sponsored amendments are requests for changes to policies with the Comprehensive Plan. Since changes to policies have potential for a larger community-wide impact and may affect other referenced plans, the procedures to consider these changes are different than the private sponsored amendments.
- **Mandatory Amendments**
These are amendments mandated by the State through the Growth Management Act or other laws. The updates to the Capital Improvement Plan are done every year fall under this category. This year the Shoreline Management Program will be on the docket under this category. The requirements of RCW 36.70A.130 (3) related to review of urban growth areas and any revision to accommodate urban growth projected to occur for the succeeding twenty years will also be under this category. Currently this requirement is titled as "UGA Capacity Analysis" and is currently on the City's docket. Mandatory Amendments are automatically given a Priority A in accordance to OHMC 18.15.050 (4).
- **Discretionary Amendments**
These amendments are added to the annual docket to proactively add, amend, revise, delete or further goals and policies in the Comprehensive Plan. Discretionary items can be added to the docket by boards, commissions, city council and by the director of

Planning Commission Minutes
February 28, 2012

**PLANNING COMMISSION
REGULAR MEETING
CITY HALL – COUNCIL CHAMBERS
February 28, 2012**

ROLL CALL: Present: Keith Fakkema, Kristi Jensen, Jeff Wallin, Gerry Oliver and Jill Johnson-Pfeiffer.

Absent: Bruce Neil and Greg Wasinger.

Staff Present: Development Services Director, Steve Powers; Senior Planners, Ethan Spoo and Cac Kamak and Associate Planner, Melissa Sartorius.

Vice Chairman Fakkema called the meeting to order at 7:35 p.m.

MINUTES: MR. OLIVER MOVED, MR. WALLIN SECONDED, MOTION CARRIED TO APPROVE THE JANUARY 24, 2012 MINUTES AS PRESENTED.

PUBLIC COMMENT:

None present for comment.

SIGN CODE UPDATE – Public Meeting

Mr. Spoo reviewed previous discussions by the Planning Commission in which the Planning Commission discussed pre-post election time limits and the fact that we can't have pre-election time limits but post election time limits were acceptable. There was discussion about what types of public property are appropriate for temporary signs and about signs in the public right-of-way, signs in parks, and planter strips. There was also some discussion about placing size and height limits on signs, especially within the public right-of-way primarily for reasons of safety and visibility (vision triangles). To date discussion has centered on concerns that temporary signs on public property would cause clutter and detract from the primary purpose of public properties.

Mr. Spoo explained that the main purpose of tonight's meeting is to have a discussion about preferences for temporary signage and to talk briefly about what we've learned so far in regards to the legal principles that guide temporary signs.

Mr. Spoo said that there were three main legal principles:

1. **Can't** prohibit political signs on public property, if any commercial speech allowed.
2. **Can't** elevate commercial speech above political.
3. **Can't** regulate content. Time, manner, place can be regulated.
 - Too restrictive→time, manner, place, is effectively a content restriction. Aesthetics often seen as too restrictive for political signs.
 - No pre-election time limits.

Mr. Spoo displayed photos of temporary signs in the community to give the Planning Commission an idea what's going on in the community and was not intended to point out what was wrong or right about the signs.

Mr. Spoo explained that tonight's discussion would be about temporary signs on public property and then on temporary signs on private property.

Public Property

Mr. Spoo explained that public property includes street right-of-ways (ROW's), buildings, parks and city vehicles and asked the Planning Commission the following series of questions:

- What types of public property is appropriate for placement of temporary signs?
- If temporary signs are appropriate in X. Are commercial signs appropriate in the same places? Same general restrictions apply for real estate/garage sale/A-frames?
- What post-election time limit is appropriate for candidates to remove their signs? The Code currently says seven days.
- Commercial signs. A-frame signs that you see on sidewalks. How long should these be allowed to be up? Code currently calls for these to be removed outside of business hours.
- Garage sale/real estate/open house signs time limits?

Garage sale: placement preceding, remove as soon as sale ends?

Real estate: only while unit is for sale?

Open house, only during the open house or several days preceding?

Planning Commission Discussion

Mr. Wallin asked how to determine where the public ROW is. Mr. Powers explained that as a general rule, the measurement is from the centerline of the road to the back of the sidewalk in areas where there are no sidewalks it is a little more difficult to visually tell where the ROW is.

Ms. Jensen said that she thought there was a place for temporary signs on all of the public property listed by Mr. Spoo.

Mr. Spoo asked about city vehicles such as police vehicles. Mr. Fakkema didn't think police vehicles were appropriate because of the primary purpose of police vehicles.

Ms. Jensen asked if busses were city vehicles. Mr. Powers explained that busses e.g. Island Transit and school busses are governed by different agencies.

Ms. Johnson-Pfeiffer asked if the "Go Wildcats" signs on the city garbage trucks were considered public, political or commercial speech. She also commented that if you say yes to commercial speech on public property you are saying yes to political speech on public property. Mr. Spoo said that was correct. Mr. Spoo also said that we could look at banning all types of temporary signs on public property including commercial signs which would mean that you couldn't have the real estate sign, open house and garage sale signs. If you want some signs then you automatically have to include political signs too.

Mr. Wallin said that rather than a wide-spread ban of temporary signs we should be specific on what areas of the City we would want to protect, whether it is parks, vehicles etc.

Mr. Oliver commented that most of the signs that were displayed by Mr. Spoo looked junky.

Ms. Jensen brought up the baseball fields that have signs on the fence surrounding the field and that those signs are a method of raising funds for the Little League.

Ms. Jensen suggested issuing sign permits in order to standardize the signs and define the time line for the temporary signs. Mr. Spoo noted that a permit is not required for temporary signs currently.

Mr. Spoo asked the Commission if they wanted staff to look into banning temporary signs in public property.

Mr. Oliver said that it was worth looking into.

Ms. Johnson-Pfeiffer asked about the ball field signs. Mr. Spoo thought that they might be permanent signs and he would look into it.

Ms. Johnson-Pfeiffer asked who regulates the content of the ball field signs. Mr. Powers said that the City does not take an active role in regulating the content. Since it is a sponsorship for the Little League it was possible that the Little League expresses an opinion about the content.

Mr. Powers went on to say there is a distinction between the regulations and the enforcement of the regulations. The size, standardization, quality and the placement of signs are the body of regulations which are different than the enforcement. The junky and visual clutter issue is more of an enforcement issue of our existing regulations rather than whether the signs are allowed at all.

Mr. Oliver asked if enforcement would have a bigger impact on the City's budget. Mr. Powers said that currently the City uses a complaint process for enforcement which is true of almost all property issues. The City doesn't have staff that actively drives around to look for sign code violations. The only exception is for safety issues, staff is authorized to take action to eliminate the safety issue. If we go to active enforcement you would be spending a greater amount of staff time which would have a budgetary impact which could be partially offset by the fee for a permit that was suggested earlier.

Mr. Oliver asked Ms. Jensen how she thought a complete ban would impact the real estate businesses. Ms. Jensen responded that a complete ban would cause an uproar and working with a good temporary sign code would be better.

Ms. Johnson-Pfeiffer went back to the ball field signs and said, if there is no mechanism in place to regulate content, who would be able to say what speech was appropriate or not in public spaces. In this context there is nothing the City can do about content. There is only something that can be done about placement, time and manner. Ms. Johnson-Pfeiffer said that we like the "Go Wildcats" on our garbage trucks and we like the signs that support the Little League but if you get into a situation where you have to say no that signage can't be there because we don't like the content of the sign because we don't like the message that the sign puts forward to that audience. We are in the same situation with the political signs. Mr. Powers acknowledged that was true and he suggested that rather than have staff speculate he would like to have a chance to check to see if there is already an agreement between the City and the Little League that governs the ball fields and possibly addresses the issue of the sponsorship signs. Operating under the assumption that there is no agreement we have potentially identified a hole in the regulation that this group should discuss.

Ms. Jensen thought that those signs were self-disciplined and that if a cigarette sign were put up the parents would be in an uproar.

Ms. Johnson-Pfeiffer said that we can only regulate the time, place or manner. Her concern was that if a parent were to call and say they don't like the sign they would be told that we can only regulate time, place or manner and not the content. She said that we don't get to have a conversation about appropriateness, content, what we like and what we don't like and that is the part that was hard for her and that she would paint half the town purple and gold with a can of spray paint but that opens it up for someone who wants to paint it a different set of colors. We have determined if you allow commercial speech then you open the door for political speech so any place where you think I don't want to see a political sign you have to say we can't allow

commercial signs or if you say you want a commercial sign there then you have to be prepared to see a political sign regardless of what that political speech is. That speech could advocate for a candidate or an idea or it could be a statement about someone's negative feeling about the President or about war or about the military. There is no ability to control content.

Mr. Fakkema asked if we were confusing temporary signs with permanent signs in a lot of these cases. He thought that the "Go Wildcats" sign was a permanent sign because it would be there nine months out of the year. Mr. Spoo said that staff would have to discuss how the signs on the garbage trucks fit into the overall temporary signs scheme.

Mr. Spoo went back to the different types of public property (buildings and ROW's). Mr. Spoo clarified that the types of public property being discussed are those properties or structures owned by the City.

Mr. Wallin said that his preference was to not allow temporary signage on buildings, parks or vehicles. He thought that we could segregate some sections of ROW's.

Ms. Johnson-Pfeiffer said she agreed with Mr. Wallin.

Mr. Spoo asked which areas of the ROW are appropriate for temporary signs. Obviously, travel lanes, parking lanes, sidewalks, center medians and vision clearance triangles at intersections are not appropriate.

Ms. Johnson-Pfeiffer said she didn't like planters being used for temporary signs.

Mr. Spoo asked how the Commission feels about planter strips that are located in between the travel lane and the sidewalk. Commissioners agreed that they needed to allow temporary signage in planter strips. Mr. Spoo said staff will craft regulations that allow temporary signage within certain parts of the public ROW and on sidewalks provided that they don't obstruct pedestrian or ADA access on the sidewalk and present that language next month.

Mr. Spoo asked if the current code's time limit of removing signs seven days after an election was acceptable. Commissioners agreed that was an acceptable time limit.

Mr. Spoo asked what the time restrictions should be for garage sale, real estate and open house signs. Currently, the code is silent on garage sale signs. How far in advance of a garage sale should people be allowed to put up a sign and should it be take down the day that the sale is done? Ms. Johnson-Pfeiffer said that you can't limit their free speech on when it goes up. Mr. Spoo said that was only for political signs and that there is a different standard for political signs. Commercial and political can have different standards as long as they are not more permissive for commercial than political.

Commissioners agreed that garage sale signs should go up and down on the day of the garage sale.

Commissioners agreed that real estate signs are self governed by the Multiple Listing Service (MLS) and that the code should remain silent on real estate signs other than the number of directional signs allowed.

Mr. Oliver asked if there was a way to regulate the quality of A-frame signs. Mr. Powers said that the existing code says that the signs have to be professionally done. It is a question of the ability to enforce that regulation as opposed to having that regulation on the books. Mr. Powers asked the Commissioner's to think about the other side of the equation. A business owner who is trying to attract people to their business and the City comes and says you must spend X amount of dollars and they say they don't have X amount of dollars and the City says you don't get a sign. The City ends up in the unenviable position of trying to figure out how to fairly administer the regulations and also be respectful of someone's business activity. Mr. Oliver

said that as a small business owner he could appreciate that but when you make your sign it is your identity and you should care about that. Mr. Powers said that we could look at other jurisdictions to see if there is other language that can be added. Mr. Powers envisioned some public education process from the City side that provides information on what is regulated when it comes to temporary signs. We could work with the Chamber of Commerce and provide information to their businesses and go through an education process instead of an enforcement process.

Mr. Spoo moved on to looking at the manner of temporary signs on public property and asked if there certain manner restrictions we should think about?

- Can't block visibility – size and height limit would be appropriate.
- Aesthetics – easier to regulate for commercial. Political aesthetics is usually too restrictive.
- Number of A-frames. Number of garage sale/Real estate signs/open house signs?

Are there general principles that you would like to see applied to all temporary signs on public property? Examples of principles, blocking traffic, causing safety hazard, detracting from the primary purpose of the facility, be so distracting so as to create a safety problem?

Ms. Jensen suggested time limits.

Mr. Fakkema suggested temporary signs should not be a distraction to traffic. Mr. Powers said there was code language about streamers and flags etc. that say they should not cause a distraction to drivers.

Ms. Johnson-Pfeiffer said that the temporary signs should be proportionate to the permanent signs and not dominate the visual landscape. She believed that the City is very restrictive on permanent signs and very loose on temporary signs which encourages people to put up banners because they can get away with more with their temporary signs than they can with their permanent signage because we have created this culture that says you can do what you want on the temporary side of things.

Mr. Powers suggested that this conversation would take longer for the Planning Commission, community and the Council to get through than the length of time that we have left to work on the political side of things. Mr. Powers said that we won't abandon this conversation because Mr. Spoo has outlined a great process for the conversation. As we draw nearer to your solution on the political signs there is still a significant amount of work to do about the commercial signage which cuts across a lot of different topics and user groups that are not presently engaged in the conversation.

Mr. Fakkema asked if the Liberty Tax sign was considered as two signs. Mr. Spoo said it was considered to be two signs. Since there isn't a permit required for temporary signs it was put up without talking to the City.

Mr. Wallin asked if it would be considered a portable A-frame. Mr. Spoo said no and that anytime you come up with a classification of sign someone will come up with a sign that doesn't fit the classification.

Mr. Powers asked the Planning Commission if they felt the need to cover each bullet point under the private temporary signage since the conversation so far has overlapped between public and private and that staff could draw parallels from their concerns between public and private.

Ms. Jensen asked what merchants are allowed to do on the inside of the window. Mr. Powers said that window signs are regulated by the code and he believed the limitation is no more than 50% of the square footage of the window area.

Mr. Wallin suggested that the number of commercial signs on private property should be limited to reduce visual clutter.

Mr. Powers noted that the code currently says that A-frame signs need to be placed within three feet of the building. That part of the code is rarely followed and the majority of A-frame signs are placed close to the sidewalk or travel lane. Mr. Powers asked how the Commission feels about the placement of the A-frame signs for commercial messaging purposes. Mr. Powers noted that A-frame signs are allowed everywhere except within the Central Business District under the present code. This is also something that we need to correct given what we have done with our downtown environment.

Mr. Oliver said that it goes back to his point of junky signs that are not up to standard and it makes a difference.

Ms. Jensen said that keeping the distance to within the three feet of the building tends to obstruct the side walk and she would rather see them further away so as not to obstruct the sidewalks.

Mr. Oliver suggested an outright ban.

Mr. Powers offered combining Mr. Oliver's suggestion of the quality of the signs and Mr. Wallin's suggestion of limiting the number of signs. If those two things work together does the Commission comfortable with the signs being out further and closer to where the traveling consumer is?

Mr. Oliver said he would be comfortable with that. There were no other objections to Mr. Power's suggestion.

Mr. Spoo said that he would present a draft code at the next meeting and the Planning could possibly form a recommendation to the City Council in April. May and June will be City Council discussion and adoption.

Mr. Fakkema thought that more of the business community should be taking part in the discussion.

WASTEWATER TREATMENT FACILITY PLAN UPDATE – Public Meeting

Mr. Johnston reviewed the project timeline spanning seven years to date and the activities leading to the current recommendation to add a "sixth" site for review. Mr. Johnston explained the basics of planning for a new facility which includes looking at population projections to determine how much flow the City will need deal with in the 20 year planning horizon as well as 50 years into the future. Mr. Johnston detailed the current effluent quality and the future effluent quality goals. Effluent is the water that comes out of the treatment plant process.

Mr. Johnston displayed the following table of effluent quality goals:

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**PLANNING COMMISSION
REGULAR MEETING
CITY HALL – COUNCIL CHAMBERS
March 27, 2012**

ROLL CALL: Present: Keith Fakkema, Kristi Jensen, Jeff Wallin, Gerry Oliver, Jill Johnson-Pfeiffer and Greg Wasinger.

Absent: Bruce Neil.

Staff Present: Development Services Director, Steve Powers; Senior Planners, Ethan Spoo and Cac Kamak and Associate Planner, Melissa Sartorius.

Vice Chairman Fakkema called the meeting to order at 7:30 p.m.

MINUTES: MR. OLIVER MOVED, MR. WALLIN SECONDED, MOTION CARRIED TO APPROVE THE FEBRUARY 28, 2012 MINUTES AS PRESENTED.

PUBLIC COMMENT:

No comments.

SIGN CODE UPDATE – Public Hearing

Mr. Spoo reported that there have been three previous meetings of the Planning Commission on this topic. Mr. Spoo noted that staff is recommending that Planning Commission not conduct a public hearing and make a recommendation tonight but to take public comment.

Mr. Spoo explained that the interim code was initially adopted in July of 2011 for a period of six months. The City Council extended the interim sign code for another 6 months in December of last year which made the interim code valid until July of 2012. Last month, staff and Planning Commission discussions led to an expanded scope for this project. Rather than just talking about political signs on public property, we began talking about both political and non-political signs on public and private property which led to discussion about necessary public involvement which we'll have tonight. Because of the expanded scope of the project, staff suggests that the City adopt the interim code this July, while at the same time continuing to work on this draft sign code. We recognize that with the expanded scope of this project it's unlikely that we can conclude discussions with Planning Commission and City Council by July of this year.

Mr. Spoo discussed the three basic sections of the draft code in section 19.36.080:

- Permits for temporary signs
- Temporary signs on private property
- Temporary signs on public property

Permits for Temporary Signs

Mr. Spoo explained that the draft code proposes a permit system based on comments we received from Planning Commission and it is an effort to address comments Planning Commission made about the prevalence of these types of signs. The permit system would be the most simple permit system available under Oak Harbor code, a review process 1, staff compliance review. There would be no cost to applicants for staff to review these permits. Provided that complete information is submitted, the review would be a 2-day process. The

point is to inform applicants about appropriate placement of temporary signs prior to placement of the sign. It's a proactive approach, rather than relying on enforcement.

Temporary signs on private property

Proposed changes:

- (1) Time limits for temporary signs. The existing code does not define temporary by any specific timeframe. Some types of temporary signs can stay up indefinitely. The draft code proposes that 6 mos. in a calendar year be the limit, except for real estate and political signs which subject to more specific timeframes. Real estate signs generally can stay up during the time the property/unit is for sale or rent. Political signs don't have a pre-election time limit, but are required to be removed 7 days after an election.
- (2) Responding to Planning Commission's comments about the quality of A-frame signs, the draft code requires that there be no hand-draw letters or graphics.

Temporary signs on public property

Proposed changes:

- (1) A limit on the type of signs that can happen on public property to four types: political signs, real estate open house signs, portable A-frame signs and garage sale signs.
- (2) A limit on the location of these signs to planter strips and sidewalk of the right-of-way. With exceptions for Windjammer Park Little League fields, Gateway-Beeksma Park, and the City's solid waste vehicle.
- (3) Limits on the size and height of temporary signs within the public right-of-way for safety reasons. There are provisions addressing the quality of these signs, no hand-drawn letters or graphics. And there are provisions allowing City staff to remove these signs for maintenance purposes.
- (4) More specific standards for political, open house, A-frames, garage sale signs.
Garage sale signs – exception for hand-drawn letters and graphics.

Mr. Spoo summarized the issued addressed:

- Location: not allowed in parks, vehicles, buildings w/ certain exceptions
- Timeframes – 6 mos./year w/ exceptions
- Permit system
- Quality – no hand-drawn or hand-painted signs
- Limits on number of signs

Mr. Spoo noted that since the scope has expanded to look at temporary signs on both public and private properties it is necessary to target involvement with the following groups and possibly attending a merchant's meeting in downtown.

- Stakeholders: merchants/business owners, political candidates, general public
- More specific merchant involvement.
- General public: important stakeholders. Looking for more targeted ways to involve them.

Ms. Jensen commented that she would like expand the list of parks that temporary signs are allowed i.e. Ft. Nugent Park, because that is where the temporary signs are put to remind parents it is time to sign up for soccer etc.

Ms. Jensen commented that the City of Edmonds sign ordinance states that off-premises campaign signs shall be posted and displayed no earlier than upon declaration of candidacy. In accordance with RCW 29.15. Mr. Spoo said staff would look in to the RCW but thought that it might not be legal to limit political speech.

Mr. Fakkema opened the meeting for public comment.

Bob Olsen (1371 NE 7th Place and Pioneer Way business owner) commented that he heard and was concerned that banners, flags and kites might not be allowed on Pioneer Way.

Karen Muller (Wind and Tide Book Shop) was concerned about not being allowed to have hand painted signs or any artistic graphic signs. Mr. Powers said that it is possible to make a distinction between less than neatly done (i.e. spray paint on a piece of plywood) and artistic professional quality.

Being no further public comment the Planning Commission began their discussion.

Ms. Jensen commented that she didn't think the size limits were adequate because cars block the view of the A-frame signs and flags. Mr. Spoo noted that there are only the four types of signs allow in the public right-of-way currently (political, garage sale, real estate and A-frames). But if the Commission believes that flag banners should be added to the list of allowed signs that could be done and it is local preference. Mr. Spoo suggested deferring the question until there is further public input. Mr. Powers added that the Commission could consider is whether or not all street environments should be treated equally for those types of signs. It may make sense in the Pioneer Way area but not make as much sense in a more car oriented environment along the highway.

Mr. Wallin asked if Mr. Power meant that the Commission could specify certain section so the City that flag banners. Mr. Powers said it could be done by zoning district.

Mr. Wallin stated that he prefer the flag banners be kept near the curb and the poles should not be made of PVC and should be regulated as far as the structure of the flag banners for safety reasons.

Ms. Johnson-Pfeiffer asked if content couldn't be regulated on the flag banners. Mr. Powers said that language could be crafted to say that no message would be allowed on flag banners and would only be decorative in nature.

Ms. Jensen asked what if the flag banner said "Open". Mr. Powers said there may be a way to craft a sign which provides the "open" idea without getting into the idea of a message.

Ms. Johnson-Pfeiffer said that she had general concerns about getting into a situation where staff is asked to make determination what is aesthetically pleasing and what isn't. She wondered how enforceable interpreting style can be. Everyone has a different opinion and will not agree on style. Mr. Spoo said that it is possible to address aesthetics of commercial signs (i.e. Coupeville) as long as you are not disadvantaging a certain type of speech, especially political speech. Mr. Powers read an excerpt from the current code addresses A-frame signs

and says, "All artistic embellishments and lettering shall have the appearance of professionalism."

Ms. Jensen suggested adding guidelines that say not sun faded, not tattered etc. She didn't believe there would be 50 people putting up 50 different flags and she liked seeing different things it makes it fun. Mr. Powers said he appreciated Ms. Jensen's confidence in people being able to police themselves but from experience that isn't always the case and sometimes it takes nudging from the City to remind folks that there signs or banners have gone past their useful life. The vast majority would change the sign or banner because they want to make a good impression but that is not always the case. This is a particularly difficult area for code enforcement because when we approach business and say that your sign has gone past it life or the banner is tattered it is sometimes viewed as an affront on that business.

Ms. Johnson-Pfeiffer commented that the permit process is a no fee permit but there is a cost to the City to issue some type of permitting. She said she wasn't a big fan of fees but asked if the City was going to implement a permitting process that has no revenue stream for. Mr. Spoo acknowledged that was correct and it is more of an information transfer process. There would be some staff time dedicated to reviewing permits for temporary signs and we don't think it will be very much time because it is a one page application that asked for a description or a picture of the sign and show where the temporary sign will be placed. We are trying not to discourage temporary signs but to find a friendly way of getting compliance with the regulations.

Ms. Johnson-Pfeiffer asked what the communication process would be to let people know that they have to get a permit and what would be the consequences to businesses that didn't get a permit. Mr. Powers said one of the avenues of communication would be to work with the sign companies that would produce the A-frame signs. The City would also reach out to the business community. This would be a phased implementation. On the code compliance side would start with a health length of time where it is all about the message. The permit process was a response to what staff thought were the Planning Commission's concerns about the proliferation of temporary signs throughout the community. There may be another way to get at that issue besides a permit process and another important point is that even if the Planning Commission recommends approval of it the Council has the final determination.

Ms. Johnson-Pfeiffer commented that she wasn't completely comfortable with the permitting process. She preferred more than an educational process versus a regulation mechanism like permits.

Mr. Wasinger asked if the permit process was aimed at temporary signs on both public and private property. Mr. Spoo said confirmed that was correct and the one exception would be window signs. Mr. Wasinger asked if a back board for a banner that changes every month would be a temporary sign code. Mr. Spoo said that would fall under the temporary sign code and would be allowed for six months of the calendar year.

Mr. Oliver asked about the dancing sign holder signs. Mr. Spoo said that those were not one of the four listed types assigns that are allowed in the public right-of-way. But it was unlikely that the City would force a person with a sign to leave the public right-of-way.

Mr. Oliver asked about the A-frame real estate open house signs. Mr. Oliver commented that the goal was to drive people to the property and open house signs are up between two to four hours and then remove. Mr. Oliver suggested that the number of real estate signs allowed be more than three. Mr. Spoo said that was something that could be looked at.

Ms. Jensen suggested that five real estate open house signs be allowed.

Mr. Oliver asked if there was some sort of guarantee that the permit would be ready in two days. Mr. Powers said that the City could not offer a flat guarantee. The City would be reasonable in the application of the standard. Mr. Powers suggested that the permit system is perhaps more problematic than the Planning Commission's concern about how we control the number of the signs in the community. Mr. Powers said that rather than using the permit process, the educational process could be used as well as the enforcement process. Mr. Powers reminded the Commission that the City's enforcement process is by complaint only.

Ms. Johnson-Pfeiffer said that her concern about permitting was that there will be people that don't get the permit and are out of compliance and the City will have to enforce the non-compliance of getting a permit. It doesn't solve the City's enforcement problem so what will happen is the people that follow the rules will get permits and the people don't play by the rules won't get the permit and the City will have to enforce non-permitted signs. She didn't think that adding the permitting layer would address the bigger concerns because it still comes down to enforcement. If that is where the breakdown is we are just adding another layer.

Ms. Jensen said that she liked the education side of the permit process.

Ms. Jensen commented that she didn't like the last sentence of (3)(b)(B) on page 35 which states: "Prior to placement of temporary signs in the public right-of-way, permission of the adjacent and nearest property owner must first be obtained."

Ms. Johnson-Pfeiffer said she liked the requirement because the sign in front of a business implies endorsement of what the sign says which could be and endorsement of a political candidate or a type of speech that they may or may not be comfortable with. Business should have some control of how their business is politicized.

Ms. Jensen asked about the area on SR20 and asked if someone wanted to put a sign there would they have to get permission from all the individual rental units adjacent to the area. Mr. Spoo noted that the highway right-of-way falls under the Washington State Department of Transportation and they may have rules against political signs within the State right-of-way.

Mr. Wasinger asked if business owners have the right to determine what goes into the public easement in front of their properties. Mr. Spoo said the reason that statement was put into the code was partly about the issue that Ms. Johnson-Pfeiffer raised. Mr. Spoo indicated that the way right-of-way is defined is that it is an easement for public travel so the underlying land is still owned by an adjacent property owner on title so you would still need permission from the property owner. Mr. Powers added that there was still the basic prohibition on off-premise commercial signage so as an example, Safeway could not put a temporary sign in the grass strip in front of the Seven Eleven because that would be considered an off-premise commercial sign.

Mr. Oliver asked if it would be improper to get input from some of our political figures i.e. Mayor and City Council. Mr. Spoo said that they would automatically have input as part of the approval process and they will want to know what the general public and business owners think.

Mr. Powers added that if Planning Commission wanted to talk to past candidate for elected office that would be good to find out what they struggle with when it comes to signage. That input could only help to balance the issues. Mr. Spoo suggested input be put in writing in a letter addressed to the Planning Commission.

Ms. Johnson-Pfeiffer suggested that the two day time limit on removing community event and fundraiser signs is too short. It usually takes a week because volunteers are used to remove the signs. She also thought that seven days for political sign removal was too short given the size of some of the districts. She suggested two weeks. Mr. Spoo said that was the typical range.

Ms. Jensen commented that special events need to have more than two signs. Cost of producing the signs needs to be a consideration as well. For the community pig roast they usually just attach a paper over real estate signs. Mr. Powers said that the last two comments demonstrate exactly what the struggle is in crafting the temporary sign code. There were suggestions that we need to have more signage for civic events and that the standards should not apply to civic events and that is our struggle because we can't treat a non-profit activity substantially different than we treat for-profit groups and we can't treat political speech and commercial speech substantially different either. If the Commission has concerns about the number of signs that a permanent business has you are going to struggle by say one sign for that business and seven signs for the great non-profit that we have. That is not to say that they have to be identical because you may be able to establish some rational reasons as to how they are different but that is the challenge we are going to have.

Mr. Oliver asked about video signage not being allowed in any zoning district and asked if that applied to inside the window or just outside. Mr. Spoo said that language was focused on permanent signage and it is not in the context of temporary signage. Mr. Powers added that the reason that you see the definition of "video" and "video board" is that they work with other definitions specifically electronic message center signs. A few years ago the community went through a process to decide if they wanted to allow the electronic message center/reader board signs. As part of that review process it was determined that the community did not want to see the flashing video signs like the signs you see around Fife on I-5 and like the Angel of the Winds Casino sign on I-5.

Ms. Johnson-Pfeiffer went back to the discussion about community events. She felt that community events were different. It isn't commercial speech or political speech and falls into a unique niche. These events are for community branding and identity and to create that sense of community and it is important to let the community know that these events are going on. Signage may be expensive in the initial creation of them but they can be re-used and she felt that the signage was particularly limited for community events. She asked staff for more research on how other communities handle signage for community events.

Mr. Fakkema asked noted a correction that should be made on page 34 number (3)(a) (ii) through (vii) should say "shall not".

Mr. Fakkema suggested saying that if a 2-day approval is not given it is assumed to be approved. Mr. Spoo said that was not something the City should do and the challenge is that if an applicant does not submit all the information you can't approve the permit in 2 days.

Ms. Johnson-Pfeiffer indicated that she was comfortable with the temporary political signage language.

Mr. Wallin asked if there should be language included about how many signs are allowed and that the City regulates the number allowed in parks as well as the City's solid waste collection vehicle. Mr. Powers acknowledged that more work is necessary and that internal legal review still being done. Mr. Powers added that staff is proposing to adopt the interim ordinance while also continuing work on the draft code with the Planning Commission. Staff will return to the Planning Commission with the interim code in May.

Mr. Spoo outlined the next steps as follows:

- March – Draft code/changes?/recommendation
- April – recommendation to City Council
- May-June – Council Discussion/Adoption

Planning Commission had no further questions or comments.

ADJOURN: 8:50 p.m.

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extra uses of that space where they can move the tables and now they have room for dancing and music. The mixture of uses gives the business a choice on whether they want to apply for the nightclub license or not.

Mr. Oliver asked what size would not be disruptive to the residences.

Kelly Beedle (940 SE Pioneer Way) said that her place was 1,440 square feet which is plenty of room and she asked how the City could control the size of a building that someone buys or rents.

Darnell Allen (7-West business owner) said that his business is 1,400 square feet and hold 117 people maximum.

Mr. Oliver said that it sound like controlling 100 to 150 people is controllable and that anything above that is difficult. Mr. Allen agreed.

Ms. Johnson-Pfeiffer said that she would not be opposed to having nightclubs listed as a specific land use item with a strict definition that would need to be fleshed out.

Mr. Fakkema thanked the citizens for their participation and noted how important their input is.

Mr. Kamak echoed the same and said that at the next meeting we will try and address some of the concerns and provide options to consider.

Mr. Wallin asked for size information on all of the current nightclubs for the next meeting.

Mr. Fakkema closed the public meeting.

SIGN CODE – Public Hearing

Mr. Spoo explained that the item before the Planning Commission tonight is simply a notification to Planning Commission that staff will be requesting that City Council renew the interim sign code for another six-month period. Staff will return to Planning Commission with the draft temporary sign code in May. The draft temporary sign code will include comments voiced at the March Planning Commission meeting.

Mr. Spoo recommended that Planning Commission hold a public hearing to take testimony regarding extending the interim sign code for an additional six-month period. Any public testimony will be included in information forwarded to the City Council. Another public hearing will be conducted before the City Council when extension of the interim sign code is considered.

Mr. Fakkema asked if the Planning Commission needed to recommend that the City Council extend the interim sign code. Mr. Spoo said that it isn't necessary because it the interim code has been in place for almost a year and they will only be extending it for another six months.

Mr. Fakkema opened the public hearing for public comment, seen none he closed the public hearing.

SHORELINE MASTER PROGRAM (SMP) – Public Meeting

Mr. Spoo explained that the SMP project has been an ongoing since 2010. Staff have provided several updates to the Planning Commission in pre-meetings and at the regular meeting since 2010. This introduction marks the formal start of discussions and consideration of the shoreline

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Ms. Johnson-Pfeiffer asked what the Eagle Vista – West Extension does. Mr. Peterschmidt said the extension would provide access to the highway and would be a development driven project. Mr. Powers added that the extension would facilitate east/west circulation in the southern portion of the City limits and that we need to ensure that we have good east/west circulation as parcels develop. If we don't plan ahead for the project there will only be local street connections to the highway. This project will line up with Eagle Vista on the east side of the highway so that there is alignment that makes sense.

Mr. Neil asked for public comment. Seeing none the public hearing was closed.

ACTION: MR. WALLIN MOVED, MS. JENSEN SECONDED A MOTION TO RECOMMEND THAT THE CITY COUNCIL ADOPT THE 2013-2018 SIX-YEAR TRANSPORTATION IMPROVEMENT PROGRAM WITH THE CORRECTION OF THE IMPROVEMENT TYPE CODE TO NUMBER 4 FOR THE SW HELLER STREET IMPROVEMENTS PROJECT. MOTION CARRIED.

SIGN CODE – Public Hearing

The Planning Commission continued its discussion of amendments to OHMC 19.36.080 (“Temporary and Special Signs”). Mr. Spoo summarized the changes that were made to the draft sign code resulting from comments made at the March Planning Commission meeting as follows:

Organizational Changes:

- Two main sections: (1) Private property (2) Public property
- Public property section reorganized by forum
 - Public rights-of-way = traditional public forum
 - City parks = traditional public forum
 - City vehicles = non-public forum
 - City buildings = non-public forum

Key Changes:

- Definition of political signs expanded. Mr. Spoo provided a comment letter from the American Civil Liberties Union (ACLU) regarding the definition of “political sign” (the letter is attached as Attachment A to these minutes)
- Permit system – eliminated (also commented on by ACLU)
- Time limits – 6 mos. eliminated. Shorter and more specific timelines remain
- Post election timeframe: 14 days
- Community events signs: can be posted 4-6 weeks prior, removal within a week.
- “Appearance of professionalism” language: Staff is seeking Planning Commission input. There are two choices - either keep the “appearance of professionalism” language in the code or remove it all together. Previously, the Planning Commission had a discussion about hand-drawn or hand-painted images and lettering. Based on public input and previous discussion, the Planning Commission wanted to allow for artistic signs that might have hand-drawn images or lettering. Planning Commission asked staff to draw a distinction between spray paint on plywood and more artistic signs. Mr. Spoo indicated that there is a question about whether these types of quality standards are desirable for temporary signs. Most communities don't have quality standards.

Mr. Spoo continued reviewing the changes to the draft sign code:

Signs within public ROW

- Limits on commercial sign types (portable A-frame, flag pole banners, residential directions “open house” signs, subdivision directional signs designating new development and community events and fund raisers)
- Garage sale deleted - only allowed on private property

Signs within public parks

- Signs cannot be installed (may not be affixed to park equipment, land of facilities in any way, this prohibition includes pounding a temporary sign into the ground)
- Transitory signs allowed (signs such as those used for protest, picket, demonstrate etc.)
- Exceptions - signs for sponsorships in Windjammer and Volunteer Parks. Notifications for youth sports leagues and information banners in Gateway-Beeksma Park.
- City vehicles/buildings: are non-public forums and signs are not allowed

Mr. Spoo reported that there were two meetings with Downtown Merchants Association. On April 18, they discussed:

- Flag banners
- A-frames/sandwich boards: ability to have & location
- Remote placement of temporary signs
- Event signage – clarified
- Sign directory

On May 16 the Association re-emphasized their desire for a sign directory.

Mr. Spoo concluded by noting that substantial work went into this project by the Planning Commission and staff. The draft code is detailed and specific and public input was sought and considered and we have done our best to meet constitutional standards. Mr. Spoo also noted that additional legal review is likely. Mr. Spoo recommended that the Planning Commission conclude their discussion and forward the draft sign code to the City Council for their approval.

Discussion

Mr. Fakkema commented that he noticed “public right-of-way” was not defined in Section 19.36.020 and asked if “public right-of-way” was defined somewhere else in the code. Mr. Powers said that the definition was either in the zoning definitions or the subdivision code but that it should be in the sign code section as well and will be added.

Mr. Fakkema commented that he objected to the change in Section 19.36.080(1)(b)(ii)(C) which deletes Christmas and replaces it with Holiday Season, but he realized that it would not be changed.

Mr. Wallin asked if the banners were only allowed in the CBD zone public right-of-ways. Mr. Spoo said that was correct.

Ms. Johnson-Pfeiffer asked if the flag pole holes in the sidewalks were public or privately owned. Mr. Spoo said they are on public property. Ms. Johnson-Pfeiffer said she was concerned that any type of speech could also go into the flag pole holes.

Mr. Wasinger asked if permission was granted to put the holes for the flags in the sidewalk. Mr. Powers said that since the sidewalk is the City's we didn't need permission. Mr. Powers also noted that there is language in the code that says, before placing a sign in the public right-of-way, you have to get permission from the private property owner adjacent to the sign. This language has been used in other communities and has been upheld.

Ms. Johnson-Pfeiffer commented that the expensive planters downtown should be protected from signs because the planters are intended for a specific purpose (beautification). She was concerned that there could be a "free-for-all" of signs in the planters and all it would take is one sign to start a "free-for-all." Mr. Spoo offered to craft language about what type of sign holder could be used in the planters in an effort to protect the planter but still allow speech. Ms. Johnson said her preference was to keep the signs out of the planters. Mr. Powers offered that there could be a subset within the public forum within the public right-of-way that says that you don't utilize planters that are above ground as opposed to the strips that are more traditionally available for the placement of signs.

Mr. Wallin thought that there was already discussion about the type of sign holder that would be allowed i.e. thin metal stakes as opposed to thick wooden stakes. Mr. Spoo said that language could be crafted but we shouldn't restrict to a certain type of sign holder that is more expensive. That could effectively amount to content restriction because you would not be allowing an underfunded candidate to express their viewpoint. In the interest in maintaining the city's investment in the planters and avoiding underground pipes that might be in the planter, we can craft language to that effect.

Mr. Neil asked if we are still allowing the dancing pizza person in the right-of-way. Mr. Spoo said that the dancing pizza signs have not been called out as prohibited but if you look at the list of types of signs allowed in the public right-of-way the dancing pizza sign is not listed and would not be allowed as the code is drafted.

Mr. Fakkema voiced his support of Ms. Johnson-Pfeiffer's comments about not allowing signs in the raised planters.

Ms. Jensen asked whether the planters were private property in the public right-of-way. Mr. Powers said that the planters were purchased with public dollars so they are public property. Mr. Powers said that as long as there is the ability to have some form of political speech sign within the CBD that he didn't believe it was necessary to allow them on every location within the public right-of-way. Staff can look at language that prohibits all temporary sign from being in those planters so long as we allow political speech signs elsewhere within the right-of-way within the CBD.

Mr. Neil asked for public comment.

Mr. John Voigt (732 La Conner Street, Coupeville WA) asked what the effective date would be if the ordinance was adopted. Mr. Powers said the effective date would be five days after it was published in the newspaper.

Planning Commission discussed whether or not to leave the "Appearance of professionalism" language in the code. Commission members agreed that the language should be left in the code.

ACTION: MS. JOHNSON-PFEIFFER MOVED, MR. WALLIN SECONDED A MOTION TO RECOMMEND THAT THE CITY COUNCIL ADOPT THE SIGN CODE ORDINANCE INCLUDING THE LANGUAGE “APPEARANCE OF PROFESSIONALISM” AND THE ADDITION OF THE DEFINITION OF PUBLIC RIGHT-OF-WAY AND SOME INCLUSION OF RESTRICTIONS FOR RAISED PLANTERS WITHIN THE CENTRAL BUSINESS DISTRICT. MOTION CARRIED.

SHORELINE MASTER PROGRAM (SMP) – Public Meeting

Mr. Spoo briefed the Planning Commission on their role in the SMP project which is to listen, understand, question and make recommendations. Mr. Spoo noted that the SMP is also being reviewed by the Department of Ecology (DOE). It is possible that DOE will have comments that affect the draft and those proposed changes will be reviewed with the Planning Commission.

Mr. Spoo explained the purpose of the Shoreline Management Act (state legislation that guides the creation of SMP's) and the Shoreline Master Program is to promote and enhance public access, prioritize water dependent and water oriented uses over non-water oriented uses, and to preserve and restore the environment.

Mr. Spoo noted that the shoreline jurisdiction is 200 feet back from the ordinary high watermark (OHWM) and also includes wetlands that cross that 200 foot mark and goes to the edge of the wetland.

Mr. Spoo explained that the SMP requires DOE approval and if we don't meet their standards DOE will step in and adopt an SMP that suits their needs. This is our chance to exercise our local preferences in the SMP.

Mr. Spoo explained that jurisdictions are required to meet what is called “no net loss” of ecological functions. Ecological functions are hydrology, vegetation and habitat. We have to demonstrate that whatever development occurs in the shoreline jurisdiction meets no net loss.

Mr. Spoo moved on to Chapter 2 of the SMP and explained Shoreline Environment Designations. They are akin to zoning and are a type of overlay zoning that applies within the shoreline jurisdiction and they apply in addition to the underlying zoning.

Mr. Spoo displayed the following table which shows the State designations and the proposed designations for Oak Harbor and describes the types of allowed uses: