



December 3, 2013

CITY COUNCIL AGENDA

6:00 p.m.

1. CALL TO ORDER

Invocation/Pledge of Allegiance

OATH OF OFFICE – Joel Servatius

HONORS AND RECOGNITIONS

- Holiday Wreath Presentation by Boy Scout Troop 59
- Proclamation – National Impaired Driving Prevention Month

2. APPROVAL OF AGENDA

3. CITIZEN COMMENT PERIOD

4. CONSENT AGENDA

- a. Minutes of the Regular City Council meeting held November 19, 2013
- b. Approval of Accounts Payable Vouchers
- c. Motion to authorize the Mayor to sign the Professional Services Agreement for Public Defense Administration Services with Jack Kerr & Associates
- d. Motion to authorize the Mayor to sign the Professional Services Agreement with Braun Consulting for Labor Relations and Negotiations Services
- e. Motion to authorize the Mayor to sign the State Revolving Fund Application for the WWTP
- f. Motion to authorize the Mayor to sign the Professional Services Agreement with Orswell Events LLC, for Marathon logistical support for a not-to-exceed amount of \$17,500.00
- g. Motion to excuse Councilmember Beth Munns from the regular council meeting of December 17, 2013
- h. Motion to approve the Mayor's reappointment of Dr. Mahmond Abdel-Monem and J.J. Jones to the Marina Advisory Committee for terms to expire December 2016
- i. Resolution 13-28: Declaring Certain Property of the City Surplus and Authorizing Disposal
- j. Resolution 13-35: Authorizing an Intergovernmental Transfer of Two Radar Units to the Town of Coupeville
- k. Motion to authorize the Mayor to sign the Professional Services Agreement with Moffatt & Nichol for completion of design engineering services, bidding assistance and engineering services during construction for repair of the stormwater outfall in Windjammer Park for a not to exceed amount of \$219,184.00
- l. Motion to authorize the Mayor to sign Amendment No. 1 to the Professional Services Agreement with Equinox Research and Consulting International (ERCI) for archaeological services and increasing the not-to-exceed contract amount by \$12,079.50 from \$4,265.70 to \$16,345.20
- m. Motion to approve the Mayor's appointment of Bill Walker to the Oak Harbor Youth Commission for a three-year term to expire December 2016

5. STAFF, MAYOR AND COUNCIL COMMENTS

- a. City Administrator
- b. Mayor
- c. Councilmembers

To assure disabled persons the opportunity to participate in or benefit from City services, please provide 24-hour advance notice to the City Clerk at (360) 279-4539 for additional arrangements to reasonably accommodate special needs.



December 3, 2013

CITY COUNCIL AGENDA

6:00 p.m.

6. ORDINANCE AND RESOLUTIONS

- a. Ordinance 1676: Relating to Insurance Requirements for Firework Stands and Amending Section 5.32 of the OHMC
- b. Resolution 13-31: Adopting the 2013 Wastewater Facilities Plan
- c. Resolution 13-32: Authorizing Staff to Pursue the General Contractor/Construction Manager Process as the Preferred Delivery Method for the WWTP Project
- d. Resolution 13-34: Adopting the Economic Development Strategy and Action Plan
- e.(1) Motion to reclassify Human Resources Manager (Grade 54) to Human Resources Director (Grade 59)
- (2) Ordinance 1678: Amending Chapter 2.34 of the OHMC to change "Human Resources Manager" to "Human Resources Director"

7. PUBLIC HEARINGS/PUBLIC MEETINGS

- a. Ordinance 1675: Adopting the Shoreline Master Program Update in Compliance with the Shoreline Management Act (RCW 90.58) and the State Shoreline Management Act Guidelines (WAC 173-26)

8. UNFINISHED BUSINESS

- a. Resolution 13-36: Establishing a Policy Making Elected Officials Ineligible for Participation in the City's High Deductible Healthcare Plan (HDHP) and Making the Payment of Medical Insurance Premiums for Dependents the Financial Responsibility of the Elected Official
- b. Executive Session: Potential Litigation and Property Acquisition

9. NEW BUSINESS

10. ADJOURNMENT

As a courtesy to Council and the audience, PLEASE TURN YOUR CELL PHONES OFF before the meeting begins. During the meeting's Public Comments section, Council will listen to your input regarding subjects of concern or interest that are not on the agenda.

For scheduled public hearings, if you wish to speak, please sign your name to the sign-up sheet, located in the Council Chambers. The Council will take all information under advisement. To ensure your comments are recorded properly, state your name and address clearly into the microphone. Please limit your comments to three minutes in order that other citizens have sufficient time to speak.

Thank you for participating in your City Government!

To assure disabled persons the opportunity to participate in or benefit from City services, please provide 24-hour advance notice to the City Clerk at (360) 279-4539 for additional arrangements to reasonably accommodate special needs.

City of Oak Harbor

OFFICE OF THE MAYOR
SCOTT DUDLEY
MAYOR



PROCLAMATION IN RECOGNITION OF

NATIONAL IMPAIRED DRIVING PREVENTION MONTH December 2013

WHEREAS, driving under the influence of alcohol and drugs needlessly threatens our families, friends, co-workers and neighbors; and

WHEREAS, all drivers risk impairment when consuming alcohol or other impairing drugs--whether legal, over the counter and prescription medications or illegal substances; and

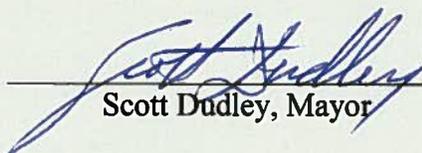
WHEREAS, increased public awareness of the DUI problem is crucial now, at the holiday season, when celebrating often means the deadly combination of alcohol and driving; and

WHEREAS, throughout the year but particularly December, we ask each citizen to make a conscious effort to help prevent DUI by not driving impaired, never serving those under the age of 21 alcohol, planning safe parties, including providing non-alcoholic drink options to guests and not serving alcohol in the last hour of the gathering and preparing to get everyone home safe in case plans or individual circumstances change; and

WHEREAS, the Impaired Driving Impact Panel of Island County, Oak Harbor Police Department, Oak Harbor Fire Department, Naval Air Station Whidbey Island, Whidbey General Hospital Emergency Medical Services and Oak Harbor High School Students Against Destructive Decisions join forces this year to remind citizens that impaired driving crashes are 100% preventable if we all do our part to prevent them.

NOW, THEREFORE, WE, Scott Dudley, Mayor and Councilmembers of the City of Oak Harbor, designate December 2013 as **National Impaired Driving Prevention Month** to help make our roads safer for all.

Signed this 3rd day of December, 2013



Scott Dudley, Mayor

Oak Harbor City Council
Regular Meeting Minutes
November 19, 2013

CALL TO ORDER

Mayor Scott Dudley called the meeting to order at 6:00 p.m.

INVOCATION/PLEDGE OF ALLEGIANCE

Pastor Dams of the Bridge Christian Fellowship gave the Invocation and Mayor Dudley led the Pledge of Allegiance.

ROLL CALL

Present:

Mayor Scott Dudley
Mayor Pro Tempore Danny Paggao
Councilmember Rick Almborg
Councilmember Jim Campbell
Councilmember Tara Hizon
Councilmember Beth Munns
Councilmember Joel Servatius

Staff Present:

City Administrator Larry Cort
Finance Director Doug Merriman
Development Service Director Steve Powers
Public Works Director Cathy Rosen
Assistant City Attorney Nikki Esparza
City Engineer Joe Stowell
City Clerk Valerie J. Loffler
Police Chief Ed Green
Fire Chief Ray Merrill

Councilmember Severns was excused.

HONORS AND RECOGNITIONS

Employee Recognition

City Engineer Joe Stowell recognized Civil Engineer Brad Gluth for 10 years of dedicated service to the City of Oak Harbor and presented him with a fleece jacket. Mr. Stowell related the value of Mr. Gluth's contributions. He coordinates all traffic issues, possesses valuable WSDOT experience, and reviews development plans and provides comments in a professional manner. He's a certified stormwater manager, a great communicator, and he's also a community volunteer.

APPROVAL OF AGENDA

Motion: Councilmember Almborg moved to add an Executive Session to discuss pending litigation. The motion was seconded by Councilmember Campbell and carried unanimously.

Councilmember Hizon moved to approve the agenda as amended. The motion was seconded by Councilmember Almborg and carried unanimously.

CITIZEN COMMENT PERIOD

Bob Hallahan urged Council to lead the way and adopt policies to limit climate change.

CONSENT AGENDA

- a. Minutes of the Regular City Council meeting held November 6, 2013
- b. Approval of Accounts Payable Voucher No. 156083 in the amount of \$391.53; Voucher Nos. 156084 through 156273 in the amount of \$1,482,197.82; and Voucher Nos. 156274 through 156283 in the amount of \$563.01
- c. Motion to authorize the Mayor to sign the Contract with Whidbey Island General Hospital for EMS Service 2014-2015
- d. Motion to authorize staff to proceed with advertisement to bid for two booster pumps
- e. Motion to excuse Councilmember Bob Severns from the regular council meeting of November 19, 2013

Motion: Councilmember AlMBERG moved to approve Consent Agenda as presented. The motion was seconded by Councilmember Servatius and carried unanimously.

STAFF AND COUNCIL COMMENTS

City Administrator Dr. Larry Cort reported City trucks were on Pioneer Way putting up lights, and Marathon registrations hit 2,000.

Mayor Scott Dudley reminded staff and Council about the special meeting scheduled for November 25th at 10:30 a.m. to discuss Navy participation in the Wastewater Treatment Plant project. In addition, a meeting with Senator Bailey and Representative Smith has been scheduled for Tuesday, December 3rd, at 2:00 p.m.

He also announced the Rotary Club will be putting up holiday lights on November 30th. He asked citizens to donate their time, effort and money for the 3,600 meals that will be served at the North Whidbey Community Harvest.

Mayor Dudley also noted that John Pendleton, commercial photographer and longtime community supporter, provided the new artwork in the Council Chambers. Mr. Pendleton has recently shifted his focus to the capture of local Whidbey life and events.

Councilmember Beth Munns encouraged participation in the public meeting on the OLF.

Councilmember Tara Hizon announced a blood drive. She also expressed her appreciation for the firefighters who assisted with the water leak in her apartment.

Councilmember Servatius wondered about inserting a flyer with a list of resources in the utility bills to inform the community about teen suicide awareness and prevention.

Mayor Dudley recognized Cub Scout Troop 4099 in the audience.

ORDINANCES AND RESOLUTIONS

Resolution 13-29: 2014 Legislative Priorities

City Administrator Dr. Larry Cort provided a staff report.

Resolution 13-29 A Resolution of the City of Oak Harbor Relating to 2014 Legislative Priorities

Motion: Councilmember Servatius moved to adopt Resolution 13-29. The motion was seconded by Councilmember Campbell and carried unanimously.

UNFINISHED BUSINESS

Resolution 13-12: Relating to Elected Officials Participation in Group Medical, Dental and Vision Plans

Mayor Scott Dudley provided the staff report. He stated current participation costs \$53,444.88 and eliminating eligibility is a way to cut expenses.

Criston Skinner spoke in opposition telling Council they deserve to be eligible for medical benefits and to not sell themselves short or buy into the argument that public service should be valued any less.

Skip Pohtilla also spoke in opposition encouraging Council to keep their eligibility. Even though the position is labeled part-time, they're always on the clock 24/7.

Councilmember Servatius spoke in support for keeping the benefits. He also pointed out that Councilmembers are considered regular part-time employees and the City pays their premium. The Mayor is treated as a full-time employee and benefits are available and paid at 75 percent for his family.

In addition, Councilmember Servatius stated Council shouldn't be allowed to participate in the high deductible/health savings plan (HDHP).

Councilmember Munns cited her concerns about making public service a privilege and not open to anybody.

She also asserted that citizens are concerned with communication, not the salary and benefits of Council.

Councilmember Paggao stated he fully supports providing health benefits to elected officials.

Councilmember Almborg disclosed that no one has ever told him he doesn't deserve a salary and medical benefits. The citizens expect hard work and efficient use of city resources.

Councilmember Hizon spoke in support of offering medical benefits to Council. It's voluntary and is available only for the elected official and not their family. She also agrees the HDHP should be off the table for elected officials.

Motion: Councilmember Almborg moved that no elected official be eligible to participate in the City's High Deductible Health Care Plan; and for the other health care plans, elected officials shall pay for their dependents they elect to have on the City's plan. Further, staff shall bring forward a new resolution reflecting this motion for Council review and possible approval at the December 3, 2013, council meeting.

The motion was seconded by Councilmember Munns and carried unanimously.

Elected Officials Salary Review

Mayor Scott Dudley reported there were two ways to reduce their salaries. Council could repeal the ordinance establishing the Salary Commission and reduce salaries, or they can re-populate the Salary Commission to review the salaries.

Criston Skinner told Council he didn't think they should be concerned about salaries; most citizens believe they're underpaid. He believes Council should move onto more important matters.

Skip Pohtilla agreed with Mr. Skinner. He pointed out Council isn't compensated a great deal, and by eliminating the salary, you're making the position "elitist."

Councilmember Hizon stated she would prefer the Commission have the discussion.

Councilmember Almberg stated the survey indicates the sum of health care and salary is equal to what most other cities of equal size provide for compensation. He would like to focus on other priorities.

Councilmember Paggao shared history about why the mayor's salary was so high, noting it was difficult to attract people to run for Mayor. He believes the Salary Commission should review the ordinance instead of Council.

Councilmember Campbell explained he uses his salary for mileage and travel expenses to meetings. If the salary goes away, a lot of people wanting to run for office may not be able to afford to drive to Mount Vernon twice a month. He doesn't want anyone to be eliminated from the opportunity to run for office.

Councilmember Munns stated her salary goes back into the community, and there are more important things on the agenda.

Councilmember Servatius agreed with his peers that energy should be invested elsewhere.

Councilmembers discussed the definition of "emergency" and whether or not Council salaries were causing a financial hardship.

Councilmember Hizon suggested moving onto other more important priorities.

EXECUTIVE SESSION

At 7:20 p.m. Mayor Dudley announced an executive session to discuss pending litigation for 25 minutes.

The meeting reconvened at 7:52 p.m.

ADJOURNMENT

Motion: Councilmember Almberg moved, seconded by Councilmember Campbell, to adjourn the meeting. The motion carried unanimously.

The meeting adjourned at 7:52 p.m.

Valerie J. Loffler, City Clerk

City of Oak Harbor
City Council Agenda Bill

Bill No. C/A 4.b.
Date: December 3, 2013
Subject: Approval of Accounts Payable
Vouchers

FROM: Doug Merriman, Finance Director 

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Larry Cort, City Administrator
 Grant Weed, Interim City Attorney, as to form

SUMMARY STATEMENT

Oak Harbor Municipal Code Chapter 3.72 establishes procedures for claims (vouchers) payment. The documentation that regularly supports the signature coversheets is attached. Claim coversheets will be provided prior to the City Council meeting for appropriate Council signatures.

RECOMMENDED ACTION

Motion to approve Accounts Payable Voucher Nos. 156284 through 156413 in the amount of \$749,492.27.

ATTACHMENTS

Voucher Lists

Voucher List
 City of Oak Harbor

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
156284	11/15/2013	0004903 US BANK	4485591000119689		CREDIT CARD PURCHASES	6,929.20
					Total :	6,929.20
156285	11/15/2013	0004903 US BANK	4485590001840921		CREDIT CARD PURCHASES	413.13
					Total :	413.13
156286	11/15/2013	0004903 US BANK	4485590100104922		CREDIT CARD PURCHASES	135.00
					Total :	135.00
156287	11/26/2013	0000011 ACE INDUSTRIAL SUPPLY	1293168		SAFETY KNIT HATS/CAUTION TAPE	395.02
					Total :	395.02
156288	11/26/2013	0005405 AGRICULTURE, UNITED STATES DEPT OF	3000702508		HEALTH INSPECTION SERVICES	2,842.83
					Total :	2,842.83
156289	11/26/2013	0000028 ALL ISLAND LOCK & KEY	48378		SAFE SERVICE	48.91
					Total :	48.91
156290	11/26/2013	0007295 ALL PLAY SYSTEMS, LLC	2013-132		REPLACEMENT RINGS/SHACKLES/PEN	325.01
					Total :	325.01
156291	11/26/2013	0001609 ALL QUALITY STITCHES	289		SHIRTS	236.97
			310		SHIRTS	856.01
					Total :	1,092.98
156292	11/26/2013	0006551 ALPINE FIRE & SAFETY SYSTEMS	589314		HYDROTESTING	265.78
					Total :	265.78
156293	11/26/2013	0000712 AMERIGAS	3022738882		PROPANE/MARINA	126.37
					Total :	126.37
156294	11/26/2013	0000712 AMERIGAS	3022411984		TANK RENTAL/DOG POUND	81.53
					Total :	81.53
156295	11/26/2013	0002044 ANACORTES.NET/HOW IT WORKS	34037		NOV 2013/WEB HOSTING	15.95
					Total :	15.95

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
156296	11/26/2013	0005550 ARCHITECTURAL ELEMENTS	2013-11-7		ALUMINUM SIGN	5,351.30
Total :						5,351.30
156297	11/26/2013	0006865 ARMADA	112013		COLLECTION FEE/2651495/32-050000-C	66.90
			112513		COLLECTION FEE/2707188/2545562/27-	127.67
Total :						194.57
156298	11/26/2013	0000053 ARROW PEST CONTROL, INC	150649		PEST CONTROL	108.70
Total :						108.70
156299	11/26/2013	0004019 ASSOCIATED PETROLEUM PRODUCTS	0497683-IN		FUEL	4,557.13
			0498999-IN		FUEL	680.74
			0499000-IN		FUEL	224.53
			0501325-IN		FUEL	12,190.15
Total :						17,652.55
156300	11/26/2013	0000065 AVOCET ENVIRONMENTAL TESTING	1303896-IN		TESTING	100.00
Total :						100.00
156301	11/26/2013	0004733 BARRON HEATING & AIR COND, INC	140937		EXHAUST FAN INSTALLATION	5,209.99
			141425		DUCTWORK	489.15
			141426		EVAP COIL CLEANING	108.70
			141427		HSI REPLACEMENT	1,238.36
			141459		ROOFTOP UNIT INSPECTIONS	608.18
			141460		AC REPAIR	1,052.12
			141461		MOTOR REPAIR	1,190.84
Total :						9,897.34
156302	11/26/2013	0007282 BENCHMARK DOCUMENT SOLUTIONS	7819		PHASER	3,303.39
Total :						3,303.39
156303	11/26/2013	0003980 BHC CONSULTANTS	0005419		PROF SVC/SEPTIC TO SEWERS	3,724.03
Total :						3,724.03
156304	11/26/2013	0000103 BLADE CHEVROLET, INC	142021		GASKET	24.17
			142030		GASKET	9.62
			142106		HANDLE	33.89
			142142		CONTROL	201.03

Voucher List
City of Oak Harbor

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
156304	11/26/2013	0000103 0000103 BLADE CHEVROLET, INC			(Continued)	Total : 268.71
156305	11/26/2013	0005914 BLUE MOUNTAIN ELECTRIC, INC	461		REPLACEMENT LAMPS	84.46
						Total : 84.46
156306	11/26/2013	0000109 BLUMENTHAL UNIFORMS	32309		BOOTS/ESPARZA	330.39
			33337		JACKETS	81.53
			34082		UNIFORM ITEMS/SEIM	303.50
			34601		SHIRT/CARTER	74.99
			995888		VEST/CLEMENTS	836.99
						Total : 1,627.40
156307	11/26/2013	0000122 BOY SCOUTS OF AMERICA	110513A		2014 CHARTER RENEWAL FOR EXPLO	357.00
						Total : 357.00
156308	11/26/2013	0000122 BOY SCOUTS OF AMERICA	110513B		2014 CHARTER RENEWAL FOR EXPLO	13.00
						Total : 13.00
156309	11/26/2013	0000627 CAPITAL ONE COMMERCIAL	125115075211		SUPPLIES	310.25
			181622175211		SUPPLIES	1,066.64
						Total : 1,376.89
156310	11/26/2013	0000172 CHRISTIANS TOWING STORAGE	26478		TOWING	81.53
			26494		TOWING	193.49
						Total : 275.02
156311	11/26/2013	0000179 CLERKS PETTY CASH	112113		PETTY CASH	10.00
						Total : 10.00
156312	11/26/2013	0000186 COASTWIDE LABORATORIES	W2609510		AIR FRESHENER/SPITFIRE NB RTU	145.40
						Total : 145.40
156313	11/26/2013	0007298 COLE, RICHARD	4815		MOORAGE REFUND	96.72
						Total : 96.72
156314	11/26/2013	0005773 COMCAST	8498300280465283		CABLE/INTERNET	162.07
			8498300290363841		INTERNET SERVICES	210.77

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
156314	11/26/2013	0005773 0005773 COMCAST			(Continued)	Total : 372.84
156315	11/26/2013	0001711 COMMERCIAL FILTER SALES & SVC	299744		PLEATS/Z-LINE	787.95
						Total : 787.95
156316	11/26/2013	0000197 CONCRETE NORWEST	919925		CRUSHED ROCK	635.16
			919930		CRUSHED ROCK	333.96
			920964		0155A	103.41
						Total : 1,072.53
156317	11/26/2013	0003065 COVENANT JANITORIAL	1335944		NOV 2013/JANITORIAL SERVICES	3,465.40
						Total : 3,465.40
156318	11/26/2013	0000246 DE WILDE'S NURSERIES, INC	2488		HERITAGE WAY TREES	1,548.98
						Total : 1,548.98
156319	11/26/2013	0000253 DIVERSINT	99592		ADAPTERS	117.56
						Total : 117.56
156320	11/26/2013	0000967 ECOLOGY, WASHINGTON STATE DEPT OF	112213		WASTEWATER OPERATOR CERTIFICA	270.00
						Total : 270.00
156321	11/26/2013	0000273 EDGE ANALYTICAL, INC	13-21304		TESTING	18.00
						Total : 18.00
156322	11/26/2013	0006747 EQUINOX RESEARCH & CONSULTING	12-442-4		PROF SVC/ARCHAEOLOGIST	436.40
						Total : 436.40
156323	11/26/2013	0006951 FAKKEMA, ROBERT	EXP REIMB		EXP REIMB	85.00
						Total : 85.00
156324	11/26/2013	0002900 FASTENAL	WAOAK15642		INPUT ELEC/SINGLE HOSE BLOWER/T	2,134.67
			WAOAK15646		DIAG PLIER	14.12
			WAOAK15691		WRENCH	31.50
						Total : 2,180.29
156325	11/26/2013	0007141 FREEDOM PROPERTIES, LLC	113013		NOV 2013/ANIMAL SHELTER	2,500.00

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
156325	11/26/2013	0007141 0007141 FREEDOM PROPERTIES, LLC	(Continued)			Total : 2,500.00
156326	11/26/2013	0000355 FRONTIER	279-0841 679-5551		CURRENT PHONE CHARGES CURRENT PHONE CHARGES	73.72 183.54 Total : 257.26
156327	11/26/2013	0000326 FRONTIER BUILDING SUPPLY	85443		PLYWOOD	49.83 Total : 49.83
156328	11/26/2013	0000325 FRONTIER FORD	97293 97319		RETSWITCH BOX ASY	108.15 300.56 Total : 408.71
156329	11/26/2013	0004088 FULLER, MARY	1		TRAVEL REFUND	20.00 Total : 20.00
156330	11/26/2013	0000329 GALLS	001198486		PANTS	140.70 Total : 140.70
156331	11/26/2013	0007292 GARNES, JOEL	1		TRAVEL REFUND	12.00 Total : 12.00
156332	11/26/2013	0000349 GRAINGER	9289914120 9290150763		EAR PLUGS GHS POSTER	58.42 49.89 Total : 108.31
156333	11/26/2013	0000999 GRCC/WW	128924		REGISTRATION/JENNINGS	440.00 Total : 440.00
156334	11/26/2013	0000999 GRCC/WW	112213		BACKFLOW ASSEMBLY TESTER CERTI	84.00 Total : 84.00
156335	11/26/2013	0002747 GUARDIAN SECURITY	464243		ALARM MONITORING	708.00 Total : 708.00
156336	11/26/2013	0007297 GUEDEA, NICHOLAS	6158		MOORAGE REFUND	166.05 Total : 166.05

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
156337	11/26/2013	0005311 HB JAEGER COMPANY, LLC	36912/2		CLAMPS	265.77
					Total :	265.77
156338	11/26/2013	0000694 HD SUPPLY WATERWORKS	B689256		ANGLE/COUPLINGS	900.41
					Total :	900.41
156339	11/26/2013	0005515 HDR ENGINEERING, INC	00401630-H		PROF SVC/UTILITY RATE AND FEE UPI	6,372.23
					Total :	6,372.23
156340	11/26/2013	0003095 HOME DEPOT CREDIT SERVICES	6023639 7026482		ROOF PANEL ROOF PANEL	14.12 14.12
					Total :	28.24
156341	11/26/2013	0005250 HONEYMOON BAY COFFEE ROASTERS	046528 046531		COFFEE SUPPLIES COFFEE SUPPLIES	107.33 94.22
					Total :	201.55
156342	11/26/2013	0000417 INDUSTRIAL BOLT & SUPPLY	548967-1		BREAKERS/BLADES	551.80
					Total :	551.80
156343	11/26/2013	0000410 ISLAND COUNTY SOLID WASTE	1075796		DISPOSAL CHARGES	123.50
					Total :	123.50
156344	11/26/2013	0000411 ISLAND COUNTY TREASURER	112513		3RD QTR 2013/MUNICIPAL COURT EXP	44,737.51
					Total :	44,737.51
156345	11/26/2013	0000415 ISLAND DISPOSAL	110413 3408272		OCT 2013/COLLECTION CHARGES RECYCLING	13,837.29 43.00
					Total :	13,880.29
156346	11/26/2013	0000433 ISLAND DRUG	090113 101113 110113		INMATE MEDS INMATE MEDS INMATE MEDS	217.90 66.33 59.73
					Total :	343.96
156347	11/26/2013	0007296 ISLAND FAMILY PHYSICIANS	110713		NEW EMPLOYMENT/RANG	170.00
					Total :	170.00

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
156348	11/26/2013	0000441 ISLAND SYSTEMS	219010		WATER/MARINA	5.90
			219309		WATER/MARINA	11.80
					Total :	17.70
156349	11/26/2013	0002828 KAR MART	313291		KEYS	261.31
					Total :	261.31
156350	11/26/2013	0006362 KBA, INC	3001420		PROF SVC/OAK HARBOR NORTH RESE	25,696.60
					Total :	25,696.60
156351	11/26/2013	0000471 KCDA PURCHASING COOPERATIVE	111413		RETAINAGE	3,664.07
					Total :	3,664.07
156352	11/26/2013	0000476 KERR, JACK	11-13		NOV 2013/PUBLIC DEFENSE SCREENIN	1,400.00
					Total :	1,400.00
156353	11/26/2013	0004458 KETCHUM, NEIL	EXP REIMB		EXP REIMB	150.00
					Total :	150.00
156354	11/26/2013	0001475 KOCH, MARGARET	1		TRAVEL REFUND	20.00
					Total :	20.00
156355	11/26/2013	0001662 LEDGERWOOD, MARIANNE	TRAVEL REIMB		TRAVEL REIMB	30.00
					Total :	30.00
156356	11/26/2013	0004502 LEXISNEXIS RISK DATA MANAGE	1404645-20131031		OCT 2013/MINIMUM COMMITMENT	54.35
					Total :	54.35
156357	11/26/2013	0006895 LOCHMILLER, OLIVIA	1		TRAVEL REFUND	40.00
					Total :	40.00
156358	11/26/2013	0004127 LOUNSBERY, NORIKO	1		TRAVEL REFUND	65.00
					Total :	65.00
156359	11/26/2013	0000530 MAILLIARD'S LANDING NURSERY	77605		YARD WASTE	125.30
					Total :	125.30
156360	11/26/2013	0000660 MARKET PLACE FOOD & DRUG	496402		GROCERIES	231.61

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
156360	11/26/2013	0000660 MARKET PLACE FOOD & DRUG	(Continued) 635992		GROCERIES	249.78
					Total :	481.39
156361	11/26/2013	0000362 MARSH-MCBIRNEY - HACH COMPANY	8572264		FLUORIDE	55.58
					Total :	55.58
156362	11/26/2013	0006072 MASTER'S TOUCH, LLC	P32026		SEP 2013/POSTAGE FOR STATEMENTS	2,792.83
					Total :	2,792.83
156363	11/26/2013	0004818 MICHAEL BOBBINK LAND USE SRVCS	112013		NOV 2013/HEARING EXAMINER	1,500.00
					Total :	1,500.00
156364	11/26/2013	0000538 MID AMERICAN RESEARCH CHEMICAL	0510375-in		DEGREASER/CLEANER	354.37
					Total :	354.37
156365	11/26/2013	0005445 MONTOYA, MATTHEW J	101		NOV 2013/PUBLIC DEFENSE	5,500.00
					Total :	5,500.00
156366	11/26/2013	0004423 MUNICIPAL EMERGENCY SERVICES	00465769_SNV		GAUGE/HOLDER/FLOW TESTS	277.57
					Total :	277.57
156367	11/26/2013	0005522 MUSSON, TOM	4025		MOORAGE REFUND	396.75
					Total :	396.75
156368	11/26/2013	0000612 NELSON PETROLEUM	0508178-IN		FUEL	207.46
					Total :	207.46
156369	11/26/2013	0002633 NEOPOST NORTHWEST	NWAR10433 NWAR10434		NOV 2013/CONTRACT DEC 2013/CONTRACT	400.02 400.02
					Total :	800.04
156370	11/26/2013	0005767 NORTHWEST RUNNER MAGAZINE	4497		DEC 2013/ADVERTISING	725.00
					Total :	725.00
156371	11/26/2013	0000672 OAK HARBOR ACE	228047 228541 230539		ROLLER COVER/PROFOAM/PAINTBRU: COUPLE KNOB	48.99 2.16 2.49

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
156371	11/26/2013	0000672 OAK HARBOR ACE	(Continued)			
			230911		COUPLING/TUBE	5.84
			231111		FILTER	10.86
			231146		SWIVEL	3.79
			231265		TAPE/SPRAYER	95.56
			231284		FREIGHT/CABLE TIES	137.13
			231351		PUTTY KNIFE/SEALANT	10.63
			231354		PROTRACTOR/TEE/VALVE/TUBE	32.96
			231405		PUMP/NIPPLE/CLAMP/BALL VALVE/PRE	53.64
			231408		GREASE/SAFETY PLUG	14.64
			231429		SEALING TAPE	26.50
			231436		DETECTOR	30.43
			231471		CEMENT/PRIMER/COUPLE/PIPE	49.50
			231481		SPLYFCT/BULB	93.45
			231485		SMARTLOCK	45.62
			231495		CAULK	3.03
			231515		BIBB HOSE/PIPE JOINT	55.38
			231521		BIBB HOSE/PIPE JOINT	-4.89
			231534		ROOF CEMENT/CABLE TIES/EXTENSIC	44.52
			231541		CABLE TIES	31.35
			231562		BUSHING/NIPPLE/BALL VALVE	19.53
			231571		CLEANER	8.69
			231715		DISHWASHING SOAP	13.02
					Total :	834.82
156372	11/26/2013	0000668 OAK HARBOR AUTO CENTER	001-184891		FILTERS	13.13
			001-185182		FUEL PUMP DRIVER	91.75
			001-185237		SPEED SEN	18.56
			001-185245		FILTERS	45.21
			001-185262		CORE	-10.87
			001-185263		POWER STRING	64.74
			001-185278		FUEL PRESSURE SE	107.69
			001-185286		STEERING WHEEL COVER	23.91
			001-185384		BLOWER MOTOR	85.68
			001-185490		RELAY	11.85
			001-185656		MINI LAMPS	15.07
			001-185736		CONVERTER	652.20

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
156372	11/26/2013	0000668 OAK HARBOR AUTO CENTER	(Continued)			
			001-185737		HARDWARE/GASKET	7.49
			001-185746		RELAY	71.08
			001-185755		BLOW GUN/FAST ACTING	20.44
			001-185876		AIR DOOR ACTUATOR	39.73
					Total :	1,257.66
156373	11/26/2013	0003007 OFFICE DEPOT	680758409001		DVD SPINDLE	19.44
			680758602001		ENVELOPES	13.09
			682209170001		DESKPAD/REFILLS	153.76
					Total :	186.29
156374	11/26/2013	0000665 OFFICEMAX, INC	005798		INKING REFILL/COIL CORD	12.05
					Total :	12.05
156375	11/26/2013	0000688 OVERHEAD DOOR CO	JS60796		DOOR MAINTENANCE	2,077.58
					Total :	2,077.58
156376	11/26/2013	0002985 PACIFIC TIRE CO. INC	0071886		TIRES	63.84
			0071887		TIRES	63.84
					Total :	127.68
156377	11/26/2013	0003164 PAINTERS ALLEY	22381		PAINT	26.90
			22396		PAINT	23.61
			22500		PAINT	1,943.38
			22502		PAINT	25.82
			22585		PAINT	514.03
			22634		PAINT	21.24
			22661		PAINT	34.78
			22668		PAINT	248.90
			22684		PAINT	119.46
			22756		PAINT	93.17
			22770		PAINT	167.66
			23085		PAINT	270.66
					Total :	3,489.61
156378	11/26/2013	0005551 PAPE MACHINERY EXCHANGE	8752543		HYD SYSTEM/FUEL/HYD	130.52

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
156378	11/26/2013	0005551 0005551 PAPE MACHINERY EXCHANGE	(Continued)			Total : 130.52
156379	11/26/2013	0000708 PERRINE, KIM	TRAVEL REIMB		TRAVEL REIMB	97.74
						Total : 97.74
156380	11/26/2013	0000709 PERS	01016068		OCT 2013/UNFUNDED LIABILITY	26.98
						Total : 26.98
156381	11/26/2013	0000721 PLACE, GEORGE	EXP REIMB		EXP REIMB	141.31
						Total : 141.31
156382	11/26/2013	0000724 PONY MAILING & BUSINESS CENTER	216769		SHIPPING	56.04
						Total : 56.04
156383	11/26/2013	0000753 RADIOSHACK	011133		BATTERIES	13.02
						Total : 13.02
156384	11/26/2013	0000960 REVENUE, WASHINGTON STATE DEPT OF	111213		OCT 2013/SALES/USE TAX	47,299.56
						Total : 47,299.56
156385	11/26/2013	0000809 SENIOR SERVICES OF ISLAND	OH10-2013		OCT 2013/SENIOR SERVICES	1,500.00
						Total : 1,500.00
156386	11/26/2013	0006711 SENTINELLA, TERRY	003		MEASURING/CERTIFYING	400.00
						Total : 400.00
156387	11/26/2013	0003782 SHARP ELECTRONICS CORPORATION	C788570-701		OCT 2013/MAINTENANCE CONTRACT	24.01
						Total : 24.01
156388	11/26/2013	0000816 SHELL FLEET PLUS	0000000065163545311		FUEL	172.09
						Total : 172.09
156389	11/26/2013	0000822 SHRED-IT USA, INC	9402810642		SHREDDING	72.50
						Total : 72.50
156390	11/26/2013	0005444 SIERRA, GEORGINA D	112513		NOV 2013/PUBLIC DEFENSE	2,500.00
						Total : 2,500.00
156391	11/26/2013	0004184 SIPES, TAMRA	113013		NOV 2013/RACE COORDINATOR	2,546.00

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
156391	11/26/2013	0004184 0004184 SIPES, TAMRA			(Continued)	Total : 2,546.00
156392	11/26/2013	0000831 SIX ROBBLEES', INC	14-277439		VERSAVALVE	150.78
			14-277799		DES CART RX AD-IP	92.09
			14-277934		MAG MOUNT ROTATOR	72.64
			14-277947		VALVE RELAY	66.22
			14-277989		GLOVES	346.71
			14-278090		VERSAVALVE	-29.82
					Total :	698.62
156393	11/26/2013	0000843 SOLID WASTE SYSTEMS, INC	0066188-IN		AIR VALVE	80.42
					Total :	80.42
156394	11/26/2013	0007294 SPEER, SCOTT	EXP REIMB		EXP REIMB	200.00
					Total :	200.00
156395	11/26/2013	0000851 SPRINT	414568819-072		CURRENT CELL CHARGES	508.09
					Total :	508.09
156396	11/26/2013	0003883 STAPLES BUSINESS ADVANTAGE	3209624175		INK/ENVELOPES/PAPER CLIPS	132.87
			3213902293		EXT HD	119.56
			3213902294		CLIPBOARD	34.76
			3213902296		TONER	370.84
			3213902297		INK	170.01
			3213902298		INK	87.89
			3214656442		MOUSE PAD/DVD CASES/CALENDARS/	94.19
					Total :	1,010.12
156397	11/26/2013	0000863 STERKEL, TIMOTHY	EXP REIMB		EXP REIMB	97.33
			EXP REIMB		EXP REIMB	118.99
					Total :	216.32
156398	11/26/2013	0000874 SURETY PEST CONTROL	377195		PEST EXTERMINATION	135.88
			381970		PEST EXTERMINATION	32.61
			384957		PEST EXTERMINATION	59.79
			387401		PEST EXTERMINATION	97.83
					Total :	326.11

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
156399	11/26/2013	0007293 TRISLER, SHAWN	EXP REIMB		EXP REIMB	175.00
Total :						175.00
156400	11/26/2013	0000923 UNITED PARCEL SERVICE	0000A0182W173		SHIPPING	21.47
			0000A0182W433		SHIPPING	29.78
			0000A0182W443		SHIPPING	10.25
			0000A0182W453		SHIPPING	7.96
Total :						69.46
156401	11/26/2013	0007291 UNITED WAY OF ISLAND COUNTY	101113		TENT CARDS	21.33
Total :						21.33
156402	11/26/2013	0001604 VANZYTVELD, LORRAINE	1		TRAVEL REFUND	20.00
Total :						20.00
156403	11/26/2013	0000932 VERIZON WIRELESS	9714625565		CURRENT CELL CHARGES	4,821.02
Total :						4,821.02
156404	11/26/2013	0002600 VERNON PUBLICATIONS, LLC	INV01529		ADVERTISING	810.00
Total :						810.00
156405	11/26/2013	0007166 VETERANS NORTHWEST CONST	6		PROF SVC/NORTH RESERVOIR	491,356.81
Total :						491,356.81
156406	11/26/2013	0002557 WAGNER, CLIFF	1		TRAVEL REFUND	36.00
Total :						36.00
156407	11/26/2013	0001052 WASHINGTON STATE PATROL	I14002921		BACKGROUND CHECKS	20.00
			I14003199		BACKGROUND CHECKS	561.00
Total :						581.00
156408	11/26/2013	0001000 WHIDBEY AUTO PARTS, INC.	192737		CORE DEPOSIT	-78.50
			194442		VOLT REG	29.34
			194448		SCRAPER	19.54
			194808		SENSOR	49.89
			194813		PUNCH	9.78
Total :						30.05

Bank code : bank

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
156409	11/26/2013	0000675 WHIDBEY COMMUNITY PHYSICIANS	070513 092413-132 110713-108		OFFICE VISIT/WRIGHT PHYSICAL/HUBBARD OFFICE VISIT	128.00 225.00 128.00
Total :						481.00
156410	11/26/2013	0001017 WHIDBEY PRINTERS	46557		MOORAGE LEASE AGREEMENT	65.31
Total :						65.31
156411	11/26/2013	0001010 WHIDBEY TELECOM	3641639 3643738		CURRENT NET SERVICES FOREIGN LISTING	42.00 24.00
Total :						66.08
156412	11/26/2013	0001037 WORK OUTFITTERS	50426		BOOTS/VON HADEN	193.09
Total :						193.09
156413	11/26/2013	0003895 YZAGUIRRE, JENNIFER	EXP REIMB		EXP REIMB	62.40
Total :						62.40
130 Vouchers for bank code : bank						Bank total : 749,492.27
130 Vouchers in this report						Total vouchers : 749,492.27

City of Oak Harbor City Council Agenda Bill

Bill No.: C/A 4.c.
Date: December 3, 2013
Subject: Contract Renewal - Public Defense
Administration Services-Jack Kerr


FROM: Larry Cort, City Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Doug Merriman, Finance Director
____ Grant Weed, Interim City Attorney, as to form

PURPOSE

This agenda bill seeks City Council approval of a Contract Renewal for Public Defense Administration Services.

FISCAL IMPACT

\$1,400 per month or \$16,800 per year
Fund: 001 General (Court)

SUMMARY STATEMENT

Pursuant to the 6th Amendment to the United States Constitution, every person charged with a crime for which jail time is a potential penalty and who is unable to pay the cost of an attorney is entitled to have an attorney appointed to represent them at public expense. Washington law (Chapter 10.101 RCW) places an obligation to pay for public defense services for indigent defendants upon the charging jurisdiction. Therefore, the City is required to determine whether a person qualifies for a public defense.

The City's current Agreement for Public Defense Administration Services is with Jack Kerr, and will expire on December 31, 2013. Mr. Kerr has served as the Public Defense Administrator since January 1, 1999 and review of the services, as required and provided by Mr. Kerr, indicates that they are of the highest quality. Mr. Kerr is agreeable to a one-year renewal of his current contract under identical terms.

The proposed renewal of the Agreement is for one year, and after execution the agreement will terminate on December 31, 2014. Compensation remains unchanged, at \$1,400 per month.

STAFF RECOMMENDATIONS

Approve the Agreement as submitted and authorize the Mayor to sign the renewal to the Agreement with Jack Kerr for Public Defense Administration services.

ATTACHMENTS

Amendment to Agreement (Proposed One Year Extension – January 1, 2014 through December 31, 2014)

AMENDMENT TO AGREEMENT

THIS AMENDMENT, entered into this 3rd day of December 2013, by and between the CITY OF OAK HARBOR, a Washington municipal corporation (hereinafter referred to as the "City") and JACK KERR (hereinafter referred to as the "SERVICE PROVIDER").

WITNESSETH:

WHEREAS the City entered into an Agreement with the SERVICE PROVIDER dated December 8, 2010, for the provision of Indigent Defense Screening Services (hereinafter the "Agreement"); and

WHEREAS the parties hereto wish to amend the Agreement by extending the term thereof;

NOW, THEREFORE, the parties hereby amend the Agreement as follows:

A. Section 2 – Term

The term of this Agreement shall begin on January 1, 2011, and shall terminate on June December 31, 2014, unless sooner terminated according to the provisions herein.

All other terms and conditions of the Agreement shall remain the same.

CITY OF OAK HARBOR

SERVICE PROVIDER

Mayor Scott Dudley

Jack Kerr

Attest:

Valerie Loffler, City Clerk

Approved as to form:

Grant Weed, Interim City Attorney

City of Oak Harbor City Council Agenda Bill

Bill No. C/A 4.d.
Date: December 3, 2013
Subject: Contract with Braun Consulting
Group for Labor Relations &
Negotiations Services

FROM:  Larry Cort, City Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Doug Merriman, Finance Director
 Grant Weed, Interim City Attorney, as to form

PURPOSE

This agenda bill proposes the City renew a contract with Braun Consulting Group for labor relations and negotiation services. The proposed one-year contract renewal would cover these services for the two existing bargaining units in the Police Department and two Teamsters bargaining units in Public Works and the Marina.

FISCAL IMPACT DESCRIPTION

Funds Required: \$31,800 (\$2,650 per month)

This contract renewal is for the 2014 calendar year. The cost of the contract will be allocated to the bargaining units based on the number of members in each group. Each Department or Fund will be required to cover the costs of the contract within existing budget parameters.

SUMMARY STATEMENT

On April 3, 2012, the City Council approved a Professional Services Agreement with Braun Consulting Group for labor relations and negotiations services. Braun Consulting Group is headed by Robert Braun, Jr., with more than 20 years experience in labor relations and personnel management. Braun Consulting Group works with many local agencies such as Island County, Skagit County and Whatcom County. Mr. Braun also has past and present experience negotiating with the Teamster Local 231. At the time of presenting Mr. Braun's Professional Services Agreement to the Council in 2013, staff reported that other agencies found his services invaluable and our experience has confirmed that evaluation. Staff is recommending renewing Mr. Braun's contract for an additional year at the same rate.

Mr. Braun is assisting the City with negotiations on four contracts: two with Teamsters Local 231 and two with the Oak Harbor Police Association and the Fraternal Order of Police. A contract with Teamsters Local 231/Public Works was approved by the Council on August 7, 2013. As was anticipated at the time of approval, that contract has been reopened for the purposes of negotiating wages and health benefits. Negotiations are ongoing with the Teamsters Local 231 for the Marina contract. This contract is expected to be very similar to the one approved for Public Works. Joint negotiations involving the Teamsters, Public Works, Marina and City representatives occur when possible for the sake of efficiency. Negotiations continue with the Oak Harbor Police Association and the Fraternal Order of Police on the Commissioned and Non-commissioned contracts. Some interim agreements have been reached and

12/3/13 Agenda Bill - Contract with Braun Consulting Group

City of Oak Harbor City Council Agenda Bill

implemented pending the completion of negotiations. Recent City Council decisions regarding health benefits and opt-out provide important information that can now be brought to the table to help conclude the negotiating process.

The proposed contract renewal with Braun Consulting Group is on a retainer basis in which the City would continue to pay Braun Consulting a flat monthly fee of \$2,650 for the services outlined in the attached contract. Should the City find itself at impasse or mediation for any of the labor contracts, the associated costs would be included as part of the retainer amount. However, should any contract need to go to arbitration, Braun would seek an amendment to the Professional Services Agreement based on the anticipated need for additional services during arbitration. As arbitration costs are difficult to calculate in advance of the issue that may arise, that cost would have to be determined at the time of such need. The City could but would not be required to hire Braun Consulting Group should arbitration be necessary.

While the proposed renewal of Mr. Braun's Professional Services Agreement is for a period of one year, it is the administration's expectation that the reclassification and hiring of a Human Resources Director will result in bringing labor relations and negotiation back in-house. The Professional Services Agreement has a 30-day termination clause should the City wish to exercise this option.

RECOMMENDED ACTION

Authorize the Mayor to sign a one-year renewal of the Professional Services Agreement with Braun Consulting Group in the amount of \$31,800 (\$2,650 per month) for labor relations and negotiations services in 2014.

ATTACHMENTS

Professional services agreement with Braun Consulting Group.

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, is made and entered into in duplicate this 3rd day of December, 2013, by and between the CITY OF OAK HARBOR, a Washington municipal corporation, hereinafter referred to as the "CITY" and Everett E Byers, Inc d/b/a Braun Consulting Group (a Washington Corporation), hereinafter referred to as the "SERVICE PROVIDER".

WHEREAS, the CITY desires to have certain services and/or tasks performed as set forth below requiring specialized skills and other supportive capabilities; and

WHEREAS, sufficient CITY resources are not available to provide such services; and

WHEREAS, the SERVICE PROVIDER represents the SERVICE PROVIDER is qualified and possesses sufficient skills and the necessary capabilities, including technical and professional expertise, where required, to perform the services and/or tasks set forth in this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, the parties hereto agree as follows:

1. Scope of Services.

The SERVICE PROVIDER shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as SERVICE PROVIDER responsibilities throughout this Agreement and as detailed in Exhibit "A" attached hereto and incorporated herein (the "Project").

2. Term.

The Project shall begin on January 1, 2014, and shall be completed no later than December 31, 2014, unless sooner terminated according to the provisions herein or extended in writing.

3. Compensation and Method of Payment.

3.1 Payments for services provided hereunder shall be made following the performance of such services, unless otherwise permitted by law and approved in writing by the CITY.

3.2 No payment shall be made for any service rendered by the SERVICE PROVIDER except for services identified and set forth in this Agreement.

3.3 The CITY shall pay the SERVICE PROVIDER for work performed under this Agreement as follows: Each month during the term of this agreement SERVICE PROVIDER shall be paid \$2,650.00 in full satisfaction of SERVICE PROVIDER'S making its resources available to CITY, performance in the Project, travel,

copies and other incidental costs incurred by SERVICE PROVIDER, if any, in the course of SERVICE PROVIDER fulfilling its obligations hereunder in furtherance of the Project. There shall be no other costs to the CITY except as noted in Exhibit A and approved by the CITY in advance.

- 3.4 SERVICE PROVIDER shall bill the CITY monthly in the amount of its retainer and such other agreed amounts by email invoice setting out the SERVICE PROVIDER'S retainer amount and itemized additional charges, if any.

4. Reports and Inspections.

- 4.1 The SERVICE PROVIDER at such times and in such forms as the CITY may require, shall furnish to the CITY such statements, records, reports, data, and information as the CITY may request pertaining to matters covered by this Agreement. Exception: The notes and records of SERVICE PROVIDER shall be the personal property of SERVICE PROVIDER and shall not be property of the CITY or a public record.

- 4.2 The SERVICE PROVIDER shall at any time during normal business hours and as often as the CITY or State Auditor may deem necessary, make available for examination all of its records and data with respect to all matters covered, directly or indirectly, by this Agreement and shall permit the CITY or its designated authorized representative to audit and inspect other data relating to all matters covered by this Agreement as set out in Section 4.1 above. The CITY shall receive a copy of all audit reports made by the agency or firm as to the SERVICE PROVIDER'S activities. The CITY may, at its discretion, conduct an audit at its expense, using its own or outside auditors, of the SERVICE PROVIDER'S activities that relate, directly or indirectly, to this Agreement.

5. Independent Contractor Relationship.

- 5.1 The parties intend that an independent contractor relationship will be created by this Agreement. The CITY is interested primarily in the results to be achieved; subject to paragraphs herein, the implementation of services will lie solely with the discretion of the SERVICE PROVIDER. No agent, employee, servant or representative of the SERVICE PROVIDER shall be deemed to be an employee, agent, servant or representative of the CITY for any purpose, and the employees of the SERVICE PROVIDER are not entitled to any of the benefits the CITY provides for its employees. The SERVICE PROVIDER will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, sub-contractors or representatives during the performance of this Agreement.

- 5.2 In the performance of the services herein contemplated, the SERVICE PROVIDER is an independent contractor with the authority to control and direct the performance of the details of the work, however, the results of the work contemplated herein must meet the approval of the CITY and shall be subject to the CITY'S

general rights of inspection and review to secure the satisfactory completion thereof.

6. Service Provider Employees/agents.

The CITY may at its sole discretion require the SERVICE PROVIDER to remove an employee(s), agent(s) or servant(s) from employment on this Project. The SERVICE PROVIDER may, however, employ that (those) individual(s) on other non-CITY related projects.

7. Hold Harmless/Indemnification.

7.1 SERVICE PROVIDER shall, to the limits of its insurance as required by this Agreement, defend, indemnify and hold the CITY, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the SERVICE PROVIDER in performance of this Agreement, except for injuries and damages caused by the sole negligence of the CITY.

7.2 For purposes of this indemnification and hold harmless agreement, the SERVICE PROVIDER waives any immunity that may be granted to it under the Washington State Industrial Insurance Act, Title 51 RCW. The parties expressly agree that this waiver of workers' compensation immunity has been negotiated.

7.3 No liability shall attach to the CITY or to SERVICE PROVIDER by reason of entering into this Agreement except as expressly provided herein.

8. Insurance.

The SERVICE PROVIDER shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the SERVICE PROVIDER, its agents, representatives, or employees.

8.1 Minimum Scope of Insurance. SERVICE PROVIDER shall obtain insurance of the types described below:

- a. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
- b. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury.

The CITY shall be named as an insured under the SERVICE PROVIDER'S Commercial General Liability insurance policy with respect to the work performed for the CITY.

- c. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
- d. Professional Liability Insurance appropriate to the SERVICE PROVIDER'S profession.

8.2 Minimum Amounts of Insurance. SERVICE PROVIDER shall maintain the following insurance limits:

- a. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of One Million Dollars (\$1,000,000) per accident.
- b. Commercial General Liability insurance shall be written with limits no less than One Million Dollars (\$1,000,000) each occurrence, Two Million Dollars (\$2,000,000) general aggregate.

8.3 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

- a. The SERVICE PROVIDER'S insurance coverage shall be primary insurance with respect to the CITY. Any insurance, self-insurance, or insurance pool coverage maintained by the CITY shall be excess of the SERVICE PROVIDER'S insurance and shall not contribute with it.
- b. The SERVICE PROVIDER'S insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the CITY.

8.4 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

8.5 Verification of Coverage. SERVICE PROVIDER shall furnish the CITY with original certificates and a copy of the amendatory endorsements including, but not necessarily limited to, the additional insured endorsement, evidencing the insurance requirements of the SERVICE PROVIDER before commencement of the work.

9. Treatment of Assets.

Title to all property furnished by the CITY shall remain in the name of the CITY and the CITY shall become the owner of the work product and other documents, if any, prepared by the SERVICE PROVIDER pursuant to this Agreement except as provided at Section 4.1 above.

10. Compliance with Laws.

10.1 The SERVICE PROVIDER, in the performance of this Agreement, shall comply with all applicable federal, state or local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services.

10.2 The SERVICE PROVIDER specifically agrees to pay any applicable business and occupation (B&O) taxes that may be due on account of this Agreement.

11. Nondiscrimination.

11.1 The CITY is an equal opportunity employer.

11.2 Nondiscrimination in Employment. In the performance of this Agreement, the SERVICE PROVIDER will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability, or the use of a trained dog guide or service animal by a person with a disability; provided that the prohibition against discrimination in employment because of disability, or the use of a trained dog guide or service animal by a person with a disability, shall not apply if the particular disability prevents the proper performance of the particular worker involved. The SERVICE PROVIDER shall ensure that applicants are employed, and that employees are treated during employment without discrimination because of their race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability or the use of a trained guide dog or service animal by a person with a disability. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. The SERVICE PROVIDER shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.

11.3 Nondiscrimination in Services. The SERVICE PROVIDER will not discriminate against any recipient of any services or benefits provided for in this Agreement on

the grounds of race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability or the use of a trained guide dog or service animal by a person with a disability.

- 11.4 If any assignment and/or subcontracting has been authorized by the CITY, said assignment or subcontract shall include appropriate safeguards against discrimination. The SERVICE PROVIDER shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

12. Assignment/subcontracting.

12.1 The SERVICE PROVIDER shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of the CITY, and it is further agreed that said consent must be sought in writing by the SERVICE PROVIDER not less than thirty (30) days prior to the date of any proposed assignment. The CITY reserves the right to reject without cause any such assignment.

12.2 Any work or services assigned hereunder shall be subject to each provision of this Agreement and proper bidding procedures where applicable as set forth in local, state and/or federal statutes, ordinances and guidelines.

12.3 Any technical/professional service subcontract not listed in this Agreement, must have express advance approval by the CITY.

13. Changes.

Either party may request changes to the scope of services and performance to be provided hereunder, however, no change or addition to this Agreement shall be valid or binding upon either party unless such change or addition be in writing and signed by both parties. Such amendments shall be attached to and made part of this Agreement.

14. Maintenance and Inspection of Records.

14.1 The SERVICE PROVIDER shall maintain books, records and documents, which sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement and shall maintain such accounting procedures and practices as may be necessary to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit, by the CITY, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

14.2 The SERVICE PROVIDER shall retain all books, records, documents and other material relevant to this Agreement, for six (6) years after its expiration. The SERVICE PROVIDER agrees that the CITY or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

15. Other Provisions.

The following additional terms shall apply: It is agreed between the parties that pursuant to changes in state law necessitating that services hereunder be expanded, the parties shall negotiate an appropriate amendment. If after thirty (30) days of negotiation, agreement cannot be reached, the CITY may terminate this Agreement no sooner than sixty (60) days thereafter.

16. Termination.

16.1 Termination for Convenience. The CITY may terminate this Agreement, in whole or in part, at any time, by giving thirty (30) days' written notice to the SERVICE PROVIDER. Upon such termination for convenience, the CITY shall pay the SERVICE PROVIDER for all services provided under this Agreement through the date of termination.

16.2 Termination for Cause. If the SERVICE PROVIDER fails to perform in the manner called for in this Agreement, or if the SERVICE PROVIDER fails to comply with any other provisions of the Agreement and fails to correct such non-compliance within five (5) days' written notice thereof, the CITY may terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the SERVICE PROVIDER setting forth the manner in which the SERVICE PROVIDER is in default. The SERVICE PROVIDER will only be paid for services performed in accordance with the manner of performance set forth in this Agreement through the date of termination.

17. Notice.

Notice provided for in this Agreement shall be sent by certified mail to the addresses designated for the parties on the last page of this Agreement.

18. Attorneys Fees and Costs.

If any legal proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in that action or proceeding.

19. Jurisdiction and Venue.

19.1 This Agreement has been and shall be construed as having been made and delivered within the State of Washington, and it is agreed by each party hereto that this Agreement shall be governed by laws of the State of Washington, both as to interpretation and performance.

19.2 Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provisions thereof shall be instituted and maintained only in any of the courts of competent jurisdiction in Island County, Washington.

20. Severability.

20.1 If, for any reason, any part, term or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

20.2 If it should appear that any provision hereof is in conflict with any statutory provision of the State of Washington, said provision that may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provisions.

21. Entire Agreement.

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute a material breach of contract and be cause for termination. Both parties recognize time is of the essence in the performance of the provisions of this Agreement. It is also agreed by the parties that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

CITY:

CITY OF OAK HARBOR
865 SE Barrington Drive
Oak Harbor, WA 98277

Scott Dudley, Mayor

SERVICE PROVIDER:

BRAUN CONSULTING GROUP
1326 5th Ave. Ste 339
Seattle, WA 98101

By: _____
Robert R. Braun, Jr., President

Attest:

Valerie J. Loffler, City Clerk

APPENDIX A
SCOPE OF WORK AND ADDITIONAL PROVISIONS

Braun Consulting Group, a Washington Corporation, will provide the following:

- 1) Serve as chief spokesperson for the CITY, with assistance from Human Resource Director for the full range of collective bargaining activities to result in Collective Bargaining Agreements within the policy established the CITY.
- 2) Review and critique collective bargaining agreements and related documents in preparation for negotiations.
- 3) Strategize collective bargaining goals and tactics with the management team.
- 4) Draft contract proposals.
- 5) Manage for or assist in any other labor relations issues requested by the CITY.
- 6) If during the Term of this Agreement the SERVICE PROVIDER provides service for arbitrations or other hearings the SERVICE PROVIDER will invoice and be paid separately.
- 7) The performance of the above shall not be date specific and shall be accomplished within the standard time frame agreed by the CITY and SERVICE PROVIDER.

Notwithstanding Section 4, all documents, in any format, in the possession of SERVICE PROVIDER produced or retained in furtherance of SERVICE PROVIDER accomplishing its duties and responsibilities under this Agreement, are excluded from CITY ownership, shall be the professional/personal property of SERVICE PROVIDER, shall be excluded from CITY control and shall not be deemed public "records" or "documents" for any purpose. SERVICE PROVIDER shall not be or become a repository of any "official records" of the CITY.

Additional Provisions as inducement to SERVICE PROVIDER:

- 1) Except for Taxes owed by SERVICE PROVIDER, wherever this Agreement shall require SERVICE PROVIDER to indemnify any entity or person or be subject to "damages" or any other claim against SERVICE PROVIDER arising from this Agreement (hereinafter jointly termed "indemnification") such indemnification shall be exclusively limited to the express provisions of SERVICE PROVIDER'S general liability policy of insurance including all limits of coverage, exclusions, limitations and other terms of such policy. SERVICE PROVIDER does not agree to indemnification beyond the four corners of its insurance policy which is required by the CITY in Section 8.2 Subsections a. and b.

- 2) "Claims" or "Notice of Claims" by SERVICE PROVIDER against CITY must be filed within 30 days of knowledge by SERVICE PROVIDER regarding SERVICE PROVIDER'S right to make a claim and are not otherwise bared.
- 3) CITY shall indemnify and hold SERVICE PROVIDER harmless from any direct or indirect costs, expenses or damages suffered by SERVICE PROVIDER resulting from SERVICE PROVIDER fulfilling its obligations under this Agreement in any Public Disclosure issues.
- 4) SERVICE PROVIDER shall be compensated at its then regular hourly rate should it be subpoenaed at any time in the future in any action resulting from SERVICE PROVIDER fulfilling its obligations under this Agreement. Such amounts shall be in addition to payments otherwise due to SERVICE PROVIDER.

City of Oak Harbor City Council Agenda Bill

ATTACHMENTS

1. None

**City of Oak Harbor
City Council Agenda Bill**

Bill No. C/A 4.f.
Date: December 3, 2013
Subject: Professional Services Agreement
for 2014 Whidbey Island
Marathon – Orswell Events LLC

FROM: Larry Cort, City Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:



Scott Dudley, Mayor

Doug Merriman, Finance Director

Grant Weed, Interim City Attorney, as to form

PURPOSE

This agenda bill requests City Council approval of a Professional Services Agreement with Orswell Events LLC in the amount of \$17,500 to assist the City with logistical support for the 2014 Whidbey Island Marathon.

SUMMARY STATEMENT

In 2009, the City Council approved the purchase of the Whidbey Island Marathon event. The Marathon attracts runners from throughout the United States and other countries. In 2012 there were 1,880 participants and in 2013 there were 1,749 participants. Early registration numbers indicate that 2014 may bring over 2,000 participants to town. The Marathon is an established event that promotes economic development for the City of Oak Harbor.

Sufficient City resources are not available to provide all of the staff support necessary to run a successful event of this scale. Orswell Events LLC, as they did in 2013, will assist the City in providing special event planning, promotion, production and staffing services for this large-scale event. The services provided by Orswell Events are intended to complement those services provided by Tamra Sipes in her role as Race Director. Orswell Events LLC has worked with a wide range of clients including corporations, service clubs, networking and membership organizations and municipalities in the Northwest.

FISCAL IMPACT DESCRIPTION

Funds Required: \$17,500

Appropriation Source: Fund #006 – Whidbey Island Marathon

RECOMMENDED ACTION

Authorize the Mayor to sign the agreement with Orswell Events LLC for marathon logistical support as outlined in the Scope of Work for a not to exceed amount of \$17,500.00.

ATTACHMENTS

Professional Services Agreement with Orswell Events LLC.

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, is made and entered into in duplicate this 3rd day of December, 2013, by and between the CITY OF OAK HARBOR, a Washington municipal corporation, hereinafter referred to as the "CITY" and Orswell Events, LLC, hereinafter referred to as the "SERVICE PROVIDER".

WHEREAS, the CITY desires to have certain services and/or tasks performed as set forth below requiring specialized skills and other supportive capabilities; and

WHEREAS, sufficient CITY resources are not available to provide such services; and

WHEREAS, the SERVICE PROVIDER represents the SERVICE PROVIDER is qualified and possesses sufficient skills and the necessary capabilities, including technical and professional expertise, where required, to perform the services and/or tasks set forth in this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, the parties hereto agree as follows:

1. Scope of Services.

The SERVICE PROVIDER shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as SERVICE PROVIDER responsibilities throughout this Agreement and as detailed in Exhibit "A" attached hereto and incorporated herein (the "Project").

2. Term.

The Project shall begin on December 4, 2013, and shall be completed no later than April 30, 2014, unless sooner terminated according to the provisions herein.

3. Compensation and Method of Payment.

3.1 Payments for services provided hereunder shall be made following the performance of such services, unless otherwise permitted by law and approved in writing by the CITY.

3.2 No payment shall be made for any service rendered by the SERVICE PROVIDER except for services identified and set forth in this Agreement.

3.3 The CITY shall pay the SERVICE PROVIDER for work performed under this Agreement by submitted invoice in accordance with the payment schedule outline in Exhibit "A" (Scope of Work). Total payment amount will not exceed \$17,500.

4. Reports and Inspections.

4.1 The SERVICE PROVIDER at such times and in such forms as the CITY may require, shall furnish to the CITY such statements, records, reports, data, and information as the CITY may request pertaining to matters covered by this Agreement.

4.2 The SERVICE PROVIDER shall at any time during normal business hours and as often as the CITY or State Auditor may deem necessary, make available for examination all of its records and data with respect to all matters covered, directly or indirectly, by this Agreement and shall permit the CITY or its designated authorized representative to audit and inspect other data relating to all matters covered by this Agreement. The CITY shall receive a copy of all audit reports made by the agency or firm as to the SERVICE PROVIDER'S activities. The CITY may, at its discretion, conduct an audit at its expense, using its own or outside auditors, of the SERVICE PROVIDER'S activities that relate, directly or indirectly, to this Agreement.

5. Independent Contractor Relationship.

5.1 The parties intend that an independent contractor relationship will be created by this Agreement. The CITY is interested primarily in the results to be achieved; subject to paragraphs herein, the implementation of services will lie solely with the discretion of the SERVICE PROVIDER. No agent, employee, servant or representative of the SERVICE PROVIDER shall be deemed to be an employee, agent, servant or representative of the CITY for any purpose, and the employees of the SERVICE PROVIDER are not entitled to any of the benefits the CITY provides for its employees. The SERVICE PROVIDER will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, sub-contractors or representatives during the performance of this Agreement.

5.2 In the performance of the services herein contemplated, the SERVICE PROVIDER is an independent contractor with the authority to control and direct the performance of the details of the work, however, the results of the work contemplated herein must meet the approval of the CITY and shall be subject to the CITY'S general rights of inspection and review to secure the satisfactory completion thereof.

6. Service Provider Employees/agents.

The CITY may at its sole discretion require the SERVICE PROVIDER to remove an employee(s), agent(s) or servant(s) from employment on this Project. The SERVICE PROVIDER may, however, employ that (those) individual(s) on other non-CITY related projects.

7. Hold Harmless/Indemnification.

- 7.1 SERVICE PROVIDER shall defend, indemnify and hold the CITY, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the SERVICE PROVIDER in performance of this Agreement, except for injuries and damages caused by the sole negligence of the CITY.
- 7.2 For purposes of this indemnification and hold harmless agreement, the SERVICE PROVIDER waives any immunity that may be granted to it under the Washington State Industrial Insurance Act, Title 51 RCW. The parties expressly agree that this waiver of workers' compensation immunity has been negotiated.
- 7.3 No liability shall attach to the CITY by reason of entering into this Agreement except as expressly provided herein.

8. Insurance.

The SERVICE PROVIDER shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the SERVICE PROVIDER, its agents, representatives, or employees.

- 8.1 Minimum Scope of Insurance. SERVICE PROVIDER shall obtain insurance of the types described below:
- a. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
 - b. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The CITY shall be named as an insured under the SERVICE PROVIDER'S Commercial General Liability insurance policy with respect to the work performed for the CITY.
 - c. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
 - d. Professional Liability Insurance appropriate to the SERVICE PROVIDER'S profession.

- 8.2 Minimum Amounts of Insurance. SERVICE PROVIDER shall maintain the following insurance limits:
- a. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of One Million Dollars (\$1,000,000) per accident.
 - b. Commercial General Liability insurance shall be written with limits no less than One Million Dollars (\$1,000,000) each occurrence, Two Million Dollars (\$2,000,000) general aggregate.
 - c. Professional Liability insurance shall be written with limits no less than One Million Dollars (\$1,000,000) per claim and One Million Dollars (\$1,000,000) policy aggregate limit.
- 8.3 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:
- a. The SERVICE PROVIDER'S insurance coverage shall be primary insurance with respect to the CITY. Any insurance, self-insurance, or insurance pool coverage maintained by the CITY shall be excess of the SERVICE PROVIDER'S insurance and shall not contribute with it.
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- 12.2 Any work or services assigned hereunder shall be subject to each provision of this Agreement and proper bidding procedures where applicable as set forth in local, state and/or federal statutes, ordinances and guidelines.
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- 14.2 The SERVICE PROVIDER shall retain all books, records, documents and other material relevant to this Agreement, for six (6) years after its expiration. The SERVICE PROVIDER agrees that the CITY or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

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The following additional terms shall apply: It is agreed between the parties that pursuant to changes in state law necessitating that services hereunder be expanded, the parties shall negotiate an appropriate amendment. If after thirty (30) days of negotiation, agreement cannot be reached, the CITY may terminate this Agreement no sooner than sixty (60) days thereafter.

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16.1 Termination for Convenience. The CITY may terminate this Agreement, in whole or in part, at any time, by giving thirty (30) days' written notice to the SERVICE PROVIDER. Upon such termination for convenience, the CITY shall pay the SERVICE PROVIDER for all services provided under this Agreement through the date of termination.

16.2 Termination for Cause. If the SERVICE PROVIDER fails to perform in the manner called for in this Agreement, or if the SERVICE PROVIDER fails to comply with any other provisions of the Agreement and fails to correct such non-compliance within five (5) days' written notice thereof, the CITY may terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the SERVICE PROVIDER setting forth the manner in which the SERVICE PROVIDER is in default. The SERVICE PROVIDER will only be paid for services performed in accordance with the manner of performance set forth in this Agreement through the date of termination.

17. Notice.

Notice provided for in this Agreement shall be sent by certified mail to the addresses designated for the parties on the last page of this Agreement.

18. Attorneys Fees and Costs.

If any legal proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in that action or proceeding.

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19.1 This Agreement has been and shall be construed as having been made and delivered within the State of Washington, and it is agreed by each party hereto that this Agreement shall be governed by laws of the State of Washington, both as to interpretation and performance.

19.2 Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provisions thereof shall be instituted and maintained only in any of the courts of competent jurisdiction in Island County, Washington.

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20.1 If, for any reason, any part, term or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

20.2 If it should appear that any provision hereof is in conflict with any statutory provision of the State of Washington, said provision that may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provisions.

21. Entire Agreement.

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute a material breach of contract and be cause for termination. Both parties recognize time is of the essence in the performance of the provisions of this Agreement. It is also agreed by the parties that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

CITY:

CITY OF OAK HARBOR
865 SE Barrington Drive
Oak Harbor, WA 98277

SERVICE PROVIDER:

Orswell Events, LLC
14641 NE 31st St # C8
Bellevue, WA 98007

Scott Dudley, Mayor

Attest:

Valerie J. Loffler, City Clerk



Orswell Events, LLC Proposal for Special Event Planning and Production Support of the 2014 Whidbey Island Marathon, Half Marathon, 10K, 5K & 1K Fun Run

BACKGROUND & QUALIFICATIONS

In 2005, Jeff Orswell formed Orswell Events, LLC, offering special event planning, promotion and production services in the Pacific Northwest. With over fifteen years of experience in the special events industry in Seattle, Mr. Orswell has created and produced some of the region's largest events and has built a strong reputation for creativity, reliability and professionalism. Orswell Events prides itself on its staff of experienced special event planning and production professionals as well as a vast network of contracted specialists. Orswell Events manages course operations and logistics for some of the largest running events in the nation and is proud to provide event planning, management and production services for the following events:

- Mercer Island Half Marathon
- Bellevue 5K/10K Run/Walk
- Labor Day Half Marathon & 4 Mile Run/Walk
- Seahawks 12K Run at The Landing
- Alki Beach Run 5K Run/Walk
- Shore Run 5K/10K Run/Walk
- Hot Chocolate 5K/15K Run/Walk
- Seafair Torchlight Run
- HealthPoint Family 5K Run/Walk
- Inland Northwest Craft Beer Festival
- Run With The Fishes 5K Run/Walk
- Everett Craft Beer Festival
- Rock 'n' Roll Seattle Marathon & Half Marathon
- Rock 'n' Roll Los Angeles Half Marathon
- Rock 'n' Roll USA Marathon & Half Marathon
- Rock 'n' Roll Portland Half Marathon
- Rock 'n' Roll Nashville Marathon & Half Marathon
- Rock 'n' Roll Las Vegas Marathon & Half Marathon
- Run from the Cops 5K Run/Walk
- West Seattle 5K Run/Walk
- Bremerton Summer Brewfest
- Jazz in July Outdoor Concert Series
- Holiday Tree Lighting at The Landing
- UW Bothell 5K Run/Walk

PROPOSAL

Orswell Events, LLC will provide the following to the Whidbey Island Marathon in support of the 2014 Whidbey Island Marathon, Half Marathon, 10K, 5K & 1K Fun Run/Walk event taking place on Saturday and Sunday, April 12th & 13th, 2014:

EVENT PRODUCTION SERVICES, STAFF AND EQUIPMENT

- Coordinate with the Race Director on all required including:
 - Implementation of traffic control plan including:
 - Coordination with National Barricade Company on order quantity of necessary equipment including: cones, delineators, barricade fencing, traffic control signs, no-park signs, etc.
 - Placement and collection of all cones along all race courses (full marathon, ½ marathon, 10K, 5K)
 - Placement and collection after the races of all traffic control diamond signs along courses. Signs to be pre-staged backwards on Saturday, April 12th.
 - *Whidbey Marathon to turn all diamond signs 15 minutes prior to start of race. Orswell Events to collect all signage after races.*
 - *Whidbey Marathon responsible for placement of all HWY 20 diamond traffic control signage. Orswell Events to collect after race participants pass through on race day*
 - *National Barricade responsible for placement and collection of ALL "No-Park" signs along route including HWY 20 & throughout Oak Harbor*
 - Placement and coordination of course monitor and flagger locations along courses



Orswell Events/Whidbey Island Marathon Support Proposal -Page Two-

EVENT PRODUCTION SERVICES, STAFF AND EQUIPMENT CONT.

- Placement of on-course signage (including mile markers) and collection of equipment behind last participant
- Location identification and placement of on-course portable restrooms in coordination with vendor
- Set-up of event start and finish line areas including Marathon/Half Marathon, 10K, 5K & 1K races.
 - Orswell Events staff to be onsite at marathon start line to work with Race Director to ensure proper setup and coordination of marathon start
- An Orswell Events event production crew of 8-10 crew members, including overall event lead to ensure all necessary areas of course are set and on-site course operations.
- Orswell Events to work with Race Director & event vendors to ensure proper ordering of all on course equipment including: National Barricade, Event Tent/Table/Chair Rentals, On-Course Restrooms, etc.
- Coordination with Race Director to identify all necessary equipment for on-course water stations including list of required items at each location prior to race date.
- Delivery and collection of all required on-course water station equipment and supplies
 - Orswell Events to deliver all equipment and supplies on Saturday, April 13 and collect after last participant
 - Orswell Events responsible for load/unload of all on-course event deliver trucks with Whidbey Marathon loading palletized equipment as necessary
 - Orswell Events to work with event on proper order of all necessary equipment trucks
 - Whidbey Marathon responsible for pickup & drop off of all event equipment trucks

PRE RACE EXPO & PACKET PICKUP

- Orswell Events Staff onsite at event expo Friday, April 11th to:
 - Set up equipment within expo including all vendor tables and packet pickup tables
 - Assist vendors in load-in to their proper locations
- Orswell Events Staff onsite at expo Saturday, April 12th to:
 - Assist vendors in loading in to expo prior to expo start (ORSWELL EVENTS Staff onsite until 11am)
 - Event responsible for staffing & management of expo during expo hours (11am – 7pm)
 - Orswell Events Staff back on site at 7pm to assist in breakdown and load out of expo including assistance of expo sponsors during load out.
- Provide best efforts to contact “running industry” exhibitors to inform of and invite to participate in race expo

EVENT MARKETING & PROMOTION SUPPORT

- Distribution of event marketing collateral (promotional posters, brochures, rack cards, etc.) to running retail stores, gyms, recreation centers and other appropriate outlets within the Seattle/King County market



Orswell Events/Whidbey Island Marathon Support Proposal -Page Three-

FINANCIAL

Orswell Events, LLC will provide the above outlined services and support of the 2014 Whidbey Island Marathon for a performance fee of \$17,500. *

**Whidbey Island Marathon will be responsible for the cost of hotel rooms needed for Orswell Events Staff. Exact hotel room needs to be determined at a later date.*

**Whidbey Island Marathon will also be responsible for all fuel needed for rental trucks during event and will reimburse Orswell Events for any additional spending to fuel trucks during event*

Orswell Events would require a non-refundable deposit of \$1,000 to be paid to Orswell Events upon signing of an agreement between the Whidbey Island Marathon and Orswell Events in order to secure the services of Orswell Events. Payment schedule to follow: 30 days prior to the event \$8,250 deposit will be due. Final payment of \$8,250 will be due two weeks after the event by April 28, 2014.

OTHER

The Whidbey Island Marathon will be responsible for the following in addition to the above listed performance fee:

All permit fees, usage fees, rental equipment fees, production/service/delivery/shipping fees, insurance premiums, postage fees, donations to volunteer groups, costs of food, water, banners, signs, participant shirts, participant bibs, awards and other production supplies, required hotel rooms, fuel, advertising expenses and all other expenses associated with the production of the event will remain the responsibility of the Whidbey Island Marathon.

The Whidbey Island Marathon will be responsible for reimbursing Orswell Events (upon receipt of an itemized invoice) for the cost of any additional equipment/services that Orswell Events is authorized, in advance, by the Whidbey Island Marathon to procure for the event.

Whidbey Island Marathon will provide all necessary/required traffic control equipment and vehicles (box or stakebed trucks) on event day. Whidbey Island Marathon will procure all required/necessary volunteers to serve as course marshals and coordinate plans for deployment and collection of those volunteers along the course. Whidbey Island Marathon shall remain the primary point of contact for the event in all dealings/coordination with the City of Oak Harbor, Island County, WSDOT and other appropriate municipalities, agencies, etc. and will continue managing the permitting process and communication with the police and transportation/public works departments. Whidbey Island Marathon will list Orswell Events, LLC as an additionally insured party on its insurance policy.

CLOSING

Orswell Events, LLC is a company committed to providing successful event planning, promotion and production services in the Northwest. The pricing in this proposal is valid for 30 days. We are excited about the possible opportunity to partner with you on your event. Please do not hesitate to contact us with any questions regarding this proposal or to request any additional information.

City of Oak Harbor
City Council Agenda Bill

Bill No. C/A 4.g.
Date: December 3, 2013
Subject: Excused Absence Request
for Beth Munns


FROM: Larry Cert, City Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Doug Merriman, Finance Director
 Grant Weed, Interim City Attorney, as to form

PURPOSE

The purpose of the agenda bill is to present and approve Councilmember Beth Munns' excused absence request for the December 17, 2013 regular council meeting.

SUMMARY STATEMENT

Councilmember Munns has submitted an excused absence request for the regular council meeting of December 17, 2013.

RECOMMENDED ACTION

Approve Councilmember Munns' excused absence from the regular council meeting of December 17, 2013.

ATTACHMENTS

Excused Absence Request

**CITY COUNCIL MEMBER
EXCUSED ABSENCE REQUEST**

NAME Beth Munns DATE 5 Nov 2013

Will be absent from 12 Dec to 27 Dec

and will miss the 1 City Council meeting and Workshop Meeting City Council meeting(s).

Signed: Beth M. Munns

Comments:

12/17 Meeting
Workshop + Regular

City of Oak Harbor City Council Agenda Bill

Bill No. C/A 4.h.
Date: December 3, 2013
Subject: Marina Advisory Committee
Re-appointment–Dr. Mahmond
Abdel-Monem and J.J. Jones

FROM: Scott Dudley, Mayor

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Larry Cort, City Administrator
 Doug Merriman, Finance Director
____ Grant Weed, Interim City Attorney, as to form

PURPOSE

The purpose of this agenda bill is for the council to confirm Mayor Dudley's re-appointment of Dr. Mahmond Abdel-Monem and J.J. Jones to the Oak Harbor Marina Advisory Committee.

SUMMARY STATEMENT

J.J. Jones was appointed to the Marina Advisory Committee in March 2013 and Dr. Abdel-Monem was appointed to the Marina Advisory Committee in May 2013. Both members were appointed to fill unexpired terms ending in December 2013. Dr. Abdel-Monem and Mr. Jones have agreed to serve another term. If confirmed, Dr. Abdel-Monem and Mr. Jones' terms will expire December 2016.

Mayor Dudley recommends Dr. Abdel-Monem and Mr. Jones' re-appointments to the Marina Advisory Committee, with terms to expire December 2016.

RECOMMENDED ACTION

Confirm Dr. Abdel-Monem and Mr. Jones' re-appointment to Marina Advisory Committee.

City of Oak Harbor City Council Agenda Bill

Bill No. C/A 4.i.
Date: December 3, 2013
Subject: Talon Radar Surplus & Disposal
Resolution13-28

FROM: Cathy Rosen, Public Works Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

Scott Dudley, Mayor
 Larry Cort, City Administrator
 Doug Merriman, Finance Director
 Grant Weed, Interim City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to adopt Resolution 13-28 declaring two Talon radar units as surplus and authorizing disposal.

FISCAL IMPACT DESCRIPTION

Funds Required: N/A
Appropriation Source: N/A

SUMMARY STATEMENT

Four Talon radar units used by the Police Department are outdated and antiquated and have been replaced with newer models. The City no longer has a use for these radar units and they are currently in storage. Two of the radar units are non-working and are considered to be surplus to the needs of the City and should be disposed, which will be accomplished through the adoption of Resolution 13-28.

There is interest from the Town of Coupeville for the two remaining radar units. The intergovernmental transfer to Coupeville will be handled by adoption of Resolution 13-35.

STANDING COMMITTEE REPORT

This item has not been reviewed at the monthly workshop.

RECOMMENDED ACTION

Approve Resolution 13-28 declaring two Talon radar units surplus and authorizing disposal

ATTACHMENTS

Resolution 13-28

RESOLUTION NO. 13-28

A RESOLUTION OF THE CITY OF OAK HARBOR, WASHINGTON, DECLARING CERTAIN OBSOLUTE PERSONAL PROPERTY SURPLUS AND AUTHORIZING DISPOSAL

WHEREAS, it has been determined that the City has no further use of certain obsolete personal property items; and

WHEREAS, the City Council has determined that these items as listed below are surplus to the needs of the City and are no longer required; and

WHEREAS, the fair market value, if any, is determined for the surplus property, and its disposal will be for the common benefit; and

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

- 1) Based upon the findings and the recommendations of the City Council, the following items of obsolete personal property belonging to the City of Oak Harbor are declared to be surplus to the foreseeable needs of the City.

Talon KUSTOM Signals Radar Unit Serial Number T-1724

Talon KUSTOM Signals Radar Unit Serial Number T-1726

- 2) It is deemed to be for the common benefit of the residents of the City to dispose of said property.
- 3) The Mayor or his designee is authorized to dispose of items listed above in a manner that will be to the best advantage and in a manner which will net the greatest amount to the City of Oak Harbor.

PASSED and approved by the City Council this 19th day of November, 2013.

CITY OF OAK HARBOR

SCOTT DUDLEY, MAYOR

Attest:

Valerie J. Loffler, City Clerk

Approved as to Form:

Grant Weed, City Attorney

City of Oak Harbor City Council Agenda Bill

Bill No. C/A 4.j.
Date: December 3, 2013
Subject: Talon Radar Intergovernmental
Transfer – Resolution 13-35

FROM: Cathy Rosen, Public Works Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Larry Cort, City Administrator
 Doug Merriman, Finance Director
 Grant Weed, Interim City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to adopt Resolution 13-35 authorizing an intergovernmental transfer of two Talon radar units to the Town of Coupeville.

FISCAL IMPACT DESCRIPTION

Funds Required: N/A
Appropriation Source: N/A

SUMMARY STATEMENT

Four Talon radar units used by the Police Department are outdated and antiquated and have been replaced with newer models. The City no longer has a use for these radar units and they are currently in storage. There is interest from the Town of Coupeville for two of the four radar units. Resolution 13-35 authorizes an intergovernmental transfer for the mutual benefit.

The two other radar units are non-working, are considered to be surplus to the needs of the City, and shall be disposed. Staff prepared separate resolutions for each transaction; one for the intergovernmental transfer (Resolution 13-35) and one declaring surplus and authorizing disposal (Resolution 13-28).

STANDING COMMITTEE REPORT

This item has not been reviewed at the monthly workshop.

RECOMMENDED ACTION

Approve Resolution 13-35 authorizing the transfer of two radar units to the Town of Coupeville

ATTACHMENTS

Resolution 13-35
Fair Market Value Estimate

RESOLUTION NO. 13-35

A RESOLUTION OF THE CITY OF OAK HARBOR, WASHINGTON, AUTHORIZING AN INTERGOVERNMENTAL TRANSFER OF CERTAIN PERSONAL PROPERTY

WHEREAS, pursuant to RCW 39.33.010, cities, towns and counties can sell or transfer property to other governmental entities on such terms and conditions as may be mutually agreed upon; and

WHEREAS, it has been determined that certain personal property of the City of Oak Harbor as listed below is outdated and antiquated and has been replaced with newer models, and the City has no further use of said personal property items; and

WHEREAS, the Town of Coupeville has a need for said equipment and has expressed interest in obtaining the City of Oak Harbor's unused and outdated personal property; and

WHEREAS, it is in the City's interest to transfer said equipment to the Town of Coupeville to relieve the burden created by storage of the unused property; and

WHEREAS, use of radar equipment within the town of Coupeville will have a positive impact on reducing speeding occurrences within the City and use of radar in Coupeville will improve public safety on Whidbey Island and in the City of Oak Harbor; and

WHEREAS, the availability of radar units in Coupeville and intergovernmental enforcement of speeding laws is supported by the Law Enforcement Mutual Aid statute contained in RCW 10.93.

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

- 1) Based upon the findings and the recommendations of the City Council, the following items belonging to the City of Oak Harbor shall be transferred to the Town of Coupeville:

Talon KUSTOM Signals Radar Unit Serial Number T-1760
Talon KUSTOM Signals Radar Unit Serial Number T-1771

- 2) It is deemed to be for the common benefit of the residents of the City to transfer said property.

PASSED and approved by the City Council this 3rd day of December, 2013.

CITY OF OAK HARBOR

Attest:

SCOTT DUDLEY, MAYOR

Valerie J. Loffler, City Clerk

Approved as to Form:

Grant Weed, City Attorney

City of Oak Harbor
City Council Agenda Bill

Bill No. C/A 4.k.
Date: December 3, 2013
Subject: Stormwater Outfall Repair – Professional Services Agreement with Moffatt & Nichol for Engineering Services

FROM: Cathy Rosen, Public Works Director
Joe Stowell, City Engineer

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Larry Cort, City Administrator
 Doug Merriman, Finance Director
 Grant Weed, Interim City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to request approval for the Mayor to sign a professional services agreement with the Engineering firm of Moffatt & Nichol. The professional services include completion of design engineering services, bidding assistance and engineering services during construction for repair of the stormwater outfall in Windjammer Park.

FISCAL IMPACT DESCRIPTION

Funds Required: \$219,184.00
Appropriation Source: Stormwater Fund

SUMMARY STATEMENT

The west stormwater outfall in Windjammer Park has been in a state of failure for many years due to 40 years of exposure to the harsh marine environment. The failing outfall results in high maintenance costs associated with dredging and unplugging by City crews. The failure also exacerbates flooding on SR-20 between SW Barlow and Pioneer Way.

This repair project involves replacing the existing west outfall and relocating it next to the east outfall. Further, the east outfall will be extended so that both stormwater outfalls extend the same distance into Oak Harbor. In 2008 the City went through a qualifications based selection process as outlined in [OHMC 2.350](#) and [RCW 39.80](#) to hire an engineering firm to design the needed improvements. On June 17, 2008, City Council approved a professional services contract with Moffatt & Nichol to complete engineering services on the project and the firm completed permitting and design through the 30% level. In 2010 however design work stopped due to finding archaeological resources during exploratory field work required by the permitting process. The contract with Moffatt & Nichol was then terminated due to the significant delays anticipated as a result of the resources found.

Since terminating the previous engineering design contract with Moffatt & Nichol the City contracted with Equinox Research & Consulting to complete additional archaeological exploration and investigation. This work has produced the information necessary to move forward with repair of the

stormwater outfall and the previous design work complete by Moffat & Nichol will not be a wasted effort. The design will pick up where it left off at the 30% level and much of the permitting work has already been completed.

The proposed scope of services includes:

1. Geotechnical site investigation to determine appropriate anchoring methods for the pipe and suitable trenching techniques.
2. Continuation and completion of the permitting process previously started.
3. Preparation of final plans, specifications and estimates ready for bidding.
4. General project management including sub-consultant coordination, meetings and QA/QC.
5. Construction support services including assistance during bidding, contractor RFI's and change orders, submittal reviews, periodic site visits and as-built drawings.

Schedule:

The schedule is highly dependent upon the permitting process and regulatory agency review time and requirements. Constructions of the repairs are anticipated in the summer of either 2014 or 2015.

Funding:

As with the original contract approved by City Council on June 17, 2008, the Stormwater Cumulative Reserve Fund to fund the design and permitting of the project. A Public Works Trust Fund loan will be used to support the design and permitting as well as construction of the project.

WORKSHOPS

The Professional Services Agreement with Moffatt & Nichol has not been presented at a City Council Workshop

RECOMMENDED ACTION

- 1) A motion to authorize the Mayor to sign the Professional Services Agreement with Moffatt & Nichol for completion of design engineering services, bidding assistance and engineering services during construction for repair of the stormwater outfall in Windjammer Park for a not to exceed amount of \$219,184.00.
- 2) A motion authorizing a management reserve of \$10,959 (5%) to allow the City Engineer the ability to authorize minor contract changes should they occur.

ATTACHMENTS

- Professional Services Agreement
- Consultants Scope of Services

CONSULTANT/PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, is made and entered into in duplicate this **12/4/2013**, and between the CITY OF OAK HARBOR, a Washington municipal corporation, hereinafter referred to as the "CITY" and **Moffatt & Nichol, 600 University Street, Suite 610, Seattle, WA 98101**, hereinafter referred to as the "SERVICE PROVIDER".

WHEREAS, the CITY desires to have certain services and/or tasks performed as set forth below requiring specialized skills and other supportive capabilities; and

WHEREAS, sufficient CITY resources are not available to provide such services; and

WHEREAS, the SERVICE PROVIDER represents the SERVICE PROVIDER is qualified and possesses sufficient skills and the necessary capabilities, including technical and professional expertise, where required, to perform the services and/or tasks set forth in this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, the parties hereto agree as follows:

1. Scope of Services.

The SERVICE PROVIDER shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as SERVICE PROVIDER responsibilities throughout this Agreement and as detailed in **Exhibit "A" attached hereto** and incorporated herein (the "Project").

2. Term.

The Project shall begin on December 10, 2013, and shall be completed no later than December 31, 2015 unless sooner terminated according to the provisions herein.

3. Compensation and Method of Payment.

3.1 Payment for services provided hereunder shall be made following the performance of such services, unless otherwise permitted by law and approved in writing by the CITY.

3.2 No payment shall be made for any service rendered by the SERVICE PROVIDER except for services identified and set forth in this Agreement.

3.3 The CITY shall pay the SERVICE PROVIDER for work performed under this Agreement as follows:

Payment shall be made on a time and expense reimbursable basis for a not-to-exceed amount of \$219,184.00 as outlined in **Exhibit "B" attached hereto** and incorporated herein.

4. Reports and Inspections.

- 4.1 The SERVICE PROVIDER at such times and in such forms as the CITY may require, shall furnish to the CITY such statements, records, reports, data, and information as the CITY may request pertaining to matters covered by this Agreement.
- 4.2 The SERVICE PROVIDER shall at any time during normal business hours and as often as the CITY or State Auditor may deem necessary, make available for examination all of its records and data with respect to all matters covered, directly or indirectly, by this Agreement and shall permit the CITY or its designated authorized representative to audit and inspect other data relating to all matters covered by this Agreement. The CITY shall receive a copy of all audit reports made by the agency or firm as to the SERVICE PROVIDER'S activities. The CITY may, at its discretion, conduct an audit at its expense, using its own or outside auditors, of the SERVICE PROVIDER'S activities that relate, directly or indirectly, to this Agreement. As required by CITY, SERVICE PROVIDER will cooperate to respond to public record requests under the laws of the State of Washington.
- 4.3 The SERVICE PROVIDER shall keep in strict confidence, and will not disclose, communicate or advertise to third parties, without the express written consent of CITY the confidences of CITY or any information regarding the CITY or services provided to the CITY under this Agreement.

5. Independent Contractor Relationship.

- 5.1 The parties intend that an independent SERVICE PROVIDER/CITY relationship will be created by this Agreement. The CITY is interested primarily in the results to be achieved; subject to paragraphs herein, the implementation of services will lie solely with the discretion of the SERVICE PROVIDER. No agent, employee, servant or representative of the SERVICE PROVIDER shall be deemed to be an employee, agent, servant or representative of the CITY for any purpose, and the employees of the SERVICE PROVIDER are not entitled to any of the benefits the CITY provides for its employees. The SERVICE PROVIDER will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, subcontractors or representatives during the performance of this Agreement.

5.2 In the performance of the services herein contemplated, the SERVICE PROVIDER is an independent contractor with the authority to control and direct the performance of the details of the work, however, the results of the work contemplated herein must meet the approval of the CITY and shall be subject to the CITY'S general rights of inspection and review to secure the satisfactory completion thereof.

6. Service Provider Employees/agents.

The CITY may at its sole discretion require the SERVICE PROVIDER to remove an employee(s), agent(s) or servant(s) from employment on this Project. The SERVICE PROVIDER may, however, employ that (those) individual(s) on other non-CITY related projects.

7. Hold Harmless/Indemnification.

7.1 SERVICE PROVIDER shall defend, indemnify and hold the CITY, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising of or resulting from the negligent and intentional acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

7.2 For purposes of this indemnification and hold harmless agreement, the Contractor waives any immunity that may be granted to it under the Washington State Industrial Insurance Act, Title 51 RCW. The parties expressly agree that this waiver of workers' compensation immunity has been negotiated.

7.3 No liability shall attach to the CITY by reason of entering into this Agreement except as expressly provided herein.

8. Insurance.

The SERVICE PROVIDER shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the SERVICE PROVIDER, its agents, representatives, or employees.

8.1 Minimum Scope of Insurance. SERVICE PROVIDER shall obtain insurance of the types described below:

- a. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA

00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

- b. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The CITY shall be named as an insured under the SERVICE PROVIDER'S Commercial General Liability insurance policy with respect to the work performed for the CITY.
- c. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
- d. Professional Liability Insurance appropriate to the SERVICE PROVIDER'S profession.

8.2 Minimum Amounts of Insurance. SERVICE PROVIDER shall maintain the following insurance limits:

- a. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of One Million Dollars (\$1,000,000) per accident.
- b. Commercial General Liability insurance shall be written with limits no less than One Million Dollars (\$1,000,000) each occurrence, Two Million Dollars (\$2,000,000) general aggregate.
- c. Professional Liability insurance shall be written with limits no less than One Million Dollars (\$1,000,000) per claim and One Million Dollars (\$1,000,000) policy aggregate limit.

8.3 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

- a. The SERVICE PROVIDER'S insurance coverage shall be primary insurance with respect to the CITY. Any insurance, self-insurance, or insurance pool coverage maintained by the CITY shall be excess of the SERVICE PROVIDER'S insurance and shall not contribute with it.
- b. The SERVICE PROVIDER'S insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the CITY.

8.4 Acceptability of Insurers and policies. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII. Unless otherwise agreed by CITY all

insurance policies shall be written on an “occurrence” policy and not a “claims-made” policy.

- 8.5 Verification of Coverage. SERVICE PROVIDER shall furnish the City with original certificates and a copy of the amendatory endorsements including, but not necessarily limited to, the additional insured endorsement, evidencing the insurance requirements of the SERVICE PROVIDER before commencement of the work.

9. Treatment of Assets.

Title to all property furnished by the CITY shall remain in the name of the CITY and the CITY shall become the owner of the work product and other documents, if any, prepared by the SERVICE PROVIDER pursuant to this Agreement. The SERVICE PROVIDER may keep one copy of the work product and documents for its records.

10. Compliance with Laws.

10.1 The SERVICE PROVIDER, in the performance of this Agreement, shall comply with all applicable federal, state or local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditations, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services.

10.2 The SERVICE PROVIDER specifically agrees to pay any applicable business and occupation (B&O) taxes that may be due on account of this Agreement.

11. Nondiscrimination.

11.1 The CITY is an equal opportunity employer.

11.2 Nondiscrimination in Employment. In the performance of this Agreement, the SERVICE PROVIDER will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability, or the use of a trained dog guide or service animal by a person with a disability; provided that the prohibition against discrimination in employment because of disability, or the use of a trained dog guide or service animal by a person with a disability, shall not apply if the particular disability prevents the proper performance of the particular worker involved. The SERVICE PROVIDER shall ensure that applicants are employed, and that employees are treated during employment

without discrimination because of their race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the present of any sensory, mental or physical disability or the use of a trained guide dog or service animal by a person with a disability. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. The SERVICE PROVIDER shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.

- 11.3 Nondiscrimination in Services. The SERVICE PROVIDER will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability or the use of a trained guide dog or service animal by a person with a disability.
- 11.4 If any assignment and/or subcontracting has been authorized by the CITY, said assignment or subcontract shall include appropriate safeguards against discrimination. The SERVICE PROVIDER shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

12. Assignment/subcontracting.

- 12.1 The SERVICE PROVIDER shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of the CITY, and it is further agreed that said consent must be sought in writing by the SERVICE PROVIDER not less than thirty (30) days prior to the date of any proposed assignment. The CITY reserves the right to reject without cause any such assignment.
- 12.2 Any work or services assigned hereunder shall be subject to each provision of this Agreement and proper bidding procedures where applicable as set forth in local, state and/or federal statutes, ordinances and guidelines.
- 12.3 Any technical/professional service subcontract not listed in this Agreement, must have express advance approval by the CITY.

13. Changes.

Either party may request changes to the scope of services and performance to be provided hereunder, however, no change or addition to this Agreement shall be valid or binding upon

either party unless such change or addition be in writing and signed by both parties. Such amendments shall be attached to and made part of this Agreement.

14. Maintenance and Inspection of Records.

14.1 The SERVICE PROVIDER shall maintain books, records and documents, which sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement and shall maintain such accounting procedures and practices as may be necessary to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit, by the CITY, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

14.2 The SERVICE PROVIDER shall retain all books, records, documents and other material relevant to this Agreement, for six (6) years after its expiration. The SERVICE PROVIDER agrees that the CITY or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

15. Other Provisions.

The following additional terms shall apply: It is agreed between the parties that pursuant to changes in state law necessitating that services hereunder be expanded, the parties shall negotiate an appropriate amendment. If after thirty (30) days of negotiation, agreement cannot be reached, the CITY may terminate this Agreement no sooner than sixty (60) days thereafter.

16. Termination.

16.1 Termination for Convenience. The CITY may terminate this Agreement, in whole or in part, at any time, by giving at least thirty (30) days' written notice to the SERVICE PROVIDER. Upon such termination for convenience, the CITY shall pay the SERVICE PROVIDER for all services provided under this Agreement through the date of termination.

16.2 Termination for Cause. If the SERVICE PROVIDER fails to perform in the manner called for in this Agreement, or if the SERVICE PROVIDER fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within five (5) days' written notice thereof, the CITY may terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the SERVICE PROVIDER setting forth the manner in which the SERVICE PROVIDER is in default. The

SERVICE PROVIDER will only be paid for services performed in accordance with the manner of performance set forth in this Agreement through the date of termination.

16.3 Work Product. In the event of any termination whether for convenience or cause, all work product of the SERVICE PROVIDER, along with a summary of the work to the date of termination shall become the property of CITY.

17. Notice.

Notice provided for in this Agreement shall be sent by certified mail to the addresses designated for the parties on the last page of this Agreement.

18. Attorneys Fees and Costs.

If any legal proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in that action or proceeding.

19. Jurisdiction and Venue.

19.1 This Agreement has been and shall be construed as having been made and delivered with the State of Washington and it is agreed by each party hereto that this Agreement shall be governed by laws of the State of Washington, both as to interpretation and performance.

19.2 Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provisions thereof shall be instituted and maintained only in any of the courts of competent jurisdiction in Island County, Washington.

20. Severability.

20.1 If, for any reason, any part, term or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

20.2 If it should appear that any provision hereof is in conflict with any statutory provision of the State of Washington, said provision that may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provisions.

21. Addenda.

21.1 This Agreement is subject to additional terms as set out in Addenda as follows: NA

22. Entire Agreement.

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute a material breach of contract and be cause for termination. Both parties recognize time is of the essence in the performance of the provisions of this Agreement. It is also agreed by the parties that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provision of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

CITY:

CITY OF OAK HARBOR
865 SE Barrington Drive
Oak Harbor, WA 98277

SERVICE PROVIDER:

Moffat & Nichol
600 University Street, Suite 610
Seattle, WA 98101



Scott Dudley, Mayor

Thomas J. McCollough, P.E.

Title: Vice President

Attest:

Valerie Loffler, City Clerk

EXHIBIT A

SCOPE OF SERVICES



600 University Street
Suite 610
Seattle, Washington 98101

(206) 622-0222
Fax (206) 622-4764

November 20, 2013

John Piccone, P.E.
City of Oak Harbor
865 SE Barrington Drive
Oak Harbor, WA 98277

Subject: Stormwater Outfall Reconstruction Project
Proposal for Final Design, Permit Assistance, and Construction Support

Dear Mr. Piccone:

Attached is the proposed Scope of Work (Exhibit A) and Fee Estimate (Exhibit B) to provide engineering services for the Stormwater Outfall Reconstruction Project at the City of Oak Harbor. This proposal addresses reconstruction of the pipeline seaward of the tide gate at Windjammer Park. M&N will retain GeoEngineering to complete the geotechnical field work and recommendations for helical anchors and dewatering/shoring of open trench for pipeline for the original (30% submittal) outfall alignment (their scope of work is also a part of Exhibit A).

We propose to provide professional services itemized in the Scope of Work on a time and expense reimbursable basis for a not-to-exceed amount of \$219,184. A copy of the cost details is provided in Exhibit B. We anticipate receipt of NTP by no later than December 10, 2013 and will strive to complete all work under Tasks 1 through 4 by no later than May 21, 2014. Construction support services, Task 5, will proceed upon receipt of authorization from the City. A schedule that includes both the design tasks and construction is provided in Exhibit C

If you have questions about this proposal, please feel free to contact me at 206-622-0222.

Sincerely,
MOFFATT & NICHOL

A handwritten signature in blue ink that reads "Michael P. Hemphill".

Michael P. Hemphill, P.E.
Supervisory Engineer

Exhibits A, B & C

EXHIBIT A

SCOPE OF WORK FOR ENGINEERING SERVICES FOR CITY OF OAK HARBOR OUTFALL CITY OF OAK HARBOR, WHIDBEY ISLAND, WASHINGTON

Moffatt & Nichol (M&N) was previously retained by the City of Oak Harbor (City) to provide engineering services for the Stormwater Outfall Reconstruction Project at Windjammer Park. The design team completed Site Investigation and Concept Planning (Task1), Preliminary Engineering of Preferred Alternative (Task 2), and Environmental Review and Permitting (Task 3) of the previous scope of work (February 18, 2008). A 30% design package consisting of drawings, outline specifications, and engineers cost estimate was submitted to the City on May 29, 2009. The Stormwater Outfall Reconstruction Project was suspended in 2010 after discovering archeological resources on the outfall project site.

Recently the City has chosen to keep the outfall pipe alignment as shown in the 30% submittal drawings and provide any mitigation caused by the project, if necessary, for impacts to archeological resources. Mitigation for archeological resources is not part of this proposal.

Members of the Moffatt & Nichol (M&N) team participating in the effort and their corresponding areas of responsibility include:

- GeoEngineers – Geotechnical Engineering

The M&N team will use the survey and hydraulic analysis from the completed work to date (2009) and coordinate with the City's on-call archeologist for the proposed geotechnical field work. The following Scope of Work was developed to assist the City in finalizing the outfall design, obtaining regulatory permits, advertising the construction for public bid, and providing construction support services.

Scope of Work

Task 1: Site Investigation

Objective: During the 2009 development of the outfall anchoring system, a decision was made to minimize the visual/physical impact of the anchoring system (i.e. no large concrete blocks on the beach). The alternative anchoring system proposed for the project (helical anchors) require additional geotechnical data to support the design. This work was never authorized by the City before the project was suspended. M&N will perform the following specific activities to accomplish this remaining Phase 1 task:

- a) Perform geotechnical field work to include:
 - i) Obtaining test borings with a drill rig (up to 2 borings); and
 - ii) Provide geotechnical recommendations for helical anchors and trenching parameters such as dewatering and shoring (we assume that the field borings will be accomplished in two consecutive days prior to the end of 2013). See attached scope of work for **GeoEngineers (also part of Exhibit A)**.

EXHIBIT A

SCOPE OF WORK FOR ENGINEERING SERVICES FOR CITY OF OAK HARBOR OUTFALL CITY OF OAK HARBOR, WHIDBEY ISLAND, WASHINGTON

Deliverables include:

- Geotechnical Recommendation Report – two draft and two final copies plus CD

Task 2: Permitting

Objective: To support the City in applying for and obtaining the final necessary permits and approvals from the applicable regulatory agencies as required for the project. M&N will perform the following specific activities to accomplish this task:

- a) Support the City with minor but necessary updates to the 2009/2010 JARPA and drawings if required by the City of Oak Harbor for the Shoreline Substantial Development Permit (SSDP). While this permit was obtained in 2009, reapplication may be required. The effort to update the JARPA and affiliated drawings, if necessary, is anticipated to be minimal.
- b) Support the City in obtaining the US Army Corps of Engineers (USACE) Section 10/404 Individual Permit for the Project. This will include:
 - i) Updating the existing Biological Evaluation (BE) for new species and critical habitat listed under the Endangered Species Act (ESA) since the original BE/Informal Consultation was submitted.
- c) Support the City in obtaining a Hydraulic Project Approval from the Washington State Department of Fish and Wildlife (WDFW). This may require resubmittal of information to WDFW and the coordination of fee payment as the existing HPA for the Project has expired.
- d) Prepare Temporary Erosion and Sediment Control Plan (TESCP) and specification for Contractor's use in obtaining necessary Construction Stormwater General Permit. It will remain the Contractor's responsibility to obtain the general stormwater permit.

Deliverables include:

- An updated/amendment to the existing BE – submitted to the City for review and to the USACE once finalized.
- TESCP and specification section consistent with deliverables identified in Task 3 below.

Task 3: Prepare PS&E's

Objective: To prepare a final set of plans and specifications, sufficient for bidding purposes, that adheres to identified regulatory conditions and achieves the project goals. M&N will perform the following specific activities to accomplish this task:

EXHIBIT A

SCOPE OF WORK FOR ENGINEERING SERVICES FOR CITY OF OAK HARBOR OUTFALL CITY OF OAK HARBOR, WHIDBEY ISLAND, WASHINGTON

- a) Perform engineering design and analysis, including calculations, to support proposed anchor system. Calculations will verify that design is adequate to resist environmental loads such as wave and buoyant forces.
- b) Prepare sixty-five percent (65%) plans, specifications, and construction cost estimate. Provide copies for City review. This submittal will include comments received from regulatory agencies identified in Task 2.
- c) Prepare one hundred percent (100%) plans, specifications, and cost estimates (PS&E), for City review.
- d) Prepare final bid package that includes City and agency comments and submit to the City. A registered professional engineer shall sign and stamp the final PS&E package.

Deliverables include:

- 65% Plan Set, Specification Outline, and Engineers Estimate – Five copies
- 100% Plan Set, Specifications, and Engineers Estimate – Five copies
- Final Bid Document Package – One Mylar drawing set, one reproducible copy in PDF format, and all electronic Cad files

Task 4: Project Management and QA/QC

Objective: M&N shall be responsible for the overall project management of the design team.

Overall elements of the project management activities include:

- a) Project Management
 - i) Facilitate and direct coordination between Sub-Consultant
 - (1) Collect and convey information between City and Sub-Consultant
 - (2) Schedule and organize coordination meetings
 - (a) Team meetings between M&N and sub-consultant will occur monthly at M&N offices in Seattle. Meetings may consist of a phone call.
 - ii) Team meetings between M&N and the City will occur as needed. Up to three (3) meetings are anticipated with only two (2) of them occurring at the City of Oak Harbor.
 - (1) Conduct review meeting with various City divisions (Park and Recreation, Public Works, others) with services located in or adjacent to the Windjammer Park.
 - (2) Conduct interim meeting w/City and subconsultant at M&N Seattle office.

EXHIBIT A

SCOPE OF WORK FOR ENGINEERING SERVICES FOR CITY OF OAK HARBOR OUTFALL CITY OF OAK HARBOR, WHIDBEY ISLAND, WASHINGTON

- (3) Conduct final review meeting with City staff.
- iii) Produce and distribute meeting notes
- iv) Prepare monthly invoices and progress reports
- b) QA/QC
 - i) M&N will be responsible for the quality of the completed work. All work will be performed consistent with M&N's corporate Quality Manual or as amended herein.
 - ii) The QA/QC for the project shall include checking and reviewing the work for consistency with other members of the design team.
 - iii) QA/QC tasks shall be performed by senior staff of M&N and other members of the design team as appropriate.

Deliverables include:

- Monthly progress reports
- Meeting minutes

Task 5: Construction Support Services

Objectives: Assist the City during the bidding process and provide technical engineering assistance during Project construction.

- a. Bidding Assistance. Compile all bidder inquiries and submit an addendum with a response to each question at three weeks prior to bid opening and again at one week prior to bid opening. Bidders' questions received within one week of the scheduled bid opening date will not be allowed.
- b. Attend pre-bid meeting. The City will lead this meeting. M&N will attend, record observations, and respond to technical questions where appropriate.
- c. Attend pre-construction meeting. Attend meeting. Include "conformed documents" as handouts at the meeting if available.
- d. Requests for Information (RFI): Respond to RFI's from the Contractor to interpret and clarify the intent of the plans and technical specifications (allow for responding to up to 20 RFI's).
- e. Contractor Submittals: M&N will act as the primary reviewer for submittals required of the Contractor. M&N will allow for up to 30 submittals (re-submittals count as one submittal).

EXHIBIT A

SCOPE OF WORK FOR ENGINEERING SERVICES FOR CITY OF OAK HARBOR OUTFALL CITY OF OAK HARBOR, WHIDBEY ISLAND, WASHINGTON

- f. Meetings: Attend monthly construction progress meetings between the City's Project Engineer (CPE) and Contractor. M&N will attend up to three meetings, when requested to attend by the CPE.
- g. Dewatering & Trenching Observations: Provide on-site construction monitoring as requested by CPE during open trenching and dewatering operations. Anticipate up to three site visits for this task. See attached scope of work for **GeoEngineers** (also part of Exhibit A).
- h. Site Visits: Conduct periodic site visits during construction to assess that the work is being accomplished in general conformance with the intent of the plans and specifications. Site visits are assumed to coincide with monthly construction meetings (f).
- i. Final Walkthrough / Punch List: Participate in final project walk through and develop a punch list of items needed to bring the construction into compliance with the intent of the plans and specifications and verify completion of that punch list prior to final payment to the Contractor.
- j. Change Order Assistance: Review and advise the City, upon the CPE's request, on issues associated with actual or potential changes to the Project. Such issues could include unforeseen site conditions, City solicited Change Proposals, unsolicited Contractor Change Proposals, and disputes. Allow for two requests for assistance with not more than one item, / issue per request.
- k. Record Drawings: Prepare record drawings based on mark-ups to the original drawings prepared and delivered by the selected Project Contractor.

Deliverables include:

- Responses to bidder questions – electronic copy (PDF format) at two discrete times during the bidding period
- Conformed set of documents. Electronic copy (PDF) and five hard copies with full size drawings.
- Meeting minutes – electronic copy (PDF format)
- RFI Responses – electronic copy (PDF format)
- Submittal Review Comments (three hard copies of each submittal)

EXHIBIT A

SCOPE OF WORK FOR ENGINEERING SERVICES FOR CITY OF OAK HARBOR OUTFALL CITY OF OAK HARBOR, WHIDBEY ISLAND, WASHINGTON

- Final Construction Observation Report documenting pile and anchor installation observations – one electronic copy (PDF format)
- Punch List – one hard copy.
- Record Drawings – one electronic copy (PDF format) and one hard copy (22”x34”)

Schedule

The schedule is highly dependent upon the permitting process and regulatory agency review time. We have developed this schedule based on the NTP and allow for up to nine months for permit agency review. We propose to accomplish the following tasks from the date of NTP accordingly:

- Task 1 – Site Investigation
 - Geotechnical report will be submitted in six weeks.
- Task 2 – Permit application will be submitted in eight weeks.
- Task 3 – PS&E’s will be completed in:
 - 65% Submittal in 12 weeks.
 - 100% Submittal in 16 weeks.
 - Final submittal in 18 weeks.
- Task 4 – Project Management and QA/QC will proceed in conjunction with the other tasks of work.
- Task 5 – Construction Support will be completed by December 31, 2015.

Schedule assumes that all City review comments/review meetings are completed within five working days after each submittal. See Exhibit C at the end of this proposal for bar chart of proposed project schedule.

Assumptions:

- A. The SEPA Determination and Checklist do not require an amendment or update.
- B. Does not include time and effort to complete any necessary supporting biological surveys (eelgrass or benthic surveys).
- C. The CLIENT will be responsible for any/all permitting fees (e.g. Shoreline Substantial Development Permit or the WDFW fee for the HPA).

EXHIBIT A

SCOPE OF WORK FOR ENGINEERING SERVICES FOR CITY OF OAK HARBOR OUTFALL CITY OF OAK HARBOR, WHIDBEY ISLAND, WASHINGTON

- D. Attendance by the CONSULTANT TEAM at a Shoreline Substantial Development Permit Hearing is not anticipated or included in this Scope of Work.
- E. JARPA drawings, and any support drawings used as part of the SEPA checklist, will not have to be revised substantially beyond what was submitted at 30% design level in 2009. Fee for minor edits to the JARPA and drawings (i.e. dates and construction start year) are included in the attached Fee.
- F. Stormwater inflow is based on prior studies as defined/provided by others.
- G. “Formal consultation” with the Services (WDFW and National Marine Fisheries Service) will not be necessary for this project. It is anticipated that Informal Consultation will suffice and an update to the existing BE will be adequate to complete the ESA requirements for the USACE Permit.
- H. The City and/or their archaeologist will provide Section 106 input to the USACE. This is necessary to obtain the USACE Individual permit for the Project. The M&N team will provide minor coordination support of this effort, if necessary.
- I. Additional work, technical memorandums, and/or studies required by agencies beyond the level of effort contemplated at this time will result in renegotiating our scope and fee with the City.
- J. The City will coordinate meetings with the various City agencies involved in the project.
- K. The selected Contractor will be responsible for obtaining any necessary local permits by using the Temporary Erosion and Sediment Control plans prepared by M&N and any supplemental information that the contractor deems appropriate, including:
 - a. Construction Stormwater General Permit
 - i. Best Management Practices and Prevention Plans
 - ii. Stormwater Pollution Prevention Plan
- L. Submit plans at the 65% level of completion at half size (11 inch x 17 inch) for review by the City. Plans submitted for review at the 100% level of completion shall be plotted full size (22 inch x 34 inch). Submit full size plans and electronic files, including specifications and cost estimates, to the City at the Final design level.
- M. Submit outline specifications for review at the 65% level of design. Submit completed, edited, and coordinated specifications at the 100% and Final levels of design.
- N. City will provide input to all boilerplate specifications (e.g. Division 00 and 01), including WORD files for M&N’s use.

EXHIBIT A

SCOPE OF WORK FOR ENGINEERING SERVICES FOR CITY OF OAK HARBOR OUTFALL CITY OF OAK HARBOR, WHIDBEY ISLAND, WASHINGTON

- O. Development of mitigation measures is not included in this fee proposal.
- P. We have not included effort to locate buried utilities. We assume that the City will provide record drawings and/or be able to identify areas where known utilities exist. Project drawings and specifications will require the contractor to hire a “call before you dig” utility locate firm.
- Q. Review meetings with various City divisions will be coordinated by the City and will occur on the same day.
- R. Dewatering and/or shoring design for open trench are not included in this proposal. The contract documents will include this work as part of the contractors’ responsibility (means and methods). Only the recommendations provided by the geotechnical consultant (GeoEngineers) will be incorporated in to the technical specifications.
- S. The City will organize and lead all construction meetings with the Contractor. M&N will review City prepared meeting minutes and answer questions at the meeting.
- T. A notice-to-proceed construction date in spring of 2014 (or 2015 if delayed by regulatory issues) and up 8 consecutive months of construction duration.
- U. The City will manage and administer the construction contract and perform day-to-day construction inspection. M&N will supplement the City’s staff by providing the specific technical services described herein.
- V. The City will be responsible for processing and logging submittals and RFI’s from the Project Contractor and distributing the necessary copies to M&N for review and comment.
- W. Construction meetings are all at the City of Oak Harbor. Allow for up to two engineers to attend meetings. Meeting budget is based on entire 8-hour day to include meeting time, preparation before each meeting, follow-up to questions/action items after each meeting, and round-trip travel to/from each meeting.
- X. The City will verify that Contractor red-line drawings accurately reflect the actual construction before turning them over to the Design Team.

CONSULTANT’S PERSONNEL AT CONSTRUCTION SITE

The presence or duties of Consultant’s personnel at a construction site, whether as onsite representatives or otherwise, do not make Consultant’s personnel in any way responsible for those duties that belong to the City and/or the construction Contractors or other entities, and do not relieve the construction Contractors or any other entity of their obligations, duties, and responsibilities, including, but not limited, to all construction methods, means techniques, sequences, and procedures necessary for coordinating

EXHIBIT A

SCOPE OF WORK FOR ENGINEERING SERVICES FOR CITY OF OAK HARBOR OUTFALL CITY OF OAK HARBOR, WHIDBEY ISLAND, WASHINGTON

and completing the construction work in accordance with the construction Contract Documents and any health or safety precautions required by such construction work.

Consultant's personnel have no authority to exercise any control over any construction Contractor or other entity or their employees in connection with their work or any health or safety precautions and have no duty for inspecting, noting, observing, or correcting health or safety deficiencies of the construction Contractors, or another entity, or any other persons at the site except Consultant's own personnel.

The presence of Consultant's personnel at a construction site is for the purpose of providing the City with a greater degree of confidence that the completed construction work will conform generally to the construction documents and that the integrity of the design concept as reflected in the construction documents has been implemented and preserved by the construction Contractors. M&N neither guarantees the performance of the construction Contractors, nor assumes responsibility for construction Contractors' failure to perform work in accordance with the construction documents.

EXHIBIT A



600 Dupont Street
Bellingham, Washington 98225
360.647.1510

November 8, 2013

Moffatt & Nichol
600 University Street, Suite 610
Seattle, Washington 98101

Attention: Mike Hemphill, PE

Subject: Scope and Fee Estimate
Geotechnical Engineering Services
Windjammer Park Stormwater Outfall Reconstruction Project.
Oak Harbor, Washington
File No. 2751-011-01

INTRODUCTION AND SCOPE

GeoEngineers, Inc. is pleased to present this revised scope and fee estimate for additional geotechnical engineering services for the proposed stormwater improvements at Windjammer Park in Oak Harbor, Washington. This scope and fee estimate is based on conversations with Mike Hemphill of Moffatt & Nichol, our past experience at the Windjammer Park site, and our experience with similar projects.

The stormwater outfall reconstruction project is being completed for the City of Oak Harbor (City). We understand that a new replacement outfall will be relocated to the east of the existing outfall and that the new alignment requires the installation of a new stormline and manhole structures. The new outfall will be located adjacent to an existing outfall pipe which will be extended as part of this project. The new and existing outfalls will be saddled together and use helical tie down anchors for both bearing and uplift support.

Based on previous experience on the project, the groundwater table is high, typically less than 5 to 6 feet below the ground surface. We understand the City intends to install a new stormwater line and manholes up to 12 feet deep through the upland portion of the project. Past experience in the project area suggests soil conditions will likely consist of loose sands and silts associated with historic fill placement and tideflats. Therefore, dewatering likely in conjunction with temporary shoring will be required to complete the deeper excavations.

The purposes of our services are to explore the subsurface conditions, install groundwater monitoring wells, provide a preliminary estimate of the volume of groundwater needed to be withdrawn to dewater the excavation, discuss dewatering techniques that would be appropriate for the conditions encountered,



and evaluate pipe foundation and anchor considerations based on conditions encountered. The elements of our services are provided below:

- Review of available hydrogeologic and geologic references, topographic maps and project plans. This will include information available from our services on the wastewater treatment plant outfall.
- Discuss boring locations with the project team. Make a site visit to locate the borings in the field. Contact the One-Call service to initiate utility locates.
 - We anticipate that no permits are required, or any permits will be provided by Moffatt & Nichol or the City.
- Subcontract with a drilling contractor. Drill two boreholes near the proposed manholes to a depth of approximately 25 feet to evaluate subsurface conditions. The reason for drilling to 25 feet is to evaluate groundwater conditions beneath the alignment that could cause instability and heave, and in-case pumped wells are required to achieve the necessary drawdown. Both of the boreholes will be completed with 2-inch-diameter PVC casing with a filter-packed screen. We anticipate that the drilling and well installation will take one day to complete.
 - We assume that drill cuttings will be inspected by an archeologist and will be left in a pile to be picked up by City road or parks crews.
- Develop the monitoring wells the day after well installation by surging and bailing and/or pumping to remove fine sediment and drilling debris from the well screen and filter pack. This step is important to ensure a good hydraulic connection with the surrounding soils that will then provide accurate water levels and optimal conditions for slug testing. We have budgeted for approximately ½ day to complete this task.
- Complete one Dynamic Cone Penetrometer test (DCPT) on the same day as drilling or well development, depending upon tides. The DCPT provides a log of soil density versus depth. No soil samples are obtained during driving of the DCPT probe.
 - We will complete the DCPT at the lowest feasible daylight tide so we can be as close to the end of the proposed pipe as possible. It should be noted that the lowest tide is not very low during daylight hours at this time of year.
- Conduct a day of slug testing to estimate the hydraulic conductivity of the soils. We will complete testing on both of the monitoring wells to evaluate hydraulic characteristics of the water-bearing materials for dewatering needs.
- Conduct an analysis of the slug testing data and evaluate the groundwater conditions along the alignment to determine dewatering requirements.
- Provide pipe foundation recommendations, as needed.
- Provide conclusions regarding helical tie-down anchors and specific design recommendations.
- Prepare a report providing the results of our testing and a preliminary estimate of the volume of water needed to dewater the proposed alignment, and discussion of shoring and dewatering techniques to limit the size of the excavation and pipe foundation considerations. Logs of borings and DCPT testing will be included.



SCHEDULE, TERMS AND BUDGET

We will schedule the drilling upon authorization and based on the specialty drillers availability. Our preferred drillers are typically booked out two to three weeks in advance. The slug testing will be completed approximately one to two weeks following the drilling. We will provide conclusions and recommendations as information becomes available. If the schedule and/or assumptions do not meet your needs, please contact us regarding any modifications that will allow you to meet your schedule.

We assume that the professional services listed above will be provided in accordance with the terms in a subconsultant agreement with Moffatt & Nichol. The fee for the services described above will be determined on a time-and-expense basis in accordance with the attached Schedule of Charges. We estimate that our fee for the services described above will be approximately \$12,490. We will endeavor to keep you apprised of project status and conditions that may significantly affect our scope and estimate.

There are no intended third party beneficiaries arising from the services described in this proposal and no party other than the party executing this proposal shall have the right to legally rely on the product of our services without prior written permission of GeoEngineers.

We appreciate the opportunity to present this scope and fee estimate to provide services to you on this project. Please contact us if you have any questions concerning this proposal.

Sincerely,
GeoEngineers, Inc.



Aaron J. Hartvigsen, PE
Geotechnical Engineer



J. Robert Gordon, PE
Senior Principal

AJH:JRG:tn:lc

Attachments:

Project Cost Estimate

Schedule of Charges_Bellingham-2013

One copy submitted electronically

Disclaimer: Any electronic form, facsimile or hard copy of the original document (email, text, table, and/or figure), if provided, and any attachments are only a copy of the original document. The original document is stored by GeoEngineers, Inc. and will serve as the official document of record.



EXHIBIT A

Schedule of Charges – 2013

COMPENSATION

Our compensation will be determined on the basis of time and expenses in accordance with the following schedule unless a lump sum amount is so indicated in the proposal or services agreement. Current rates are:

Professional Staff

Staff 1 Scientist/Analyst	\$ 85/hour
Staff 1 Engineer	\$ 90/hour
Staff 2 Scientist/Analyst	\$ 95/hour
Staff 2 Engineer	\$ 100/hour
Staff 3 Scientist/Analyst	\$ 110/hour
Staff 3 Engineer	\$ 115/hour
Engineer/Scientist/Analyst 1	\$ 130/hour
Engineer/Scientist/Analyst 2	\$ 135/hour
Senior Engineer/Scientist/Analyst 1	\$ 140/hour
Senior Engineer/Scientist/Analyst 2	\$ 150/hour
Associate	\$ 170/hour
Principal	\$ 185/hour
Senior Principal	\$ 225/hour

Technical Support Staff

Administrator 1	\$ 58/hour
Administrator 2	\$ 68/hour
CAD Technician	\$ 61/hour
CAD Designer	\$ 71/hour
Technician	\$ 61/hour
Senior Technician	\$ 71/hour

Software Development Staff

Database Architect/Analyst	\$ 160/hour
Senior Database Architect/Analyst	\$ 180/hour
Business Analyst	\$ 160/hour
Senior Business Analyst	\$ 180/hour
Software Architect/Developer	\$ 180/hour
Senior Software Architect Developer	\$ 200/hour
IT Project Manager	\$ 200/hour
Senior IT Project Manager	\$ 225/hour

Contracted professional and technical services will be charged at the applicable hourly rates listed above. Staff time spent in depositions, trial preparation and court or hearing testimony will be billed at one and one-half times the above rates. Time spent after normal working hours, on weekends, or on holidays, at the specific request of Client, will be charged at the above rates plus 25 percent. Time spent in either local or inter-city travel, when travel is in the interest of this contract, will be charged in accordance with the foregoing schedule. Rates for data storage and web-based access will be provided on a project-specific basis.

Equipment

Air Quality Equipment, per day	\$	150.00
Air Sparging Field Test, per day	\$	500.00
Construction Monitoring Equipment	\$	25.00
Continuous recording data logger, per day	\$	300.00
Environmental Exploration Equipment, per day	\$	150.00
Field water quality testing equipment, per day (1 day min.)	\$	80.00
Gas Detection and Oxygen Meters, per day (1 day min.)	\$	100.00
Generator, per day (1 day min.)	\$	100.00
Geotechnical Exploration Equipment, per day	\$	125.00
Groundwater Development and Sampling Pumps, per day (1 day min.)	\$	100.00
Groundwater Monitoring Equipment, per day	\$	220.00
Nuclear Density Gauge, per hour (4 hour daily min.)	\$	10.00
pH Meter (per day)	\$	15.00
Single Channel data logger, per logger, per day (1 day min.)	\$	100.00
Slope Indicator, per day (1 day min.)	\$	200.00
Survey equipment, Porter sampling gear and Dynamic cone sounding equipment, per day	\$	35.00
Vapor Extraction Field Test, per day	\$	500.00
Vehicle usage, per mile, or \$50/day, whichever is greater	\$	0.565
Vehicle - 4-wheel drive truck, per day (1 day min.)	\$	80.00
Water disposal equipment, per use, per day	\$	50.00
Water Quality Equipment, per day	\$	125.00
	\$	

Specialized and miscellaneous field equipment, at current rates, list available upon request.

OTHER SERVICES, SUPPLIES AND SPECIAL TAXES

Charges for services, equipment, supplies and facilities not furnished in accordance with the above schedule, and any unusual items of expense not customarily incurred in our normal operations, are charged at cost plus 15 percent. This includes shipping charges, subsistence, transportation, printing and reproduction, miscellaneous supplies and rentals, surveying services, drilling equipment, construction equipment, watercraft, aircraft, and special insurance which may be required. Taxes required by local jurisdictions for projects in specific geographic areas will be charged to projects at direct cost.

Routinely used field supplies stocked in-house by GeoEngineers, at current rates, list available upon request.

In-house testing for geotechnical soil characteristics at current rates, list available upon request.

Computer hardware and software, telephone and fax communications, printing and photocopying and routine postage via USPS will be charged at a flat rate of 6 percent of labor charges. These charges are labeled as Associated Project Costs (APC).

Per diem may be charged in lieu of subsistence and lodging.

All rates are subject to change upon notification.

EXHIBIT A



600 Dupont Street
Bellingham, Washington 98225
360.647.1510

November 20, 2013

Moffatt & Nichol
600 University Street, Suite 610
Seattle, Washington 98101

Attention: Mike Hemphill, PE

Subject: Scope and Fee Estimate
Construction Support Services
Windjammer Park Stormwater Outfall Reconstruction Project
Oak Harbor, Washington
File No. 2751-011-02

INTRODUCTION AND SCOPE

GeoEngineers, Inc. (GeoEngineers) is pleased to present this scope and fee estimate for construction support services for the proposed Stormwater Outfall Reconstruction project to be completed at Windjammer Park in Oak Harbor, Washington. This scope and fee estimate is based on conversations with Mike Hemphill of Moffatt & Nichol, our past experience at the Windjammer Park site, and our experience with similar projects. We have also presented a geotechnical scope and fee to explore along the upland portion of the pipeline, which has not been completed as yet.

The stormwater outfall reconstruction project is being completed for the City of Oak Harbor (City). The new outfall will be located adjacent to an existing outfall pipe which will be extended as part of this project. The new and existing outfalls will be saddled together and use helical tie down anchors for both bearing and uplift support. The depth of the stormwater line is such that it is expected to be several feet below the groundwater elevation such that dewatering and temporary shoring are expected for the project.

The purposes of our construction support services during this phase of the project are to confirm that the dewatering, earthwork and pipe installation activities are completed in accordance with our recommendations that will be completed in December 2013/January 2014, and the project plans and specifications, and to provide consultation to the City, design team and contractor as requested.



SCOPE OF SERVICES

The following is an overview of the various aspects of the project that we recommend geotechnical involvement based on our conversations with Moffatt & Nichol:

- Review of project plans and specifications, and pre-bidding assistance. We assume approximately 4 hours of Senior Engineer time for this task.
- Attend a pre-bid meeting with prospective contractors and be available to answer questions about site soil and groundwater conditions. We assume approximately 4 hours of Senior Engineer time for this task including travel.
- Attend a pre-construction meeting with the City, design team and the selected contractor. We assume approximately 4 hours of Senior Engineer time for this task including travel.
- Complete reviews of contractor submittals. We assume up to six submittal/resubmittal reviews will be required at approximately 2 hours each by Senior Engineer.
- Complete responses to contractor requests for information (RFIs) during construction. We assume up to four RFIs will be required at approximately 2½ hours each by Senior Engineer.
- Site visits during construction as requested to evaluate dewatering, pipe subgrade preparation, tie-down installation, and other geotechnical aspects of the project. We have assumed four full-day visits by a Project Engineer, including travel time to and from the site and field report preparation.
- Site meetings during construction with City, design team and contractor to support geotechnical aspects of construction. Review of site conditions at the time of the visit will be included. We have assumed two half-day visits by a Senior Engineer, including travel time to and from the site and field report preparation.
- Project management and miscellaneous consultation to the City, design team and contractor to provide efficient and cost effective solutions to geotechnical related issues that arise during construction.

Some Principal and administrative support charges are incorporated into the above tasks. Our services do not include materials testing of soil backfill and compaction, concrete, or steel reinforcement.

SCHEDULE, TERMS, AND BUDGET

The level of effort provided above is based on our experience on similar projects. A refinement could be made after a planned construction schedule is available. Our services will be completed on a time-and-expense basis. The total fee for our construction monitoring services will be directly dependent on the number of submittals, contractor's schedule and the extent of any difficulties that may be encountered during construction.

We assume that the professional services listed above will be provided in accordance with the terms in a subconsultant agreement with Moffatt & Nichol. Our total charges will depend on the actual amount of field and office labor necessary. During construction, we will work closely with the contractor to confirm we are only on site when needed. We estimate that our level of effort will be in accordance with the following

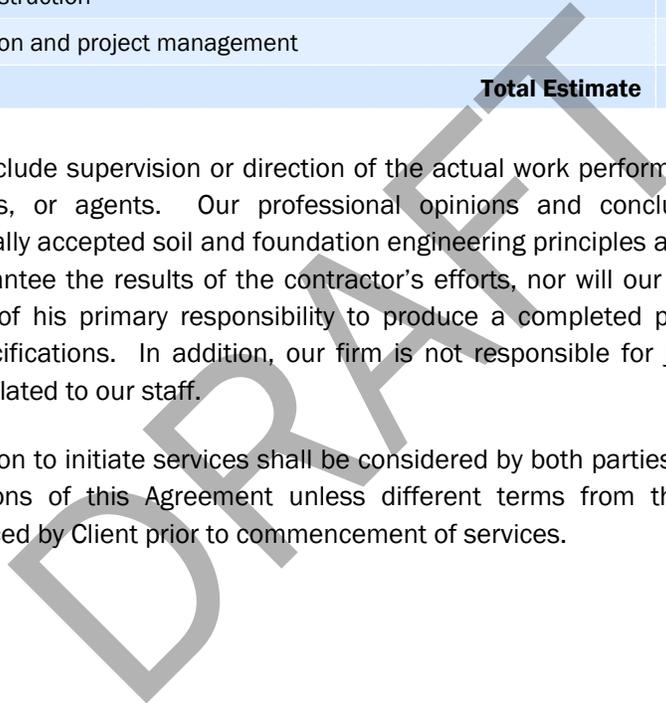
breakdown below. We will endeavor to keep you apprised of project status and notify you when the project reaches 80 percent of the planned budget, or if site activities warrant a change scope identified above.

TABLE 1 - GEOTECHNICAL CONSTRUCTION SERVICES – TASK EFFORT SUMMARY

Task Description	Task Fee
Review of project plans and specifications	\$ 800
Pre-bid meeting	\$ 800
Pre-construction meeting	\$ 800
Submittal review and response	\$ 2,800
RFI review and response	\$ 2,200
Site visits during construction	\$ 5,350
Site meetings during construction	\$ 1,750
Miscellaneous consultation and project management	\$ 1,500
Total Estimate	\$ 16,000

Our activities do not include supervision or direction of the actual work performed by the contractor, the contractor’s employees, or agents. Our professional opinions and conclusions will be made in accordance with generally accepted soil and foundation engineering principles and practices. However, it is not our role to guarantee the results of the contractor’s efforts, nor will our testing and observations relieve the contractor of his primary responsibility to produce a completed project conforming to the project plans and specifications. In addition, our firm is not responsible for job or site safety on this project other than as related to our staff.

Client’s oral authorization to initiate services shall be considered by both parties as formal acceptance of all terms and conditions of this Agreement unless different terms from those represented in the Agreement are introduced by Client prior to commencement of services.



We appreciate the opportunity to present this scope and fee estimate to provide services to you on this project. Please contact us if you have any questions concerning this proposal.

Sincerely,
GeoEngineers, Inc.

Sean Cool, PE
Senior Engineer

J. Robert Gordon, PE
Senior Principal

SWC:JRG:tlm

Attachments:

City of Oak Harbor Schedule of Charges – 2014

One copy submitted electronically

Disclaimer: Any electronic form, facsimile or hard copy of the original document (email, text, table, and/or figure), if provided, and any attachments are only a copy of the original document. The original document is stored by GeoEngineers, Inc. and will serve as the official document of record.

DRAFT



EXHIBIT A
City of Oak Harbor
Schedule of Charges – 2014

COMPENSATION

Our compensation will be determined on the basis of time and expenses in accordance with the following schedule unless a lump sum amount is so indicated in the proposal or services agreement. Current rates are:

Professional Staff

Staff 1 Scientist/Analyst	\$	88/hour
Staff 1 Engineer	\$	94/hour
Staff 2 Scientist/Analyst	\$	99/hour
Staff 2 Engineer	\$	104/hour
Staff 3 Scientist/Analyst	\$	114/hour
Staff 3 Engineer	\$	120/hour
Engineer/Scientist/Analyst 1	\$	135/hour
Engineer/Scientist/Analyst 2	\$	140/hour
Senior Engineer/Scientist/Analyst 1	\$	145/hour
Senior Engineer/Scientist/Analyst 2	\$	156/hour
Associate	\$	176/hour
Principal	\$	192/hour
Senior Principal	\$	233/hour

Technical Support Staff

Administrator 1	\$	61/hour
Administrator 2	\$	71/hour
CAD Technician	\$	64/hour
CAD Designer	\$	74/hour
Technician	\$	64/hour
Senior Technician	\$	74/hour

Software Development Staff

Database Architect/Analyst	\$	166/hour
Senior Database Architect/Analyst	\$	187/hour
Business Analyst	\$	166/hour
Senior Business Analyst	\$	187/hour
Software Architect/Developer	\$	187/hour
Senior Software Architect Developer	\$	207/hour
IT Project Manager	\$	207/hour
Senior IT Project Manager	\$	233/hour

Contracted professional and technical services will be charged at the applicable hourly rates listed above. Time spent in either local or inter-city travel, when travel is in the interest of this contract, will be charged in accordance with the foregoing schedule. Rates for data storage and web-based access will be provided on a project-specific basis.

Equipment

Air Quality Equipment, per day	\$	150.00
Air Sparging Field Test, per day	\$	500.00
Construction Monitoring Equipment	\$	25.00
Continuous recording data logger, per day	\$	300.00
Environmental Exploration Equipment, per day	\$	150.00
Field water quality testing equipment, per day (1 day min.)	\$	80.00
Gas Detection and Oxygen Meters, per day (1 day min.)	\$	100.00
Generator, per day (1 day min.)	\$	100.00
Geotechnical Exploration Equipment, per day	\$	125.00
Groundwater Development and Sampling Pumps, per day (1 day min.)	\$	100.00
Groundwater Monitoring Equipment, per day	\$	220.00
Nuclear Density Gauge, per hour (4 hour daily min.)	\$	10.00
pH Meter (per day)	\$	15.00
Single Channel data logger, per logger, per day (1 day min.)	\$	100.00
Slope Indicator, per day (1 day min.)	\$	200.00
Survey equipment, Porter sampling gear and Dynamic cone sounding equipment, per day	\$	35.00
Vapor Extraction Field Test, per day	\$	500.00
Vehicle usage, per mile, or \$50/day, whichever is greater	\$	0.565
Vehicle - 4-wheel drive truck, per day (1 day min.)	\$	80.00
Water disposal equipment, per use, per day	\$	50.00
Water Quality Equipment, per day	\$	125.00

Specialized and miscellaneous field equipment, at current rates, list available upon request.

OTHER SERVICES, SUPPLIES AND SPECIAL TAXES

Charges for services, equipment, supplies and facilities not furnished in accordance with the above schedule, and any unusual items of expense not customarily incurred in our normal operations, are charged at cost plus 15 percent. This includes shipping charges, subsistence, transportation, printing and reproduction, miscellaneous supplies and rentals, surveying services, drilling equipment, construction equipment, watercraft, aircraft, and special insurance which may be required. Taxes required by local jurisdictions for projects in specific geographic areas will be charged to projects at direct cost.

Routinely used field supplies stocked in-house by GeoEngineers, at current rates, list available upon request.

In-house testing for geotechnical soil characteristics at current rates, list available upon request.

Computer hardware and software, telephone and fax communications, printing and photocopying and routine postage via USPS will be charged at a flat rate of 6 percent of labor charges. These charges are labeled as Associated Project Costs (APC).

Per diem may be charged in lieu of subsistence and lodging.

All rates are subject to change upon notification.

EXHIBIT B

COMPENSATION

EXHIBIT B

LABOR AND EXPENSE SUMMARY

DETAILED COST BREAKDOWN											
COMPANY: Moffatt & Nichol				Project: OAK HARBOR OUTFALL				DATE: 11/20/2013			
SUMMARY										CONTRACT NO.:	
Task No.	DESCRIPTION	PRINCIPAL ENGINEER	PROJECT MANAGER	SENIOR ENGINEER	ENGINEER iii	ENGINEER II	ENGINEER I	CADD Technician	TYPIST/ADMIN ASSISTANT	TOTAL HOURS	TOTAL AMOUNT
1	Site Investigation	0	2	0	8	0	0	0	0	10	\$2,020
2	Permitting	0	3	2	0	28	0	8	0	41	\$6,948
3	Engineerin/Design/PS&E's	4	40	72	56	24	72	240	18	526	\$83,240
4	Project Management and QA/QC	4	70	30	0	0	0	0	16	120	\$24,638
5	Construction Support Services	5	104	16	72	4	118	40	30	389	\$68,427
TOTAL HOURS		13	219	120	136	56	190	288	64	1,086	
RATE (2013)		\$255.00	\$230.00	\$209.00	\$195.00	\$172.00	\$150.00	\$128.00	\$78.00		
DIRECT LABOR AMOUNT		\$3,315	\$50,370	\$25,080	\$26,520	\$9,632	\$28,500	\$36,864	\$4,992		\$185,273
TOTAL DIRECT EXPENSES (No Mark up)										\$2,572	
TOTAL SUBCONSULTANT COSTS (10% Mark up)										\$31,339	
TOTAL PROJECT AMOUNT										\$219,184	

EXHIBIT B

LABOR

DETAILED COSTS BREAKDOWN											
COMPANY: Moffatt & Nichol				Project: OAK HARBOR OUTFALL				DATE: 11/20/2013			
TASK NO. & DESCRIPTION: 1 Site Investigation								CONTRACT NO.:			
SUB TASK	DETAILED DESCRIPTION OF TASK	PRINCIPAL ENGINEER	PROJECT MANAGER	SENIOR ENGINEER	ENGINEER III	ENGINEER II	ENGINEER I	CADD Technician	TYPIST/ADMIN ASSISTANT	TOTAL HOURS	TOTAL AMOUNT
a)	Review Data, Incl Geotech & Survey									0	\$0
b)	TV Inspection of Pipeline									0	\$0
c)	Topographic & Hydrographic Survey									0	\$0
d)	Geotechnical Investigation (Coord with Sub)		2		8					10	\$2,020
e)	Coastal Literature Review									0	\$0
f)	Hydraulic Analysis									0	\$0
g)	Conceptual Layout w/Cost & Schedule									0	\$0
h)	Archeological Investigation									0	\$0
TOTAL HOURS		0	2	0	8	0	0	0	0	10	\$2,020
RATE		\$255.00	\$230.00	\$209.00	\$195.00	\$172.00	\$150.00	\$128.00	\$78.00		
DIRECT LABOR AMOUNT		\$0	\$460	\$0	\$1,560	\$0	\$0	\$0	\$0	\$2,020	
TOTAL LABOR AMOUNT										\$2,020	

EXHIBIT B

LABOR

DETAILED COSTS BREAKDOWN											
COMPANY: Moffatt & Nichol				Project: OAK HARBOR OUTFALL				DATE: 11/20/2013			
TASK NO. & DESCRIPTION: 2 Permitting								CONTRACT NO.:			
SUB TASK	DETAILED DESCRIPTION OF TASK	PRINCIPAL ENGINEER	PROJECT MANAGER	SENIOR ENGINEER	ENGINEER III	ENGINEER II	ENGINEER I	CADD Technician	TYPIST/ADMIN ASSISTANT	TOTAL HOURS	TOTAL AMOUNT
a)	Support SSDP (Minor Revs to JARPA)		1			4		8		13	\$1,942
b)	Corps and WDFW Permit Updates		1			8				9	\$1,606
c)	Biological Evaluation (BE) Update		1	2		16				19	\$3,400
TOTAL HOURS		0	3	2	0	28	0	8	0	41	\$6,948
RATE		\$255.00	\$230.00	\$209.00	\$195.00	\$172.00	\$150.00	\$128.00	\$78.00		
DIRECT LABOR AMOUNT		\$0	\$690	\$418	\$0	\$4,816	\$0	\$1,024	\$0	\$6,948	
TOTAL LABOR AMOUNT										\$6,948	

EXHIBIT B

LABOR

DETAILED COSTS BREAKDOWN											
COMPANY: Moffatt & Nichol				Project: OAK HARBOR OUTFALL				DATE: 11/20/2013			
TASK NO. & DESCRIPTION: 3 Engineerin/Design/PS&E's								CONTRACT NO.:			
SUB TASK	DETAILED DESCRIPTION OF TASK	PRINICIPAL ENGINEER	PROJECT MANAGER	SENIOR ENGINEER	ENGINEER iii	ENGINEER II	ENGINEER I	CADD Technician	TYPIST/ADMIN ASSISTANT	TOTAL HOURS	TOTAL AMOUNT
a)	Engineering/Design	2	10	16		24	16	20		86	\$15,242
b)	Prepare 65% PS&E's	2	10	16	24		16	80	8	154	\$24,098
c)	Prepare 100% PS&E's	2	10	24	16		24	80	6	162	\$25,254
d)	Prepare Final Bid Package	2	10	16	16		16	60	4	124	\$19,666
TOTAL HOURS		4	40	72	56	24	72	240	18	526	\$64,594
RATE		\$255.00	\$230.00	\$209.00	\$195.00	\$172.00	\$150.00	\$128.00	\$78.00		
DIRECT LABOR AMOUNT		\$1,020	\$9,200	\$15,048	\$10,920	\$4,128	\$10,800	\$30,720	\$1,404	\$83,240	
TOTAL LABOR AMOUNT										\$83,240	

EXHIBIT B

LABOR

DETAILED COSTS BREAKDOWN											
COMPANY: Moffatt & Nichol				Project: OAK HARBOR OUTFALL				DATE: 11/20/2013			
TASK NO. & DESCRIPTION: 4 Project Management and QA/QC								CONTRACT NO.:			
SUB TASK	DETAILED DESCRIPTION OF TASK	PRINCIPAL ENGINEER	PROJECT MANAGER	SENIOR ENGINEER	ENGINEER iii	ENGINEER II	ENGINEER I	CADD Technician	TYPIST/ADMIN ASSISTANT	TOTAL HOURS	TOTAL AMOUNT
a)	Overall PM		38	10					6	54	\$11,298
b)	Meetings		20	20					6	46	\$9,248
c)	Project QA/QC	4	12						4	20	\$4,092
TOTAL HOURS		4	70	30	0	0	0	0	16	120	\$24,638
RATE		\$255.00	\$230.00	\$209.00	\$195.00	\$172.00	\$150.00	\$128.00	\$78.00		
DIRECT LABOR AMOUNT		\$1,020	\$16,100	\$6,270	\$0	\$0	\$0	\$0	\$1,248	\$24,638	
										TOTAL LABOR AMOUNT	\$24,638

EXHIBIT B

LABOR

DETAILED COSTS BREAKDOWN											
COMPANY: Moffatt & Nichol							Project: OAK HARBOR OUTFALL			DATE: 11/20/2013	
TASK NO. & DESCRIPTION: 5 Construction Support Services							CONTRACT NO.:				
SUB TASK	DETAILED DESCRIPTION OF TASK	PRINCIPAL ENGINEER	PROJECT MANAGER	SENIOR ENGINEER	ENGINEER III	ENGINEER II	ENGINEER I	CADD Technician	TYPIST/ADMIN ASSISTANT	TOTAL HOURS	TOTAL AMOUNT
a)	Bid Support Services		4		16		8	16	2	46	\$7,444
b)	Pre-bid meeting		8						1	9	\$1,918
c)	Pre-construction Meeting & Conformed Documents	1	8			4	8	16	2	39	\$6,187
d)	RFI's		10		10		10	4	2	36	\$6,418
e)	Contractor Submittals		20		30		20		2	72	\$13,606
f)	Monthly Construction Meetings								16	16	\$1,248
g)	Trench Observations (Geo)		2		4					6	\$1,240
h)	Site Visits (8 hours/month x 3 months)		24				24		3	51	\$9,354
i)	Final Walkthrough / Punchlist		8				8			16	\$3,040
j)	Change Order Assistance	2	16	16				4	2	40	\$8,202
k)	Prepare Record Drawings	2	4		12		40			58	\$9,770
TOTAL HOURS		5	104	16	72	4	118	40	30	389	\$68,427
RATE		\$255.00	\$230.00	\$209.00	\$195.00	\$172.00	\$150.00	\$128.00	\$78.00		
DIRECT LABOR AMOUNT		\$1,275	\$23,920	\$3,344	\$14,040	\$688	\$17,700	\$5,120	\$2,340	\$68,427	
TOTAL LABOR AMOUNT										\$68,427	

EXHIBIT B

EXPENSES

DETAILED COSTS BREAKDOWN				
COMPANY: Moffatt & Nichol		Project: OAK HARBOR OUTFALL		DATE: 11/20/2013
TASK NO. & DESCRIPTION:			CONTRACT NO.:	
OTHER DIRECT COST				
	Qty	Unit	Unit Cost	Total
Data & Imagery (Coastal)	0	LS	\$500	\$0
Meals	8	Days	\$49	\$392
Mileage	800	Miles	\$0.550	\$440
Ferry Fare	16	One Way	\$15	\$240
Postage	1	LS	\$500	\$500
Remote Office Setup (Laptop, Phone, Camera)	0	LS		\$0
Photocopy/Reproductions	1	LS	\$1,000	\$1,000
TOTAL DIRECT COST				\$2,572

SUBCONSULTANTS					
	Qty	Unit	Unit Cost	M&N Markup (10%)	Total
		LS	\$0	\$0	\$0
GeoEngineers (Construction Support)	1	LS	\$16,000	\$1,600	\$17,600
GeoEngineers (Geotechnical)	1	LS	\$12,490	\$1,249	\$13,739
		LS	\$0	\$0	\$0
TOTAL SUBCONSULTANTS					\$31,339

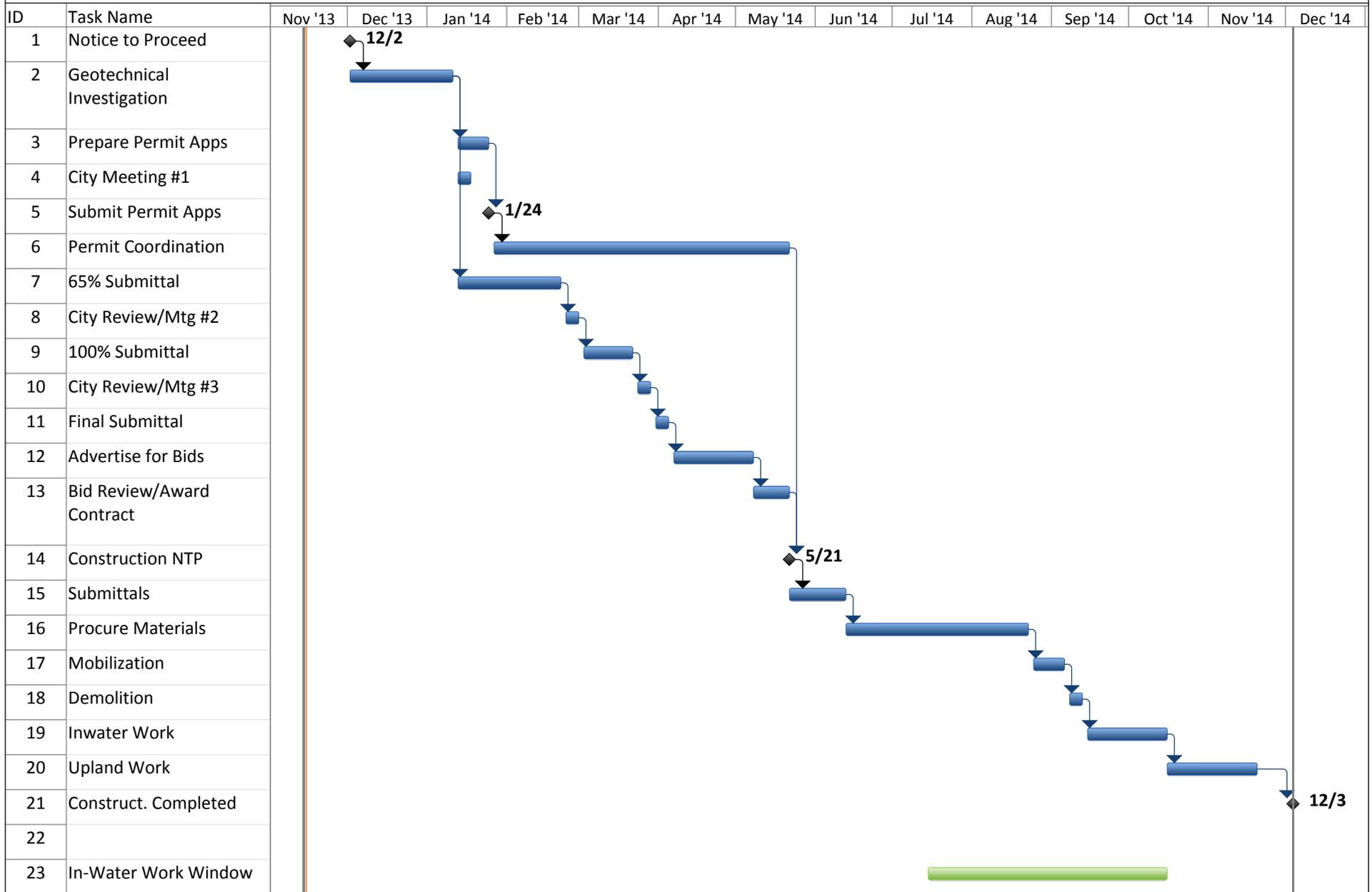
TOTAL EXPENSES \$33,911

EXHIBIT C

PROJECT SCHEDULE

CITY OF OAK HARBOR OUTFALL

EXHIBIT C



**City of Oak Harbor
City Council Agenda Bill**

Bill No. C/A 4.1
Date: December 3, 2013
Subject: Stormwater Outfall - ERCI Professional
Services Contract Amendment 1

FROM: Cathy Rosen, Public Works Director
Joe Stowell, City Engineer

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Larry Cort, City Administrator
 Doug Merriman, Finance Director
 Grant Weed, Interim City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to request approval for the Mayor to sign an amendment to the professional services agreement with Equinox Research and Consulting. The additional professional services include assistance with archaeology permitting associated with construction for repair of the west stormwater outfall in Windjammer Park.

FISCAL IMPACT DESCRIPTION

Funds Required: \$12,079.50
Appropriation Source: Stormwater Fund

SUMMARY STATEMENT

The west stormwater outfall project in Windjammer Park was halted in 2010 due to the discovery of archaeological resources along the proposed alignment of the replacement pipe. In March of 2013 the City contracted with Equinox Research to perform further field investigation of the resources in an effort to better determine the extent and nature of those resources. This task has been completed and the information needed to continue the permitting process is now available.

The additional work under this contract amendment includes assisting the City in preparing the necessary review agency permit documents and developing a treatment plan for archaeology remains that may be found during construction.

Once the permitting process has been completed an additional contract amendment (amendment #2) is anticipated. Amendment #2 will allow Equinox Research and Consulting to carry out the treatment plan requirements prior to and during construction of the outfall.

The proposed scope of services includes:

- Development of the treatment plan that includes any data collection, curation, monitoring or reporting described in the Treatment Plan.
- Tribal coordination to explain the details of the plan and consider their feedback in the final treatment plan submitted to the USACE in support of NWS 2009-115.
- One meeting with all tribes and agencies to discuss the proposed project and treatment plan.

The proposed scope of services does not include:

- Costs associated implementing the Treatment Plan.
- Costs associated with completing Historic property Inventory Forms (HPIFs) for any buildings older than 50 years.
- Costs associated with developing any additional agreements, plans, protocols, or permits should they be required.

Schedule:

The schedule is highly dependent upon the permitting process and regulatory agency review time and requirements however; completion of this scope is anticipated by December of 2014.

CITY COUNCIL WORKSHOPS

Amendment No. 1 to the Professional Services Agreement with Equinox Research and Consulting International has not been presented at a City Council Workshop

RECOMMENDED ACTION

Authorize the Mayor to sign Amendment No. 1 to the Professional Services Agreement with Equinox Research and Consulting International (ERCI) for archaeological services and increasing the not to exceed contract amount by \$12,079.50 from \$4,265.70 to \$16,345.20.

ATTACHMENTS

- Professional Services Contract Amendment No. 1
- Scope of Services

PROJECT COMPLETION DATE AMENDED TO: December 31, 2014

PAYMENT shall be amended as follows:

Amendment reflects an increase in time and cost necessary to complete the work required for archaeology permitting. The maximum amount payable under the contract is increased by \$12,079.50, from \$4,265.70 to \$16,345.20, as outlined in the attached scope of work.

Payment shall be made in accordance with the terms and conditions described in the original contract.

If you concur with this amendment and agree to the changes as stated above, please sign in the appropriate spaces and return to this office for final action.

By: _____

By: _____

Consultant Signature

Approving Authority Signature

Date



41507 South Skagit Hwy Concrete, WA 98237 Tel.360-826-4930 Fax. 360-826-4830 www.equinoxerci.com

November 21, 2013

John Piccone
City of Oak Harbor Public Works
1400 NE 16th Avenue
Oak Harbor, WA 98277

Re: Coordination and Treatment Plan development for USACE Permit NWS 2009-115 for the 42 Inch Outfall Replacement Project, Windjammer Park, Oak Harbor, Washington

Dear Mr. Piccone:

Thank you for the considering Equinox Research and Consulting International Inc. (ERC I) for your cultural resource management needs. ERC I provides a full service cultural resource management program and we look forward to providing you timely and professional fieldwork and reporting.

Section 106 of the National Historic Preservation Act (NHPA), SEPA and Executive Order 05-05 requires agencies to consider the effects of their actions on historic properties and to consult with others in carrying out historic preservation activities. The State of Washington also has a series of RCWs and associated WACs concerning cultural resources that we are guided by. In providing cultural resource management services for clients, Equinox Research and Consulting International Inc. (ERC I) works in accordance with all applicable laws and regulations.

We understand that you have an Army Corps Nationwide Permit 2009-115 and that this work involves coordinating with the Corps. We are providing this scope and budget for developing a Treatment Plan for USACE review and consultation with Tribes and DAHP for the Western 42 inch outfall replacement project in Windjammer Park.

This Scope includes:

- Development of the treatment plan that includes any data collection, curation, monitoring or reporting described in the Treatment Plan.
- Tribal coordination to explain the details of the plan and consider their feedback in the final treatment plan submitted to the USACE in support of NWS 2009-115.
- One meeting with all tribes and agencies to discuss the proposed project and treatment plan.

Qualifications:

- Experience working in Puget Sound and on projects associated with public works systems and infrastructure.
- Experience in the specific deposits at Windjammer Park and in the history of Oak Harbor.
- Principal investigator meets the Secretary of Interior’s professional qualification standards for archaeology
- Expertise on prehistoric and historic archaeology of Western Washington
- Experience in Executive Order 05-05 and NHPA Section 106 work and in working with additional state laws related to historic preservation and human remains.
- Positive working relationship with federally recognized Tribes in and adjacent to the project area and experience in tribal coordination.
- Experience in processes that balance competing resource needs
- Strong record of completing work on time within budget

The following estimate covers the development of a Treatment Plan for the non-eligible components of 45IS298 within the project area. The following costs are not included in this estimate:

- Costs associated implementing the Treatment Plan.
- Costs associated with completing Historic Property Inventory Forms (HPIFs) for any buildings older than 50 years
- Costs associated with developing any additional agreements, plans, protocols, or permits should they be required.

The team at ERCI is comprised of individuals with strong personal research specialties who pride themselves on efficiency, performance and integrity. We provide the highest quality product in a timely fashion. Please check out our web site for additional details www.equinoxerc.com

Thank you for the opportunity to provide excellent heritage planning services for the City of Oak Harbor.

Regards,



Kelly R. Bush
Equinox Research and Consulting International Inc. (ERCI)

Description	Units	Rate/HR	Sub Total
Project Orientation and Planning	4.00	143.75	575.00
Archival background research including comparative analysis of treatment plans	8.00	97.75	782.00
Coordinate with governments of affected Tribes regarding cultural resource issues Includes site visits and outreach individually and in group meeting	20.00	143.75	2,875.00

Consider the effects of Project alternatives on all cultural resources and provide recommendations about how to avoid, minimize, or mitigate the adverse effect.	4.00	143.75	575.00
Consultation with SHPO and agencies	12.00	143.75	1,725.00
Document control, transcriptions, site forms	4.00	63.75	255.00
Editing	2.00	143.75	287.50
Develop Treatment Plan for USACE coordination	32.00	97.75	3,128.00
Graphics, layout	12.00	97.75	1,173.00
SUB TOTAL			11,375.50
DESCRIPTION	Units	Rates Daily	Sub Total
Travel	12.00	40.00	480.00
Mileage	400.00	0.56	224.00
SUB TOTAL			704.00
GRAND TOTAL			12,079.50

City of Oak Harbor City Council Agenda Bill

Bill No. C/A 4.m.
Date: December 3, 2013
Subject: Oak Harbor Youth Commission
Appointment – Bill Walker

FROM: Scott Dudley, Mayor 

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Larry Cort, City Administrator
 Doug Merriman, Finance Director
 Grant Weed, Interim City Attorney, as to form

PURPOSE

The purpose of this agenda bill is for the Council to confirm Mayor Dudley's appointment of Bill Walker to the Oak Harbor Youth Commission.

FISCAL IMPACT DESCRIPTION

None

SUMMARY STATEMENT

If confirmed, Mr. Walker would be appointed for a full 3 year term on the Youth Commission. This term would expire December 2016.

Mayor Dudley recommends that Bill Walker be confirmed to serve a full term.

STANDING COMMITTEE REPORT

None.

RECOMMENDED ACTION

Confirm Mr. Walker's appointment to the Oak Harbor Youth Commission.

ATTACHMENTS

Mr. Walker's biography.

Biography Form

Recommended Board Appointment for: Oak Harbor Youth Commission

Name: Bill Walker Date: August 23, 2013

Address: c/o North Whidbey Park & Recreation District

City, State, Zip: Oak Harbor WA 98277

Telephone Number: 360-675-7665 Email Address: director@oakharborpool.com

Mailing Address (if different from above): _____

Resident of Oak Harbor/Whidbey Island for: 4 years .

Occupation and Place of Employment (if retired, reference previous occupation):

Director, North Whidbey Park & Recreation District

Local Group or Civic Affiliations: _____

Special Interests: Outdoor sports (kayaking, hiking, fishing), time with my family

Other General Comments: Whatever I can do personally or professionally to assist in making Oak Harbor a safe and happy place for our youth, I'm in!

City of Oak Harbor City Council Agenda Bill

Bill No. 6.a.
Date: December 3, 2013
Subject: Insurance Requirements-Fireworks
Stands – Ordinance 1676

FROM: Ray Merrill, Fire Chief

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Larry Cort, City Administrator
 Doug Merriman, Finance Director
 Grant Weed, Interim City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to amend the Oak Harbor Municipal Code increasing insurance requirements for Fireworks Stands, Section 5.32.

FISCAL IMPACT DESCRIPTION

Funds Required: N/A Appropriation Source: N/A

SUMMARY STATEMENT

The City received an application to permit the sale of fireworks over the New Year's holiday. After reviewing the current code, staff is proposing an increase in the minimum insurance requirements for holders of fireworks permits. The limits of coverage required for fireworks stands are less than those imposed on other special event applicants and others contracting with the City.

The attached memorandum from Interim City Attorney Grant Weed explains RCW 70.77.250(4) sets minimum standards requiring fireworks retailers to have at least \$50,000 for property damage, and at least \$50,000 and \$500,000 for bodily injury for each person and occurrence, respectively. Further, if a city is going to enact a firework's provision more restrictive than State law, the effective date of the amended ordinance shall be one year after adoption.

Proposed Ordinance 1676 provides for an increase in insurance coverage for fireworks retailers that are above the limits required by State law. Therefore, the effective date of the amended ordinance would be January 1, 2015, and puts the amended insurance requirements in place for the subsequent application period.

RECOMMENDED ACTION

Adopt Ordinance 1676

ATTACHMENTS

Ordinance 1676

Memorandum from Weed, Graafstra and Benson, Inc. P.S. dated 11/12/13

LAW OFFICES OF
WEED, GRAAFSTRA and BENSON, INC., P.S.

George E. Benson
Cheryl L. Beyer
Grant K. Weed



21 Avenue A
Snohomish, WA 98290

360.568.3119
425.334.1480
425.259.9199
206.283.1819
FAX: 360.568.4437
www.snohomishlaw.com

Thom H. Graafstra, Of Counsel

MEMORANDUM

TO: Grant Weed
FROM: Emily Guildner
DATE: 11/12/13
RE: Oak Harbor Firework Stand Insurance

Washington State regulation of fireworks is located in RCW 70.77 and WAC 212-17. Oak Harbor addresses the sale of fireworks in OHMC 5.32. State law prescribes that minimum standards be set by the Washington State Patrol through the director of fire protection. RCW 70.77.250 (4). This provision also requires that any local ordinance that restricts further than state law be effective one year after adoption.

State law requires retailers to carry insurance of at least \$50,000 for property damage and at least \$50,000 and \$500,000 for bodily injury for each person and occurrence, respectively. RCW 70.77.270(3) OHMC 5.32.020 requires each applicant of a permit to sell retail fireworks carry liability insurance for bodily injury in the amount of \$500,000.

Based on the language in RCW 70.77.250(4) that “[a]ny ordinances adopted by a county or city that are more restrictive than state law shall have an effective date no sooner than one year after their adoption,” an increase in insurance requirement will likely require a year waiting period.

Much of the discussion relating to the year waiting period relates to the dates and times of sale and discharge, however, nothing in the statute or WAC suggests the waiting period is reserved exclusively for those restrictions. The only discussion involving liability insurance is the reference to RCW 70.77.270(3).

Relevant statutes:

RCW 70.77.250 - Chief of the Washington state patrol to enforce and administer — Powers and duties.

(4) The chief of the Washington state patrol, through the director of fire protection, shall adopt those rules as are necessary to ensure statewide minimum standards for the enforcement of

this chapter. Counties and cities shall comply with these state rules. Any ordinances adopted by a county or city that are more restrictive than state law shall have an effective date no sooner than one year after their adoption.

RCW 70.77.270 - Governing body to grant permits — Statewide standards — Liability insurance.

(3) No retail fireworks permit may be issued to any applicant unless the retail fireworks stand is covered by a liability insurance policy with coverage of not less than fifty thousand dollars and five hundred thousand dollars for bodily injury liability for each person and occurrence, respectively, and not less than fifty thousand dollars for property damage liability for each occurrence, unless such insurance is not readily available from at least three approved insurance companies. If insurance in this amount is not offered, each fireworks permit shall be covered by a liability insurance policy in the maximum amount offered by at least three different approved insurance companies.

WAC 212-17-21505 Agency filings affecting this section - Retailers of fireworks—General provisions.

(2) The state of Washington hereby preempts the authority of local jurisdictions with respect to the retail sale and associated storage of consumer fireworks from temporary structures. This rule constitutes the entire and exclusive authority for regulation of all such matters. Subject to the limitations imposed by chapter 70.77 RCW, a city or county may ban fireworks; or a city or county may restrict the dates of sale, purchase, possession and use of fireworks; or a city or county may restrict the types of fireworks that may be sold and purchased within its boundaries. If a city or county allows the sale of fireworks classified as consumer fireworks from temporary structures these rules preempt that city's or that county's authority to enact or enforce any other regulations.

OHMC 5.32.020 Permits – Applications.

Applications shall be received by the city clerk during business hours from the applicant after January 1st of each year and before February 1st of the same year. Each applicant shall have liability insurance for personal injuries up to \$500,000 per occurrence. (Ord. 1301 § 1, 2002; Ord. 756 § 2, 1986).

ORDINANCE NO. 1676

AN ORDINANCE OF THE CITY OF OAK HARBOR AMENDING SECTION 5.32.030 OF THE OAK HARBOR MUNICIPAL CODE RELATING TO INSURANCE REQUIREMENTS FOR FIREWORKS STANDS

The City Council of the City of Oak Harbor do ordain as follows:

Section One. Oak Harbor Municipal Code Section 5.32.030 entitled “Application form and requirements” is hereby amended to read as follows:

5.32.030 Application form and requirements.

The application shall be on a form ~~prescribed by the city clerk~~ and shall include, along with other relevant information, the following items:

- (1) Name and address of the organization or person applying;
- (2) The name, address and phone number of the person responsible ~~person~~ for the operation of the fireworks stand;
- (3) The location for the proposed stand along with a drawing of the location and signed permission by the owner for use of the proposed area;
- ~~(4) The place and manner of storage and amount of pyrotechnics to be stored;~~
- ~~(4) Name and address of the insurance company along with written endorsement by the company showing it will provide liability insurance up to the amount of \$500,000 for personal injuries. A certificate of insurance evidencing coverage for comprehensive general liability insurance with a minimum coverage of \$1,000,000 each occurrence, combined single limit bodily injury and property damage of \$2,000,000. Such general liability policy shall name the City as an additional named insured and must be in full force and effect for the duration of the permit;~~
- ~~(5) The place and manner of storage and amount of pyrotechnics to be stored;~~
- (6) Application fee of \$50.00; ~~(Ord. 1676 § 1, 2013; Ord. 1301 § 2, 2002; Ord. 756 § 3, 1986).~~
- ~~(7) Proof of insurance for personal injuries of up to \$500,000 per occurrence. (Ord. 1301 § 2, 2002; Ord. 756 § 3, 1986).~~

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

Section Three. Effective Date. This Ordinance shall be in full force and effect ~~five days after publishing on January 1, 2015.~~

PASSED by the City Council this 3rd day of December 2013.

CITY OF OAK HARBOR

SCOTT DUDLEY, MAYOR

Attest:

Approved as to Form:

Valerie J. Loffler, City Clerk

Grant K. Weed, Interim City Attorney

Published: 12/07/13

**City of Oak Harbor
City Council Agenda Bill**

Bill No. 6.b.
Date: December 3, 2013
Subject: Adopt Wastewater Facilities Plan
Resolution 13-31

**FROM: Cathy Rosen, Public Works Director
Joe Stowell, City Engineer**

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
Larry Cort, City Administrator
Doug Merriman, Finance Director
Grant Weed, Interim City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to adopt Resolution 13-31, Approving the Wastewater Facility Plan as approved by the Washington State Department of Ecology (DOE).

FISCAL IMPACT DESCRIPTION

Funds Required: \$0
Appropriation Source: N/A

SUMMARY STATEMENT

On August 4, 2010, City Council awarded a professional services contract to Carollo Engineers to prepare a Wastewater Facilities Plan for a new wastewater treatment plant. City Council authorized staff to submit a draft Wastewater Facilities Plan to the DOE for approval on March 19, 2013. Final approval of the Wastewater Facility Plan was received from the DOE on November 18, 2013.

In addition to meeting the standards set forth by [WAC 173-98-030](#) for a Facilities Plan, DOE has determined that the plan also meets the standards of an Engineering Report, as described in [WAC 173-98-030](#). By adopting the Facilities Plan, City Council confirms the design parameters for the new WWTP.

CITY COUNCIL WORKSHOP

November 19, 2013 – The approval letter from DOE was presented at the City Council Workshop.

RECOMMENDED ACTION

Adopt Resolution 13-31

ATTACHMENTS

- Resolution 13-31
- Ecology Approval of City of Oak Harbor Wastewater Facilities Plan
- Link - Final Wastewater Facilities Plan (<http://www.oakharborcleanwater.org/Library>)

CITY OF OAK HARBOR
RESOLUTION NO. 13-31

**A Resolution of the City of Oak Harbor Adopting the 2013 Wastewater
Facilities Plan**

WHEREAS, the City of Oak Harbor provides sanitary sewer service for the community;
and

WHEREAS, the City of Oak Harbor received National Pollution Discharge Elimination
System Waste Discharge Permit No. WA0020567 from the Washington State Depart-
ment of Ecology permitting the City to provide such service; and

WHEREAS, the aforementioned permit required submittal of an approvable facilities
plan by June 30, 2013; and

WHEREAS, such facilities plan was submitted on March 30, 2013 and subsequently
approved on November 18, 2013;

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Oak Harbor
that the 2013 Wastewater Facilities Plan be adopted.

PASSED by the City Council and approved by its Mayor this 3rd day of December,
2013.

CITY OF OAK HARBOR

SCOTT DUDLEY, MAYOR

Attest:

Approved as to form:

Valerie J. Loffler, City Clerk

Grant K. Weed, Interim City Attorney



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Ave SE • Bellevue, WA 98008-5452 • 425-649-7000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

November 18, 2013

The Honorable Scott Dudley
Mayor, City of Oak Harbor
865 SE Barrington Drive
Oak Harbor, WA 98277

Dear Mayor Dudley:

Re: Ecology Approval of City of Oak Harbor Wastewater Facilities Plan

Ecology has reviewed the above-referenced Facility Plan, as required by RCW 90.48.110 and WAC 173-240-030 and hereby **approves** the document. This approval verifies that the document meets the technical standards of an "Engineering Report", as described in WAC 173-240-060. The document also meets the standards of a "Facility Plan", as defined in WAC 173-98-030. One copy of the approved document is being returned to the City Engineer for your records.

Once constructed, Ecology will use information presented in this approved facility plan as the basis for influent capacity limits and for staffing requirements in the NPDES discharge permit for the new facility. Future permits will use the following design data from the plan:

Parameter	Design Value
Maximum Monthly Average Flow	3.9 million gallons per day (MGD)
Maximum Monthly Average Biochemical Oxygen Demand (BOD ₅)	6,850 pounds per day (ppd)
Maximum Monthly Average Total Suspended Solids	6,400 ppd

In addition, section 8.2.8 of the plan demonstrates that the new facility will require that the operator in responsible charge of day-to-day activities at the facility must be certified by the State of Washington at a Group III level. This is an increase from the existing facility, which requires certification at the Group II level.

The City of Oak Harbor (City) must submit Plans and Specifications (Design Documents) to Ecology for review and approval prior to starting construction of the project described in this approved Facility Plan. If the City chooses to construct portions of the project in phases, the City must submit design documents for each construction phase. The City must also submit an amended Facility Plan for review and approval if the design team makes substantial changes to the project during the design phase.

Concurrence of State Environmental Review Process

Documents submitted to Ecology as "Facility Plans" must include sufficient detail to demonstrate that the planning process carefully considered all environmental impacts of the proposed project, thoroughly examined all project alternatives, and provided adequate opportunity for public involvement in the project development. Upon favorable review of the environmental process documentation, RCW 90.50A

and WAC 173-98 require Ecology to issue a "Letter of Concurrence" stating that the project planning complies with the State Environmental Review Process (SERP). Ecology reviewed the supporting documents submitted as part of this Facility Plan and hereby concurs that the proposed project complies with SERP. The City is thereby eligible to submit a financial assistance application to Ecology for the proposed wastewater facility project. Any significant changes to the project made after the date of this concurrence letter may require additional environmental review of the project

Nothing in this facility plan approval or SERP concurrence shall be construed as satisfying other federal, state or local statutes, ordinances or regulations that may apply to the proposed project.

Grant and Loan Eligibility

Design Funding: Ecology has dedicated a portion of the State Revolving Fund (SRF) Loan Program to specifically assist communities with pre-construction (design) funding. To qualify for this dedicated fund category, the applicant must have a population of 25,000 or less and median household income (MHI) at or below the State's MHI. Funding levels for this category in past fiscal years have ranged from \$3.5 million to \$6.1 million. No single recipient may receive more than 20% of the category's available funds.

The City meets the population requirement and may meet the economic requirement for consideration in this category. Based on past funding levels, the City may qualify for a dedicated Pre-construction Loan of up to \$1.2 million¹. Ecology may also use funds from the SRF Program's General Facility Project category to finance design projects for applicants that do not qualify for the dedicated Pre-construction Category or if the project requires more money than is available under the category cap. The City can use Pre-construction loan financing to pay for costs associated with completing the final design of the project.

Construction Funding: Ecology has determined that the Wastewater Facility Project described in the Facility Plan is eligible for SRF Construction Loan Financing. The SRF program provides low interest loans for wastewater facility construction projects through a competitive application process. Construction loans may finance eligible costs associated with constructing sewage collection and treatment systems for the existing community needs and for up to 20 years of reserve capacity. Successful applicants may receive a loan offer that can finance up to 100% of the eligible construction costs. Ecology limits the actual funding offer based on the project's ranking and based on the total funding available for construction loans. The "Use and Limitations of the Water Pollution Control Revolving Fund" (WAC 173-98) limits projects from receiving more than 50% of the total available funds in each fiscal year. Although the project appears eligible for construction loan financing, the City may not apply for construction financing until after the project design has been reviewed and approved by Ecology.

The Facility Plan estimates the maximum probable construction cost at \$96.3 million, which includes costs for construction, project administration and engineering oversight during construction of the new

¹ Maximum pre-construction award assumes a funding level of \$6.0 million in the Pre-construction loan category for the State Fiscal year 2015. Ecology will not know the actual funding availability until the end of the 2014 legislative session.

treatment facility, new outfall, and conveyance system improvements. The cost estimate also includes \$2.0 million for "Property Acquisition", which is not eligible for financing through the SRF program. The plan does not include any other apparent ineligible costs. Therefore, the total construction cost eligible for this project is \$94.3 million. Based on past funding levels, this amount is likely to exceed the statutory ceiling of 50% of the SRF construction loan funds available. If Ecology is unable to fully finance the project due to funding limitations in the fiscal year in which the City applies, the City may apply for additional funding in subsequent fiscal years.

Hardship Consideration: In addition to low interest loans through the SRF program, Ecology provides construction grant funding from the Centennial Clean Water Fund to public entities that meet financial hardship qualifications. The "Use and Limitations of Centennial Clean Water Funds" (WAC 173-95A) restricts financial hardship funding to the costs necessary to provide treatment capacity for up to 110% of the existing residential need and caps the maximum grant award at \$5 million per project. To qualify for hardship consideration, communities must have a population of less than 25,000 at the time of application and the projected residential sewer rates necessary to fund the project must exceed 2% of the annual median household income for the ratepayers.

Based on data presented in the Facility Plan, the city's population meets the eligibility criteria and the project will increase residential sewer rates to between 2% and 3% of the City's MHI. Therefore, the proposed project may qualify for "Moderate Hardship" funding consideration under the Centennial rules. The Moderate Hardship designation allows the City to compete for Centennial Grant funding for up to 110% of the existing residential need. Based on current population of approximately 17,675 and the design population of 23,776, approximately 82% of the estimated project cost, or \$77.1 million, would be eligible for hardship consideration. As this exceeds the statutory cap of \$5 million for grant funding, the maximum grant Ecology could award for the project would be \$5 million.

In addition to grant funding, communities eligible for hardship consideration may also compete for forgivable principal loans and may receive reduced interest rates on standard loans. Although Ecology may combine an offer of a grant and a forgivable principle loan, the combined offer cannot exceed \$5 million for the project. For the portion of the project cost not funded by a grant or forgivable principal loan, Ecology may offer hardship communities, loans with interest rates lower than our standard low interest loans. Under the current funding cycle, the moderate hardship loan rate is 1.8% for a 20-year loan; the standard loan rate is 2.7% for a 20 year-loan.

Design and Construct Funding: During discussions over the draft facility plan, the City's staff and consultants expressed interest in completing the outfall portion of the proposed project in a separate phase with an accelerated timeline. The facility plan identifies the probable construction cost for this work as \$2.9 million. If the City chooses to complete this work as a separate project, the work would be eligible for funding as a "Design and Construct" project. Ecology's funding rules allow for the financing of projects that have a total cost of \$5 million or less under a "Design and Construct" process. In this process, the City may apply for construction funding without first having design documents approved by Ecology. The process allows for financing of eligible design and construction costs under a single funding offer. The funding agreement would require delivery of design documents to Ecology for review and approval prior to starting the construction phase of the project.

Mayor Scott Dudley
November 18, 2013
Page 4

This preliminary determination is provided as a courtesy for financial planning, and it is based on the current Water Quality Program Funding Guidelines. Future versions of the Guidelines are subject to changes, which may alter this determination. No guarantee of actual State funding is implied by this letter as the City's projects must compete with other projects, and your applications must rank high enough to qualify for the limited amount of funding available.

If you have any questions concerning this approval, please telephone Shawn McKone at (425) 649-7037.

Sincerely,



Kevin C. Fitzpatrick
Water Quality Section Manager

KF:sm
Enclosure

cc: Joe Stowell, City Engineer, City of Oak Harbor (with enclosure)
Cathy Rosen, Public Works Director, City of Oak Harbor
Steve Bebee, Public Works Operations Manager, City of Oak Harbor
Brian Matson, Project Manager, Carollo Engineers
Alice Rubin, Environmental Review Coordinator, Ecology
Shawn McKone, Facility Manger, Ecology
Ecology Central Files: City of Oak Harbor WWTP; WA0020567; WQ 4.0

**City of Oak Harbor
City Council Agenda Bill**

Bill No. 6.c.
Date: December 3, 2013
Subject: Wastewater Treatment Plant
Project Delivery Method
Resolution 13-32

**FROM: Cathy Rosen, Public Works Director
Joe Stowell, City Engineer**

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Larry Cort, City Administrator
 Doug Merriman, Finance Director
 Grant Weed, Interim City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to adopt Resolution 13-32 authorizing staff to pursue General Contractor / Construction Manager (GC/CM) alternative delivery method for the new wastewater treatment plant (WWTP).

FISCAL IMPACT DESCRIPTION

Funds Required: \$0
Appropriation Source: N/A

SUMMARY STATEMENT

The City of Oak Harbor has been directed through our National Pollution Discharge Elimination System (NPDES) permit with the Washington Department of Ecology (DOE) to improve our wastewater treatment capacity by December 31, 2017. Existing facilities are nearing capacity and in need of constant maintenance. In an effort to meet this goal, one of the many tasks being researched by City staff is the project delivery method to be used in constructing the new WWTP.

On March 19, 2013, City Council approved a contract amendment with Carollo Engineers. One of the tasks in the amendment was to prepare a report comparing the delivery options for the WWTP project. A copy of the report is attached to this agenda bill. The report largely compares the three most likely project delivery options available to the City.

The traditional delivery method for public works construction projects is a competitive cost method as allowed by [RCW 39.04](#). This method is more commonly referred to as Design-Bid-Build (DBB). In this method, an engineer designs the project, the project is bid and the lowest responsive and responsible bidder is selected to perform the work. While this is a well used method, it doesn't take into account some of the intricacies of larger projects.

For projects over \$10 million, [RCW 39.10](#) allows government agencies to use alternative delivery methods for construction projects. I believe the RCW best explains the purpose of alternative delivery methods.

"The legislature finds that the traditional process of awarding public works contracts in lump

sum to the lowest responsible bidder is a fair and objective method of selecting a contractor. However, under certain circumstances, alternative public works contracting procedures may best serve the public interest if such procedures are implemented in an open and fair process based on objective and equitable criteria.” RCW 39.10.200

There are several alternative delivery methods listed in [RCW 39.10](#). The two most closely matched to our project are Design-Build (DB) and General Contractor/Construction Manager (GC/CM).

As discussed at the November 13th and 19th workshops, GC/CM will likely deliver a higher value project for the City while retaining the greatest possibility for cost savings. It also provides the greatest potential to maintain the construction schedule and address the unique drivers associated with this project.

In order to pursue the GC/CM alternative project delivery, the City must first get approval from the state Capital Project Advisory Review Board (CPARB). The Project Review Committee (PRC) meets every other month to consider applications from agencies seeking to use an alternative project delivery.

The following resolution is intended to formally direct staff to apply to the PRC to allow the City to use the General Contractor / Construction Manager alternative project delivery method for the new wastewater treatment facility.

CITY COUNCIL WORKSHOP

November 13, 2013 – Project funding and alternative project delivery were discussed.

November 19, 2013 – Project delivery options were discussed.

RECOMMENDED ACTION

Discuss and consider approval of Resolution 13-32

ATTACHMENTS

- Resolution 13-32
- Technical Memorandum – Project Delivery Analysis

CITY OF OAK HARBOR
RESOLUTION NO. 13-32

A Resolution of the City Of Oak Harbor Authorizing Staff to Pursue the General Contractor/Construction Manager Process as the Preferred Delivery Method for the Wastewater Treatment Plant Project

WHEREAS, the City of Oak Harbor provides sanitary sewer service for the community; and

WHEREAS, National Pollution Discharge Elimination System Waste Discharge Permit No. WA0020567 from the Washington State Department of Ecology has directed the City of Oak Harbor to increase wastewater treatment capacity by December 31, 2017; and

WHEREAS, the City of Oak Harbor has researched project delivery methods allowed by RCW 39.04 and RCW 39.10; and

WHEREAS, the City of Oak Harbor has found that the General Contractor / Construction Manager alternative project delivery method will provide the most value to the City; and

WHEREAS, the City of Oak Harbor must have approval from the Washington State Capitol Projects Advisory Review Board, Project Review Committee to use the General Contractor / Construction Manager delivery method;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oak Harbor that staff seek approval from the Washington State Capitol Projects Advisory Review Board, Project Review Committee, to use the General Contractor / Construction Manager alternative project delivery method for the new wastewater treatment plant.

PASSED by the City Council and approved by its Mayor this 3rd day of December 2013.

CITY OF OAK HARBOR

SCOTT DUDLEY, MAYOR

Attest:

Approved as to form:

Valerie J. Loffler, City Clerk

Grant K. Weed, Interim City Attorney

CITY OF OAK HARBOR
WASTEWATER TREATMENT
FACILITY PROJECT
TECHNICAL MEMORANDUM
PROJECT DELIVERY ANALYSIS
FINAL
November 2013

CITY OF OAK HARBOR

**WASTEWATER TREATMENT
FACILITY PROJECT**

TECHNICAL MEMORANDUM

PROJECT DELIVERY ANALYSIS

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APPENDICES

APPENDIX A Alternative Project Delivery Methodology - Comparative Matrix

1.0 INTRODUCTION AND PURPOSE

The City of Oak Harbor (City), Washington is in the process of designing and constructing a new wastewater treatment facility (Project) to replace the City's two existing treatment facilities: a Rotating Biological Contactor (RBC) facility in the vicinity of Windjammer Park and the Seaplane Base Lagoon facility. The proposed new facility will be located at a site next to Windjammer Park, near the City's RBC facility. The City will utilize a Membrane Bioreactor (MBR) treatment process with ultraviolet (UV) disinfection to meet Project objectives for small footprint; high effluent quality; and ability to integrate into a location with high public visibility.

The City is considering alternatives to manage schedule, cost and risk during delivery of the Project, including traditional Design-Bid-Build (DBB) or alternative project delivery (APD) methods. The analysis presented herein identifies and evaluates various delivery methods to assist the City in selecting the most appropriate delivery method for the Project. The analysis identifies project delivery options that are allowed in the State of Washington and evaluates those viewed as being applicable using the following steps:

- **Identify Potential Delivery Methods** – Identify a variety of APD methods and establish the applicability of each to the City's characteristics, values, and needs as well as their applicability to the Project specifically. Based on applicability, select a short-list of delivery methods to be further evaluated.
- **Develop Evaluation Criteria** – Develop and define appropriate considerations to be used in the evaluation of short-listed delivery methods.
- **Evaluate Delivery Methods** – Compare each of the short-listed project delivery methods based on the selected considerations.

2.0 PROJECT BACKGROUND

The City plans to construct a new MBR wastewater treatment facility to replace their existing two facilities. The new facility will be located near the existing RBC plant and will be sized for current flows with the ability to accommodate future flows. The total project cost of the wastewater treatment plant (WWTP) identified in the final Facilities Plan (August 2013) is estimated at approximately \$72 million. Through the City's existing National Discharge Elimination System (NPDES) Permit, the Washington State Department of Ecology (Ecology) requires design of the new facility to be complete by the end of 2014. Carollo Engineers (Carollo) has currently prepared a conceptual design for the Project, and is working with the City to complete the preliminary design early in 2014.

Unique aspects of the Project will influence the delivery approach. They include:

- Portions of the site are located within the 100-year floodplain, and must be ‘built-up’ approximately 3-feet to meet Ecology and City requirements for development in the floodplain;
- The existing soils on the Project site, to a depth of approximately 20 to 30 feet, are of poor structural quality and must be improved to meet seismic and other structural design requirements;
- Means to control groundwater during construction must be well developed due to the elevation of the groundwater table and the site’s location adjacent to Oak Harbor;
-
- The presence of cultural resources is likely at the Project site. Discovering such resources during construction will affect both construction schedule and cost;
-
- The site is located adjacent to an existing park and commercial corridor of the City, so the Project must meet City goals for aesthetics, noise, odor, etc. during construction and once the facility has been placed into operation;
- The UV and Membrane equipment will be pre-procured by the City prior to construction, such that attributes of the equipment (i.e., the equipment configuration, sizing, etc.) will be known and incorporated into the design.

As with all public works projects, cost competitiveness, cost certainty, and staying within project budget are also important objectives. Due to the size and unique aspects of the Project, in addition to a relatively short schedule and the need to control costs, the City recognizes a potential benefit in considering APD methods.

2.1 State and Local Procurement Requirements

2.1.1 State of Washington

Per Chapter 39.10 of the Revised Code of Washington (RCW), the State of Washington allows for “alternative public works contracting.” Specifically, RCW Chapter 39.10 allows the use of Design-Build (D/B), General Contractor/Construction Manager (GC/CM), or Job-Order Contracting (JOC) for projects exceeding \$10 million, in accordance with the following definitions:

- “Design-build procedure” means a contract between a public body and another party in which the party agrees to both design and build the facility, portion of the facility, or other item specified in the contract.

- “General contractor/construction manager” means firm with which a public body has selected to provide services during design phase and negotiated a maximum allowable construction cost to act as construction manager during the construction phase.
- “Job order contract” means a contract in which the contractor agrees to a fixed period, indefinite quantity delivery order contract which provides for the use of negotiated, definitive work orders for public works as defined in RCW 39.04.010.

Some of the key aspects of the requirements for each delivery method are provided below. As discussed in Section 3, JOC is not applicable for large, complex projects such as the City’s new WWTP.

To utilize “alternative public works contracting” under the State’s requirements, the public entity that is sponsoring the project must either be certified to perform the desired APD, or must obtain approval for the particular project in which they would like to use alternative delivery. To obtain approval to use D/B or GC/CM for a particular project, the public entity must submit an application to the Capital Projects Advisory Review Board (CPARB) with conceptual information about the project including cost and schedule, funding status, and experience performing alternative delivery projects. The CPARB meets every two months and is required to provide notice to the public entity of their decision within ten days of the meeting at which an application is considered.

2.1.1.1 Design-Build

For D/B contracting, Washington State requirements:

- allow for a combination of costs, qualifications, and other criteria be used to select a preferred design-builder;
- do not stipulate a specific level of design be used as the basis for the D/B proposal and bid;
- dictate that honorarium payments are made to finalists submitting responsive proposals that are not awarded the D/B contract and that the payments are sufficient to generate meaningful competition among potential proposers on D/B projects;
- do not exclude any of the common variants of D/B, which includes: prescriptive-, performance-, and progressive-based D/B. Design-build-operate (DBO) is also allowed for up to three years of operation.

2.1.1.2 General Contractor/Construction Manager

For GC/CM contracting, Washington State requirements:

- allow for qualifications, and other criteria, in addition to fee and general conditions costs be used to select a preferred GC/CM;

- restrict the amount of the work that the GC/CM can self-perform to 30 percent. All self-performed work (as to be performed by the GC/CM) not included in the GC/CM's general conditions shall be competitively bid and compared to GC/CM's proposed cost prior to authorization of the work;
- require that the design progress to 90 percent completion prior to negotiation of the Maximum Allowable Construction Costs (MACC);
- dictate that all suppliers and subcontractors must be procured via a competitive bid process with the exclusion that major (>\$3 Million contracts) may be selected via a best-value selection (i.e., costs plus other criteria used to select preferred subcontractor).

2.1.2 City of Oak Harbor

The City's Purchasing and Bidding General Provisions does not specifically address the use of APD methods. A legal review of the City's provisions is recommended if the City chooses to utilize an APD method. Accordingly, modifications to the City's provisions may be required to satisfy the selected APD method for the Project, as well as establish appropriate provisions for future projects. The City's General Provisions do allow for the consideration of factors in addition to price when selecting a low bidder, such as qualifications and experience

2.2 Drivers for Alternative Project Delivery

Historically, major construction projects in the water and wastewater industry have been delivered as DBB. In this traditional method, an owner contracts with a design professional, the design professional prepares design and bidding contract documents, and construction contractors provide bids on the project based on information provided in the contract documents. For a variety of reasons discussed in this section, APD methods are more frequently being considered and used in the delivery of water and wastewater facilities across the United States, including Washington State. There are numerous factors that can influence an owner to consider APD. Table 1 presents some common drivers seen in the industry, and identifies those determined to be specifically applicable to the City's Project.

Table 1 Drivers for Consideration of Alternative Project Delivery Wastewater Treatment Facility Project City of Oak Harbor, Washington		
Driver	Description	Applicability to the Project
Qualification-Based Selection	The traditional form of DBB requires cost-based selection of general contractors. APD methods have provisions that allow owners to consider qualifications in the selection process.	Yes
Early Negotiation of Pricing	In a DBB process, the cost of the facility is not determined until the design is complete and the project has been bid. APD methods can provide an avenue for obtaining fixed pricing earlier in the project. The point at which price is established depends on the method selected and the way in which the method is executed.	Yes
Collaborative Design Development	There is limited opportunity for collaboration between the design professional and the general contractor in a traditional DBB delivery format. Most APD methods specifically provide for such collaboration during the design phase.	Yes
Minimization of Change Orders	Because APD methods provide for collaboration between the design professional and the general contractor throughout the design process, there are typically fewer change orders associated with projects delivered by alternate means. With some APD methods, design related change orders can be virtually eliminated. Minimization of change orders can reduce project cost.	Yes
Shortened Project Schedules	APD methods can shorten the overall project schedule by eliminating the need for a separate bid phase, and/or allowing early release of certain components or long lead-time equipment. There are also opportunities to shorten schedules by releasing portions of the project for construction while other portions are still undergoing design refinement. Shortened project schedules can also reduce project cost and/or help to manage risk.	Yes
Risk Allocation Control	Under the DBB process, the owner retains much of the risk associated with the project (i.e., errors and omissions) through their contract with their design consultant. Since the contractor is not contractually tied to the designer, the owner must resolve issues related to the design. To varying degrees, APD enables an Owner to reduce its risk position in these matters.	Yes
Improved Efficiency	Because APD methods provide for collaboration between the design professional and the general contractor to varying degrees, the completion of design process and resolution of conflicts that may arise during construction are typically more expedient than under the DBB process.	Yes
Cost Escalation Control	By establishing a fixed price earlier, cost uncertainty associated with market volatility can be reduced.	Yes
Equipment Procurement Schedule	APD methods allow early procurement of long-lead time equipment, which can help in meeting the overall project schedule and can reduce cost by minimizing escalation potential on large equipment.	Yes
Competitive Bidding Elements	Some APD methods allow elements or subcontracts from the overall construction project to be procured separately. This increases competition and provides local vendors with an opportunity to provide certain materials or services.	Yes
Alternative Financing Options	Some APD methods include provisions for alternate financing in which the design/contractor finances the project.	No

3.0 REVIEW OF ALTERNATIVE PROJECT DELIVERY METHODS

The DBB delivery method has been used throughout the water and wastewater industry and continues to be the “traditional” method of project delivery. As a general rule, the DBB method provides the owner with a significant amount of control over the project, but the timeline for implementation can be longer than with many APD methods. Although there are means to allow pre-qualification of contractors, DBB typically requires contractor selection to be based on low cost rather than qualifications.

The use of APD methods on public works projects is on the rise as owners recognize the benefits that APD provides (see Table 1). The use of APD methods generally stems from a desire to obtain involvement of the construction contractor earlier than it would occur under a DBB method. Recognizing the benefits of early contractor involvement, as well as other benefits of APD, many state legislatures have enacted legislation that allows the use of APD. Because of such legislative changes, the use of APD for public sector projects is becoming more commonplace throughout the nation.

Some of the most common APD methods include GC/CM, JOC, Engineer-Procure-Construction Management (EPCM), and D/B (and its variants, such as prescriptive, performance, and progressive). Each method has specific advantages and disadvantages that make them more or less applicable to different organizations, and even to different projects within the same organization. Therefore, while all of these APD methods have their place in the construction industry, selection of the most appropriate method will be driven by the unique needs of owners and their project(s).

A comparative matrix of commonly used project delivery methods is presented in Appendix A. The matrix provides a brief description of each method, its contractual and working relationships, and the legal considerations pertinent to the City. Table 2 presents a summary of the delivery methods allowed within the State of Washington and provides an opinion regarding their applicability to this Project. These methods are explained in further detail in the following sections.

Table 2 Applicability of Project Delivery Methods Wastewater Treatment Facility Project City of Oak Harbor, Washington			
Delivery Method	Allowed in Washington State	Applicability to City's Project	Comments
Design-Bid-Build (DBB)	Yes	Yes	City's "traditional" and current delivery method
General Contractor / Construction Manager (GC/CM)	Yes	Yes	Very applicable, not currently addressed by City's procurement rules
Engineer-Procure-Construction Manager (EPCM)	Most Likely ⁽¹⁾	No	Limited experience in the wastewater industry, most commonly used in oil/gas and chemical processing
Job Order Contracting (JOC)	Yes	No	Not applicable to large, complex construction projects
Design-Build (D/B) Variants			
Performance D/B	Yes	No	Not currently addressed by City procurement rules, provides City with limited control within key Project drivers/goals
Prescriptive D/B	Yes	Yes	Applicable, not currently addressed by City procurement rules
Progressive D/B	Yes	No	Not currently addressed by City procurement rules, not frequently used in Washington State (Project approval may be difficult)
Design-Build-Operate	Yes	No	Not currently addressed by City procurement rules, City does not plan to use contract operator
Notes:			
(1) Use of EPCM on public works projects are unknown and the method is not specifically identified with Washington State regulations; however, the delivery method attributes are common to Progressive D/B, which has been used.			

While all of the D/B variants listed above are allowed by the State of Washington, Prescriptive D/B is considered most applicable to the Project. Following is a brief summary of each D/B variant, with reasons each is or is not considered applicable to the Project.

- Performance D/B – The design-builder is selected based on a combination of qualifications and a bid price. Design-builder selection is early in the design process (i.e. approximately 5 to 10 percent design completion) and the contract requirements are based on performance criteria and a conceptual design. This method provides the owner with the very limited control over the project, as the design-builder is provided increased flexibility in the design and construction as long as performance criteria are met. Because of the Project’s site-specific constraints within a high-visibility area, the City has a desire to provide a high-degree of input into equipment/material quality and the aesthetic aspects. This delivery method does not allow sufficient level of control to the City within these areas and is therefore not considered applicable to the Project.
- Prescriptive D/B – The design-builder is selected based on a combination of qualifications and a bid price. Design-builder selection is based on preliminary design concept (i.e., between 20 and 50 percent design completion). This variant provides the Owner with additional control and a higher degree of project specification (hence, the term “prescriptive”) over the design when compared to Performance D/B.
- Progressive D/B - The design-builder is selected early in the design process (often at or before conceptual design) with the selection being based primarily on qualifications. Cost elements such as design-phase fees may be a part of the selection. Once the design-builder is selected, they work with the owner to “progress” the design while developing “open book” cost model. When the owner believes the level of design and costs are satisfactory, the owner can negotiate a Guaranteed Maximum Price (GMP) or lump sum (i.e., stipulated price). Self-performance and subcontracted work items (including cost competitiveness) are typically agreed upon prior to entering into the construction contract.

Among the D/B variants, this method provides the most control to the owner. It should be noted, however, that Progressive D/B is very similar to GC/CM, with the exception that the owner is contracting with a single entity for both design and construction (rather than two entities under GC/CM). Progressive D/B has not been widely used in the State of Washington. Because this is the first APD project being undertaken by the City, implementation of a lesser-used process in the State of Washington may be problematic, and could lead to Project delays and assignment of unknown risks to the City.

3.1 Applicable Delivery Methods for Oak Harbor

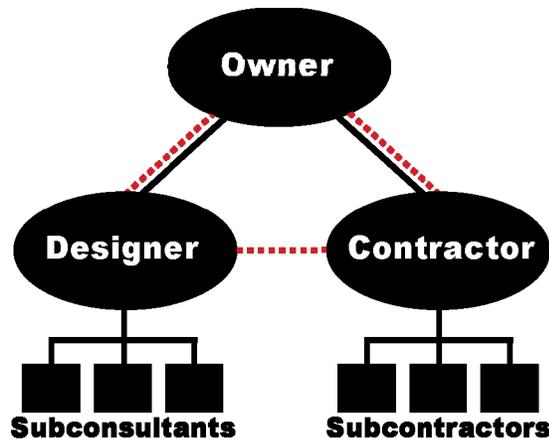
Some of the key differences between the commonly used project delivery methods lie in the contractual and working relationships employed, and in how/when project costs are established. The following sections provide additional detail for the three “short-listed” project delivery methods identified in Table 2 that are allowed in Washington State and applicable to the Project: DBB, GC/CM, and Prescriptive D/B.

3.1.1 Design-Bid-Build

The DBB method is the traditional method of project delivery historically used for water and wastewater capital projects in the United States. This method involves three basic participants; design professional, general contractor, and the contracting agency (owner).

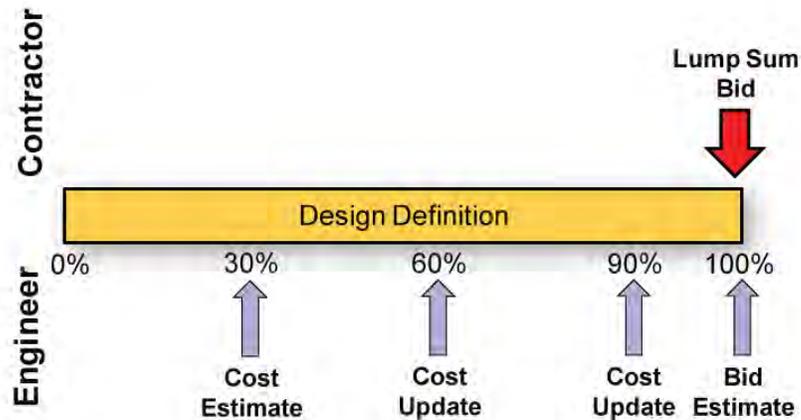
The contractual and working relationships of the different parties involved in a DBB project are presented in Figure 1. This arrangement shows that the relationship between the design professional and the general contractor is strictly a working relationship (not a contractual relationship). Because the general contractor is not procured until design is complete, there is little or no opportunity for collaboration between the design professional and the general contractor during design. In an attempt to integrate the expertise of the participants, techniques including constructability reviews, operability reviews, and value engineering are often incorporated into the design stage, prior to construction. However, the contractor performing those reviews will not necessarily be the contractor that wins the construction contract.

Figure 1
Contractual/Working Relationships – DBB



Projects delivered via a DBB structure typically follow a sequential approach for the design, construction, and operation of the facility. Because of this sequential approach to project delivery, cost certainty is not established until the design is 100 percent complete and the general contractor provides a lump sum bid for the work at the completion of design, as shown in Figure 2. Since cost certainty is not established until the design is complete, there is limited opportunity to reduce project costs by eliminating or modifying portions of the design if the cost is higher than expected. This method also provides little protection against cost escalation of material costs that can potentially occur over the duration of the detailed design phase, and leaves the owner open to cost increases resulting from change orders while the project is under construction.

**Figure 2
Cost Model Timeline – DBB**



Selection of the design professional using the DBB method is typically completed through a quality-based selection (QBS) process. The design team’s responsibilities include determining facility requirements and implicitly defining many of the risk elements of the project. The design professional is responsible for the engineering design of the facility and the development of contract documents for competitive bidding by the owner.

Selection of the contractor however is typically a price-based, low-bid selection. Washington State and the City allow for additional evaluation criteria to be used in selection of a contractor to ensure that certain minimum qualifications are met. This offers some quality protection in the low-bid selection process. After the contractor is selected, either the design professional, an independent engineer, or owner staff assures that the contractor’s performance is in compliance with the contract documents and assists in resolving any issues or conflicts or both. Under this model, the owner retains design liability because the contractor is contracted directly with the owner and is not contractually tied to the designer. While the risk may ultimately lie with the designer, the owner would be contractually obligated to resolve the issue with the contractor.

The relative advantages and disadvantages of the DBB delivery approach are generally summarized in Table 3.

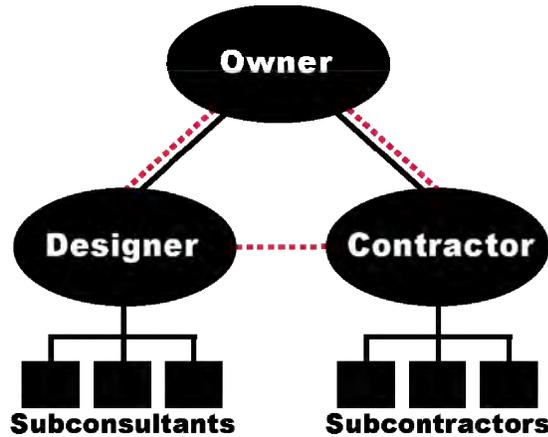
Table 3 Advantages and Disadvantages of Design-Bid-Build Wastewater Treatment Facility Project City of Oak Harbor, Washington	
Advantages	Disadvantages
<ul style="list-style-type: none"> • Institutional compatibility (typical contracting process) • High level of design control • Increased flexibility in defining project • Cost competitiveness • Some control over construction quality when qualifications based evaluation criteria are used in the bid process • Improved design efficiency and added project control through pre-selection of major equipment is possible 	<ul style="list-style-type: none"> • Design and constructability risk assigned to the owner since the designer is contracted by the owner separately from the contractor • Limited opportunity for contractor input on potential cost saving measures during design • Cost certainty not obtained until after design is complete and the project has been bid • Increased potential for change orders adds further uncertainty to cost • Longer schedule than most APD methods

3.1.2 General Contractor/Construction Manager

For GC/CM, there are two major participants contacted with the owner, similar to DBB. Both the design professional and the GC/CM are each contracted directly by the owner through separate QBS processes (although the selection process for the GC/CM also includes a price component). In this delivery method, the design professional is responsible for the design while the GC/CM is responsible for delivering the construction work. The GC/CM is placed “at risk” in the project for delivering the work by a specific date and within a Maximum Allowable Construction Cost (MACC).

The contractual and working relationships associated with the GC/CM delivery method are essentially the same as those presented for the DBB method, as shown in Figure 3, with one important exception – the preconstruction role of the contractor (i.e., GC/CM). Because the GC/CM is typically retained shortly after the selection of the design professional, at an early stage of design, the GC/CM can provide input throughout the design process and detailed estimates of construction costs. Typical pre-construction services for the GC/CM include value analysis, constructability reviews, cost estimating/validation, scheduling, and recommendations for trade packaging to reduce cost and risk or to increase competition amongst local subcontractors.

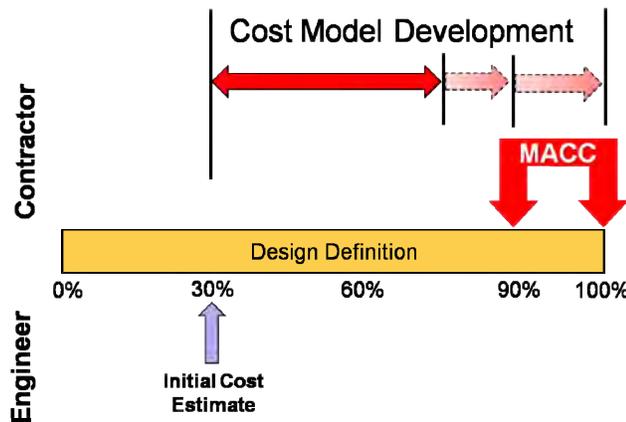
Figure 3
Contractual/Working Relationships – GC/CM



As presented in Figure 4, the point at which the MACC is negotiated can vary, but typically occurs when the design is between 60 and 75 percent complete. In Washington State, the design must be at least 90 percent complete before the MACC can be negotiated. The earlier the MACC is established, the more risk the GC/CM assumes and the higher the GC/CM's contingency is likely to be. Early work release packages (i.e., mini-MACCs) are allowed prior to establishing the final MACC.

Should the GC/CM and owner not be able to reach agreement on an acceptable MACC, the owner maintains the right to complete the design and proceed with DBB procurement. Once the MACC is established, changes in the project scope may impact the MACC, just as it would the lump sum price under the DBB method. However, change orders are less likely to occur under the GC/CM process due primarily to collaboration during design.

Figure 4
Cost Model Timeline – CM/GC



Using the GC/CM method, the GC/CM typically self-performs portions of the construction and selects (and manages) qualified construction subcontractors for the remaining work. In Washington State, the GC/CM must competitively bid for any work they wish to self-perform and they are limited to performing a maximum of 30 percent of the value of the Project construction cost.

Under the GC/CM model, the owner retains the design liability because, like DBB, the contractor is not contractually tied to the designer. Some of the design risk is mitigated, when compared to the DBB model, because of the early involvement of the contractor during design.

The GC/CM method is best suited for larger projects (new or existing rehabilitation) that are schedule driven, difficult to define, require critical construction input during the design phase, or where a defined fixed budget has to be met without the risk of “surprises” during bid openings. This method is least suited for small projects, or where projects are very well defined and/or have limited risk.

The relative advantages and disadvantages of a GC/CM delivery are summarized in Table 4.

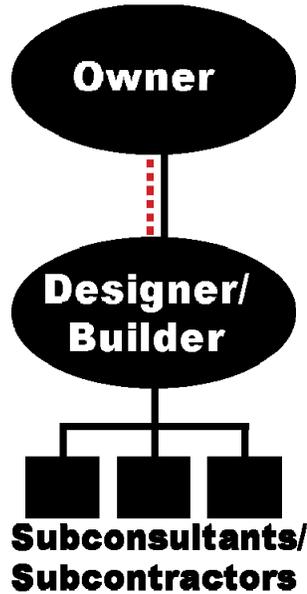
Table 4 Advantages and Disadvantages of GC/CM Wastewater Treatment Facility Project City of Oak Harbor, Washington	
Advantages	Disadvantages
<ul style="list-style-type: none"> • High level of design control • Increased flexibility in defining project • Cost competitiveness • Improved certainty related to cost is established earlier in the project • Improved “team building” and collaboration between all parties • Improved opportunity for contractor input and involvement during design, which can save time and money • Increased control over quality • Potential for early release packages (schedule advantage) • Potential to bid packages that maximize participation of local subcontractors 	<ul style="list-style-type: none"> • New contracting method for the City (will require modifications to procurement rules and contract documents) • Much of the design risk is still assigned to the owner since the designer is contracted separately from the contractor, although some risk is mitigated by early involvement by the contractor • May not result in lowest possible cost, but cost competitiveness is gained through “open book” negotiations and bidding of subcontract work

3.1.3 Prescriptive Design-Build

Unlike DBB or the other APD methods, Prescriptive D/B delivery calls for a single entity, contracted by the City, to be responsible for furnishing both design and construction services. The D/B firm self-performs the work it has the ability to perform (e.g. design, concrete, etc.), and then contracts directly with professional consultants and both design-

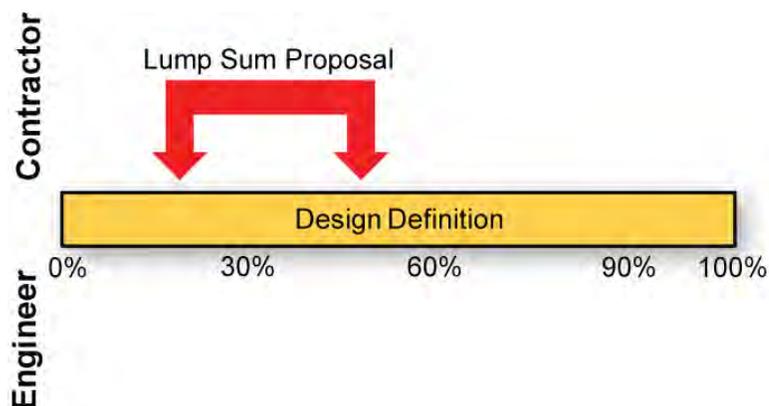
build and trade subcontractors for the balance of the project. Because D/B is a single point of responsibility for both design and construction, the D/B firm assumes both design and construction liability. A summary of the contractual and working relationships associated with the D/B delivery method is presented in Figure 5.

Figure 5
Contractual/Working Relationships – D/B



In the Prescriptive-Based D/B method, the procurement of the design-builder is based upon a design provided by the owner that is approximately 20 to 30 percent complete (sometimes even as high as 50 percent complete). Based on the preliminary design, the cost of the proposed facility is established via a lump sum proposal provided by the design-builder as part of its Proposal as shown in Figure 6.

Figure 6
Cost Model Timeline – Prescriptive-Based D/B



Selection of the design-builder using the Prescriptive-Based D/B method is based on the proposal offering the best overall value to the owner in terms of qualifications, technical and business merit, and/or project costs. There is substantial flexibility in procurement in terms of how to assess the weighting of price and non-price selection factors. The owner has the ability to decide each of these issues (among other specific D/B procurement issues) by considering specific project criteria and goals. Independent technical, legal, and/or financial consultant(s) may serve as owner's agent(s) in managing the procurement process, establishing performance criteria, and monitoring performance.

This delivery method requires the owner to be knowledgeable of its needs and objectives for the project and be directly involved in the process. A key element to success is trust between the owner and the design-builder, and the opportunity and necessity for the design professional and contractor to work closely together to develop the winning proposal. For this method, the owner would provide the design-builder with a description of the desired end product or project outcome. The design-builder is responsible for developing the detailed design and specifications, selection of material and equipment, constructing the facility and meeting performance requirements.

The relative advantages and disadvantages of a Prescriptive-Based D/B delivery are summarized in Table 5.

Table 5 Advantages and Disadvantages of Prescriptive D/B Wastewater Treatment Facility Project City of Oak Harbor, Washington	
Advantages	Disadvantages
<ul style="list-style-type: none"> • Early establishment of construction cost and construction schedule • Clear project definition at time of design-builder selection • More risk transferred to the design-builder (compared to DBB or GC/CM) due to the contractual relationship between the designer and the contractor • Single contract between owner and design-builder (single point of accountability) 	<ul style="list-style-type: none"> • New contracting method for the City (will require modifications to procurement rules and contract documents) • Reduced owner control (compared to DBB or GC/CM) • Extended procurement phase • Higher cost associated with preparation of RFP • Potential for decreased competition due to cost of preparing proposal (can be offset by providing a stipend to proposers, which adds cost)

3.2 Use of Alternative Project Delivery in Washington State

Alternative project delivery is commonly used for water and wastewater projects in Washington State. Of the APD methods discussed above, GC/CM is the most commonly used for water and wastewater projects in Washington. Table 6 presents a summary of some of the similarly sized projects initiated in Washington in recent years. This table demonstrates the prevalence of the use of GC/CM in the state.

Table 6 Alternative Project Delivery in Washington State Wastewater Treatment Facility Project City of Oak Harbor, Washington						
Project	Approximate Construction Cost	Owner Contact	Design Engineer	Method	Contractor	Approximate Completion Date
Water Pollution Control Facility (WPCF) Phase B Everett, WA	\$35 Million	City of Everett Tim Marks (retired) (253) 315-9344	Brown & Caldwell	GC/CM	Hoffman Construction	April 2007
Brightwater Wastewater Treatment Plant (WWTP) Liquid Stream King Co, WA	\$315 Million	King County WTD Stan Hummel (206) 263-9457	CH2M Hill, Inc.	GC/CM	Hoffman Construction	September 2011
Post Point WWTP Bellingham, WA	\$50 Million	City of Bellingham Fritz Anthony (360) 778-7924	Carollo Engineers	GC/CM	Mortenson Construction	March 2014 (anticipated)
Green River Filtration Plant Tacoma, WA	\$150 Million	Tacoma Water Randy Krueger (253) 502-8202	MWH Global, Inc.	GC/CM	Hoffman Construction	November 2014 (anticipated)
WPCF Phase C1 Everett, WA	\$29 Million	City of Everett John Nottingham (425) 257-8872	Carollo Engineers	GC/CM	IMCO Construction	December 2015 (anticipated)
Chambers Creek WWTP Pierce Co, WA	\$240 Million	Pierce County Ryan Dooley (253) 798-4280	Brown & Caldwell	GC/CM	Mortenson Construction	July 2016 (anticipated)
Water Treatment Plant Improvements Anacortes, WA	\$56 Million	City of Anacortes Fred Buckenmeyer (360) 293-1919	HDR	DBB	IMCO Construction	April 2013
Wastewater Treatment Plant Lake Stevens, WA	\$119 Million	Lake Stevens Sewer District Rick Lewellen (425) 334-8588	Gray & Osborne	DBB	Balfour Beatty	April 2012
Wastewater Treatment Plant Carnation, WA	\$13.3 Million	King County WTD Jeff Lundt (206) 684-1320	Carollo Engineers	DBB	Harbor Pacific	December 2008
Wastewater Treatment Plant Blaine, WA	\$30 Million	City of Blaine Ravyn Whitewolf (360) 332-8820	Brown & Caldwell	DBB	Stellar J	January 2011

4.0 EVALUATION OF POTENTIAL DELIVERY METHODS

4.1 Considerations for Selecting a Delivery Method

The goal of this analysis and memorandum is to provide the City with the information needed to compare the delivery methods applicable to the Project and assist in determining the preferred delivery method for implementing the Project. In order to accomplish this goal, considerations were developed as a basis for qualitatively comparing the short-listed delivery methods. The qualitative comparison of the short-listed delivery methods is intended to allow the City to select the approach most suitable for the Project.

Five main categories were identified for the Project including: Quality and Owner Preference; Schedule; Cost; Staff/Consultant Resources; and Risk Allocation.

Within each of these categories, more specific considerations were identified. Table 7 lists these considerations and provides a brief definition of each.

4.2 Summary of Potential Delivery Methods

The evaluation in this section is intended to highlight the relative advantages and disadvantages of the short-listed delivery methods in specific relation to the Project and City requirements. Table 8 presents a qualitative summary of the relative ranking of each short-listed project delivery method based on each consideration. A summary of the key reasons behind the ranking is presented in the following sections.

Table 7 Considerations for APD Wastewater Treatment Facility Project City of Oak Harbor, Washington	
Consideration	Definition
QUALITY AND OWNER PREFERENCE	
Ability to Accommodate O&M Preferences	The ability for the City to incorporate its operations and maintenance preferences into the design using the delivery method.
Control Over Builder/Facility Quality	The ability for the City to exercise control of the direction of the project using the delivery method and the extent to which the delivery method impacts the quality of the project including opportunities to specify specific materials and/or equipment.
SCHEDULE	
Overall Schedule Duration	The extent to which the delivery method impacts the project implementation schedule.
Flexibility to Control/Adjust Schedule	The extent to which the delivery method allows for adjustments to the project schedule if construction issues or improvements are identified (i.e., early release packages).
COST	
Overall Cost	The extent to which the delivery method results in the lowest construction cost.
Cost Certainty for Budgeting Purposes	The point at which the delivery method provides cost certainty; and the probability of escalation or future change orders affecting the ultimate construction cost.
Flexibility to Control Costs	The ability of the delivery method to control project costs through the life of the project.
STAFF/CONSULTANT RESOURCES	
Resources Needed to Execute the Project	The extent to which the delivery method will impact the City's staffing needs or its need to procure/utilize consultant resources.
RISK ALLOCATION	
Allocation of Risk	How the delivery method allocates financial and contractual risk.
Impact on Public	The extent to which the delivery method will reduce or minimize the impact to the public.
Legislative and Legal	The ability of the delivery method to readily meet State and City procurement rules and standard policies.

Table 8 Qualitative Evaluation of APD Methods Wastewater Treatment Facility Project City of Oak Harbor, Washington			
Criteria	DBB	GC/CM	D/B
QUALITY AND OWNER PREFERENCE			
Ability to Accommodate O&M Preferences	Higher	Higher	Lower
Control Over Builder/Facility Quality	Moderate	Higher	Lower
SCHEDULE			
Overall Schedule Duration	Moderate	Shorter	Shorter
Flexibility to Control/ Adjust Schedule	Lower	Higher	Lower
COST			
Overall Cost	Moderate	Moderate	Lower
Cost Certainty for Budgeting Purposes	Lower	Moderate	Higher
Flexibility to Control Costs	Lower	Higher	Moderate
STAFF/CONSULTANT RESOURCES			
Resources Needed to Execute the Project	Lower	Moderate	Higher
RISK ALLOCATION			
Allocation of Risk	Higher	Moderate	Lower
Impact on Public	Moderate	Lower	Higher
Legislative and Legal	Lower	Higher	Higher

4.2.1 Quality and Owner Preference

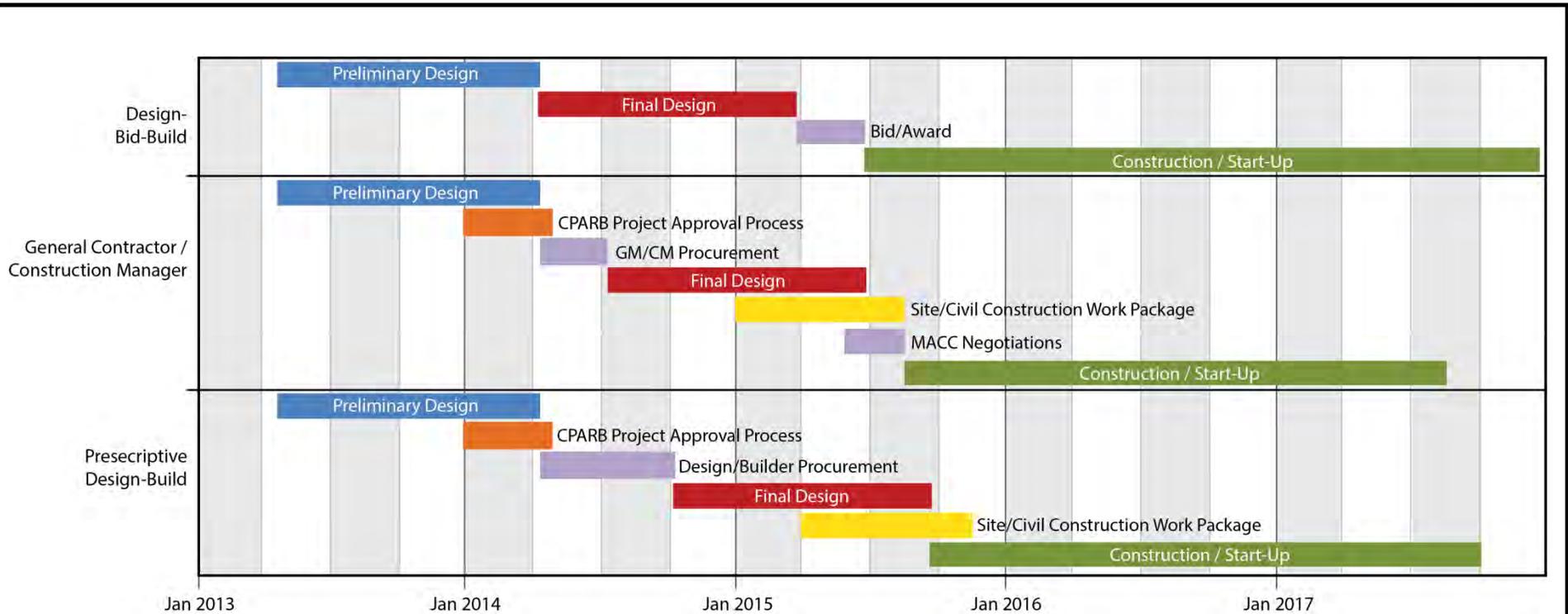
The following lists the primary points in comparing the short-listed delivery methods relative to the Quality and Owner Preference category and considerations:

- DBB and GC/CM allow the City to provide input into the design through 100 percent and 90 percent, respectively. Thus, the incorporation of the City's O&M preferences and the City's control over the direction of the design is maximized with DBB and GC/CM. With D/B, the City is afforded the opportunity to review the design deliverables after the 30 to 50 percent design (level in which lump sum contract is established) but any adjustments to the design directed by the City could result in a change order and increase in contract price.
- DBB will result in quality materials and equipment being utilized by the contractor since the contract documents (drawings and specifications) will be prepared by the Engineer who will reflect the City's quality preferences. However, there is no opportunity for City involvement in subcontractor procurement through DBB, so poorly qualified subcontractors could affect the quality of construction.
- GC/CM provides the same benefit of quality materials and equipment as DBB. However, GC/CM delivery provides the additional benefit of having the general contractor/construction manager involved in the design development process, which can result in innovative and added-value approaches being incorporated into the design (i.e., the general contractor/construction manager brings an additional, unique perspective to the design that supplements that of the City and Engineer).
- The State regulations related to GC/CM allow for best-value selection of major subcontractors (>\$3 Million) allowing for the City to be involved in selecting subcontractors based upon a combination of costs, qualifications and other criteria deemed important. The City may also stipulate that the general contractor/construction manager pre-qualify all subcontractors to promote a quality work product.
- D/B does not provide the same level of control over quality as the other short-listed delivery methods since the City is not able to direct the design and project delivery after the lump sum contract is in effect - the City can make changes subsequent to the lump sum contract but it could result in a change order.
- The City does not have control over the Contractor selected when using DBB because selection is based solely on low bid (pre-qualification of contractors or use of the City's Provision to consider other factors than cost can provide City some control).
- GC/CM allows for the City the flexibility of rejecting MACC and going DBB if costs cannot be agreed upon (i.e., contractual 'off-ramp').

4.2.2 Schedule

Preliminary schedules for each of the short-listed schedules is presented in Figure 7. The following lists the primary points in comparing the short-listed delivery methods relative to the Schedule category of considerations:

- GC/CM results in a slightly shorter schedule than D/B and DBB.
- Both GC/CM and D/B allow for an early release construction package to be developed so that the contractor can complete the earthwork and cultural resources mitigation work in parallel to the completion of the remainder of the final design.
- GC/CM affords the greatest flexibility during construction to make adjustments resulting from issues or opportunities for improvements. Included in the MACC is an agreed upon contingency dollar amount that can be utilized to address construction issues without resulting in a change to the contract price. The working relationship developed between GC/CM and Engineer during design allows for greater collaboration during construction in addressing issues.
- D/B also affords flexibility during construction as the Engineer and Contractor are the same entity so they can most efficiently work together to resolve an issue or implement improvements identified.
- Determination of construction schedule occurs earliest for D/B delivery since the lump sum bid proposal (with schedule) will occur at 30 to 50 percent design.



Schedule Assumptions:

- 1) Final Design duration is 12 months.
- 2) The total construction duration is approximately 30 months.
- 3) The City begins Capital Projects Advisory Review Board process and that the process will take approximately 3 months from initiation.
- 4) The Bid/Award process using DBB and the procurement process using GC/CM is similar (approximately 3 months).
- 5) The procurement process using Prescriptive D/B will be a two-step qualifications- and cost-based selection, and will take approximately 6 months.
- 6) A Site/Civil Construction Work Package is released early under both the GC/CM and Prescriptive D/B models.

PRELIMINARY PROJECT DELIVERY SCHEDULES

FIGURE 7

CITY OF OAK HARBOR
PROJECT DELIVERY ANALYSIS



4.2.3 Cost

The following lists the primary points in comparing the short-listed delivery methods relative to the Cost category of considerations:

- GC/CM provides a higher level of cost certainty relative to DBB due to the contractor's involvement during design (minimizes constructability issues); the 'open-book' cost development process; the contingency that is part of MACC to be used for changes; and the cost competitiveness procurement process using well-defined, 90 percent contract documents.
- DBB could be argued to provide the highest level of cost competitiveness because it is a low bid procurement process based upon completely defined, 100 percent contract documents. However, due the level of design required for a MACC to be established (i.e., 90 percent), and the fact that the majority of the project costs will be competitively bid, the cost competitiveness of GC/CM is comparable to DBB.
- Determination of costs will occur earliest for D/B delivery since the lump sum bid proposal will occur at 30 to 50 percent design. D/B also minimizes the affect of changes in materials escalation costs since the D/B accepts that risk and includes that in their lump sum bid proposal.
- GC/CM provides the best opportunity to design to set budget because detailed cost estimates are developed by the GC/CM at several stages of the project.
- Because 'open-book' construction cost estimates are provided by the GC/CM at each design milestone, the City is able to direct adjustments to the design to accommodate the project budget based upon accurate construction costs (ex., if costs estimates are lower than project budget, City may choose to adjust the design to add enhancements to improve O&M or visual aspects).

4.2.4 Staff/Consultant Resources

The following lists the primary points in comparing the short-listed delivery methods relative to the Staff/Consultant Resources category and considerations:

- D/B and GC/CM will require additional City staff resources or a consultant to administer the CPARB approval process; and the procurement and oversight of the design/builder or general contractor/construction manager. These additional costs for APD methods that are not required for the traditional DBB method.

4.2.5 Risk

The following lists the primary points in comparing the short-listed delivery methods relative to the Risk category and considerations:

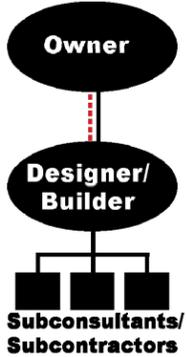
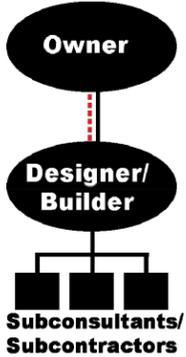
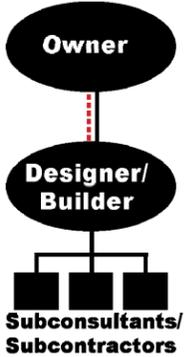
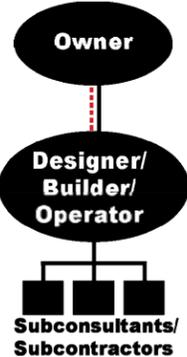
- Both GC/CM and D/B are new delivery methods to the City and it would likely be required that the City's procurement provisions be modified and accepted by City Council to accommodate GC/CM or D/B. In addition, the use of either delivery methods would need to be approved by the CPARB.
- For DBB and GC/CM, design errors and omissions (E&O) are legally the City's responsibility, so the City carries that risk. For D/B, the risks associated with E&O are the responsibility of the design-builder due to the contractual relationship between the designer and the contractor.
- For GC/CM, the involvement of the General Contractor/Construction Manager during the design process reduces the probability of design changes during construction, particularly since the design will be 90 percent complete prior to the MACC agreement. This minimizes the risks of design E&O that are legally the responsibility of the City.
- The use of GC/CM optimizes the assignment of risk to the appropriate party since risk assignment can be negotiated during the design development process leading up to the MACC – the City can decide to accept certain risks to minimize the financial results of carrying that risk, or the City can assign particular risks to the GC/CM that they do not want to carry (e.g. soil conditions).
- The collaborative relationship between the City, Engineer and Contractor in a GC/CM arrangement results in less risk related to construction within public area since the GC/CM.

**ALTERNATIVE PROJECT DELIVERY METHODOLOGY –
COMPARATIVE MATRIX**

ALTERNATIVE PROJECT DELIVERY METHODOLOGY – COMPARATIVE MATRIX

		Design-Bid-Build (DBB)	General Contractor / Construction Manager (GC/CM)	Engineer-Procure-Construction Manager (EPCM)	Job Order Contracting (JOC)
ALTERNATE TERMINOLOGY		Competitive Bidding	Construction Manager-at-Risk (CMAR)	Program Manager-at-Risk (PMAR)	Delivery Order Contracting, Work Order Contracting
GENERAL DESCRIPTION		A project delivery method where the owner selects an engineer to design and develop construction documents, from which the owner solicits lump sum bids. Selection is based on the lowest responsible bid and the contractor serves as a single point of responsibility for construction. Owner procurement rules may allow some variations to the “traditional” design-bid-build project delivery method in order to increase the level of control over certain project elements, if desired. Options include potential pre-qualification of contractors and/or specific suppliers, pre-selection and/or pre-purchase of selected equipment, or other non-standard variations.	A project delivery method where the construction manager (CM) serves as the general contractor (GC) providing pre-construction and construction services, while the engineer completes design under a separate contract, with the intent of promoting enhanced collaboration between all parties during design development. Qualification-based selection (QBS) of the GC/CM is typically done early in the design process. In Washington, the maximum allowable construction cost (MACC), or guaranteed maximum price (GMP), is negotiated when the construction documents are at least 90 percent complete. If an acceptable MACC is not reached, the Owner maintains the option to bid out the construction work.	A project delivery method where the Owner selects an EPCM (typically an engineer) as the overall agent to design, procure, and manage the construction process. The EPCM is not the constructor, but instead is the construction manager. The EPCM typically is contracted under a professional services agreement. The constructor may be contracted by the EPCM or directly by the Owner.	A project delivery method commonly utilized for contracting the minor repair, rehabilitation, or alterations of facilities when the work is of a recurring nature but the delivery times, type and quantities of work are indefinite.
PRICING STRUCTURE		Fixed Bid Price (Lump Sum)	Negotiated GMP or MACC	Negotiated (for EPCM) + Fixed Bid Price or GMP (for Contractor)	Negotiated GMP or Negotiated Unit Pricing w/ Markups
TOOLS / ELEMENTS					
Method	Legislative / Regulatory State of Washington	ALLOWED	ALLOWED (REQUIRES APPROVAL)	POSSIBLE (WOULD REQUIRE APPROVAL)	ALLOWED (WITH RESTRICTIONS)
	City of Oak Harbor	ALLOWED	CHANGES REQUIRED	CHANGES REQUIRED	CHANGES REQUIRED
	Selection Process				
	Qualifications-Based	NO	YES	YES	YES
	Price-Based	YES	NOT LIKELY	NOT LIKELY	NO
	Pre-Selection	POSSIBLE AS A VARIATION	POSSIBLE	POSSIBLE	POSSIBLE
	Pre-Purchase (by Owner)	POSSIBLE AS A VARIATION	POSSIBLE	POSSIBLE	POSSIBLE
	Pre-Purchase (by Contractor)	NO	POSSIBLE	POSSIBLE	POSSIBLE
Implementation	Pre-Qualification				
	General Contractors	POSSIBLE AS A VARIATION	--	POSSIBLE	--
	Subcontractors	NOT LIKELY	POSSIBLE	POSSIBLE	POSSIBLE
	Suppliers	POSSIBLE AS A VARIATION	POSSIBLE	POSSIBLE	POSSIBLE
	Multiple Contracts	POSSIBLE AS A VARIATION	NOT LIKELY	POSSIBLE	POSSIBLE
	Multiple Phases	NOT LIKELY	POSSIBLE	POSSIBLE	POSSIBLE
Incentives	POSSIBLE	POSSIBLE	POSSIBLE	POSSIBLE	

— Contractual Relationship Working Relationship

ALTERNATIVE PROJECT DELIVERY METHODOLOGY – COMPARATIVE MATRIX					
		“Performance” Design/Build (D/B)	“Prescriptive” Design/Build (D/B)	“Progressive” Design/Build (D/B)	Design-Build-Operate (DBO)
ALTERNATE TERMINOLOGY		Traditional Design/Build, Lump Sum Design/Build, Engineer-Procure-Construct (EPC)	Lump Sum Design/Build, Engineer-Procure-Construct (EPC)	Engineer-Procure-Construct (EPC)	--
GENERAL DESCRIPTION		A project delivery method that typically uses a two-step procurement process, requiring short-listed design-builders to propose lump sum best value solutions on the Owner's project performance criteria, but with little or no pre-developed design. The selected designer-builder works under a single contract and is required to deliver a facility that meets the performance criteria at the proposed price.	A project delivery method that typically uses a two-step procurement process, requiring short-listed design-builders to propose lump sum solutions based on the Owner's specifications and project concept, usually using a design developed by others provided in the RFP. The selected design-builder works under a single contract and is required to deliver a facility that meets the Owner's specifications at the proposed price.	A project delivery method that uses a qualifications-based selection (QBS), often with a proposed fee structure) similar to CM/GC, but combines separate design and construction procurements into one competition and selection of a single-contract design-build entity. Once selected, design commences and a construction estimate is "progressively" developed in an open-book format until a GMP can be agreed upon between the design-builder and Owner. If a GMP is not agreed upon, the Owner maintains the option to bid out the construction work.	An alternative form of the design-build project delivery method where the facility is operated privately under a fixed term contract following construction and start-up. Typically uses a two-step procurement process similar to either the performance-based or prescriptive-based D/B, but also includes technical and cost proposals associated with operations. In Washington, the DBO procedure may not be used to procure operations and maintenance services for a period longer than three years.
PRICING STRUCTURE		Fixed Bid Price (Lump Sum)	Fixed Bid Price (Lump Sum)	Negotiated GMP or Negotiated Stipulated Price (Lump Sum)	Fixed Bid Price (Lump Sum)
TOOLS / ELEMENTS					
Method	Legislative / Regulatory State of Washington	ALLOWED (REQUIRES APPROVAL)	ALLOWED (REQUIRES APPROVAL)	ALLOWED (REQUIRES APPROVAL)	ALLOWED (REQUIRES APPROVAL)
	City of Oak Harbor	CHANGES REQUIRED	CHANGES REQUIRED	CHANGES REQUIRED	CHANGES REQUIRED
	Selection Process				
	Qualifications-Based	YES	YES	YES	YES
	Price-Based	YES	YES	NOT LIKELY	YES
Implementation	Pre-Selection	POSSIBLE	POSSIBLE	POSSIBLE	POSSIBLE
	Pre-Purchase (by Owner)	POSSIBLE	POSSIBLE	POSSIBLE	POSSIBLE
	Pre-Purchase (by Contractor)	POSSIBLE	POSSIBLE	POSSIBLE	POSSIBLE
	Pre-Qualification				
	General Contractors	--	--	--	--
	Subcontractors	NOT LIKELY	NOT LIKELY	POSSIBLE	NOT LIKELY
	Suppliers	NOT LIKELY	NOT LIKELY	POSSIBLE	NOT LIKELY
	Multiple Contracts	NOT LIKELY	NOT LIKELY	NOT LIKELY	NOT LIKELY
	Multiple Phases	POSSIBLE	POSSIBLE	POSSIBLE	POSSIBLE
Incentives	POSSIBLE	POSSIBLE	POSSIBLE	POSSIBLE	

— Contractual Relationship Working Relationship

**City of Oak Harbor
City Council Agenda Bill**

Bill No. 6.d.
Date: December 3, 2013
Subject: Ec. Dev. Strategy & Action
Plan

FROM: Ethan Spoo *E.S.*
Economic Development Coordinator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

SD Scott Dudley, Mayor
LC Larry Cort, City Administrator
DM Doug Merriman, Finance Director
GW Grant Weed, Interim City Attorney, as to form

PURPOSE

This agenda bill presents the Economic Development Strategy and Action Plan to City Council for review, discussion, and approval.

FISCAL IMPACT DESCRIPTION

Funds Required: \$ _____ 0 _____

Appropriation Source: _____ N/A _____

BACKGROUND

Survey of Washington Cities

In 2010, Oak Harbor staff interviewed 16 Washington cities with a population of approximately 20,000-30,000 people about their economic development activities and resources. The document resulting from that work was called the "Economic Development Survey of Select Washington Cities." The survey revealed that Oak Harbor lags behind its peer cities in economic development in several aspects especially as concerns resources dedicated to economic development, financial incentives for new and expanding businesses, business marketing, tracking buildable land supply, and tracking quality of life issues.

Economic Development Ad Hoc Committee and Profile and Needs Assessment

The Mayor formed the Economic Development Ad Hoc Committee in 2012. The Committee was composed of representatives from small and large businesses, Skagit Valley College, the Chamber of Commerce, Island County Economic Development Council, Naval Air Station Whidbey Island, Planning Commission, and City Council. In addition to its work on the ESDAP, the Committee also worked on the "Economic Profile and Needs Assessment" – a document examining population, employment, and housing trends in Oak Harbor and which forms the foundation of the EDSAP. The Profile and Needs Assessment highlights Oak Harbor's economic strengths and weaknesses including its

City of Oak Harbor City Council Agenda Bill

young demographic, low wage jobs, slowing population growth ahead of Navy squadron increases, and high per capita sales.

Focus Groups

Finally, as part of the development of the EDSAP staff sought input from the community through focus groups. The four focus groups, conducted in June and July of 2013, represented sectors of the economy: the US Navy, small businesses, large businesses, and public/non-profits. Summary notes from the focus groups are included in Attachment 2, Appendix B.

SUMMARY OF ECONOMIC DEVELOPMENT STRATEGY AND ACTION PLAN

Overview

The Economic Development Survey of Select Washington Cities, work of the Ad Hoc Committee, input from the focus groups, and the Economic Profile and Needs Assessment form the foundation of the EDSAP. Input from the committee members and focus groups and the finding of these documents represent a significant investment of time and effort by the individuals and staff involved.

The EDSAP should be viewed as consistent with existing City policies and not a new direction. The City's Comprehensive Plan, Economic Development Element, already directs the City to seek economic diversification projects which reduce reliance on the Navy, to increase Oak Harbor's off-island sales leakage, and to implement the Waterfront Redevelopment, Branding and Marketing Program. The goals and actions in the EDSAP are consistent with these Comprehensive Plan goals and will further implement them.

Organization

The EDSAP was written to capitalize on Oak Harbor's economic strengths and weaknesses in light of the limited City resources available for economic development. The Ad Hoc Committee worked very hard to create a document that is based on implementable projects that Oak Harbor can accomplish over the next 3-5 years with existing staff resources. Thus, the EDSAP reads more like a list of projects than a narrative.

The EDSAP is organized into four goals and 31 actions. Each action is further categorized by those which can be accomplished with existing staff resources and those which require additional resources. Adopting the EDSAP does not mean that the City is committing to funding those actions which require additional resources. Rather, adoption will mean that staff spends time on these items and will approach Council when funding is required or as part of the budget process.

The Ad Hoc Committee recommended four goals as part of the strategy and action plan:

1. Retain and grow existing business
2. Foster a business-friendly culture at the City
3. Redevelop to Catalyze Job Growth
4. Welcome tourists to Oak Harbor

These goals selected emphasize assisting existing businesses with less focus placed on attracting new businesses Business attraction efforts are costly and results can be elusive. Cultivating existing businesses has been shown to be much more cost effective. Thus, the strategy focuses on creating the

City of Oak Harbor City Council Agenda Bill

economic development infrastructure at the City to help existing businesses thrive.

The actions are designed to further the goals. Council should note that the selected actions are not the only possible ones to further the goals, but were selected with input from the committee and with staff resources in mind. Council review and discussion on the selected actions is now sought in the spirit of creating a consensus document that elected leaders, businesses, and the community can coalesce around and work together to complete.

AD HOC COMMITTEE REPORT

The Economic Development Ad Hoc Committee met during the first half of the year, completing their work on the EDSAP in July.

PLANNING COMMISSION REPORT

Planning Commission discussed the EDSAP during the months of August and September with a recommendation forwarded to City Council after a public hearing in September.

RECOMMENDED ACTION

Approve resolution 13-34 (Attachment 1).

ATTACHMENTS

- Attachment 1: Resolution No. 13-34 approving the Economic Development Strategy and Action Plan
- Attachment 2: Economic Development Strategy and Action Plan, December 2013.
http://www.oakharbor.org/get_document.cfm?document=2500

RESOLUTION 13-34

A RESOLUTION OF THE CITY COUNCIL OF OAK HARBOR ADOPTING
THE ECONOMIC DEVELOPMENT STRATEGY AND ACTION PLAN.

WHEREAS, Oak Harbor's unemployment rate was 11.1 percent in 2010 according to the most recent information available from the American Community Survey, and;

WHEREAS, Oak Harbor's median household income was approximately \$50,000 in 2010 according to the American Community Survey, more than \$20,000 below median household incomes for other Washington cities of similar population, and;

WHEREAS, Oak Harbor has many inherent strengths and opportunities from which to grow its future economy including the location of new squadrons at Naval Air Station Whidbey Island, the young average age of its population, the growing population of senior citizens, its natural beauty, and a skilled workforce composed of US Navy spouses and family members, and;

WHEREAS, the Mayor and City Council seek to address Oak Harbor's economic weaknesses and capitalize on its strength, and;

WHEREAS, the Oak Harbor Comprehensive Plan, Economic Development Element, Goal 2 directs the City to "Implement the Waterfront Redevelopment, Branding and Marketing Program to increase visitor spending and enhance the quality of life and economic vitality of Oak Harbor," and;

WHEREAS, the Oak Harbor Comprehensive Plan, Economic Development Element, Goal 3 directs the City to "Increase Oak Harbor's market share of retail sales to reduce the economic leakage off-island," and;

WHEREAS, the Oak Harbor Comprehensive Plan, Economic Development Element, Goal 4 directs the City to "continue working with the Navy to enhance economic opportunities," and;

WHEREAS, the Oak Harbor Comprehensive Plan, Economic Development Element, Goal 5 directs the City to "Implement long-range economic diversification projects to provide job opportunities and reduce economic reliance on Naval Air Station Whidbey Island", and;

WHEREAS, the Oak Harbor Comprehensive Plan, Economic Development Element, Goal 6 directs the City to "Ensure tourism with an emphasis on strengthening Oak Harbor as a tourist destination", and;

WHEREAS, the Economic Development Ad Hoc Committee met on seven separate occasions from January through July of 2013 to discuss the Economic Development Strategy and Action Plan and supporting information, and;

WHEREAS, City of Oak Harbor staff conducted four focus groups with representatives from the US Navy, small businesses, large businesses, and the public/non-profit sectors to discuss the Oak Harbor economy and ideas for moving forward, and;

WHEREAS, the Oak Harbor Planning Commission recommended approval of the Economic Development Strategy and Action Plan to the City Council after a public meeting on August 27, 2013 and a public hearing on September 24, 2013.

NOW, THEREFORE, the City Council of the City of Oak Harbor do hereby resolve as follows:

Section One. Economic Development Strategy and Action Plan – Adopted. The Oak Harbor City Council adopts the Economic Development Strategy and Action Plan incorporated herein by reference.

PASSED by the City Council and approved by its Mayor this 3rd day of December 2013.

CITY OF OAK HARBOR

SCOTT DUDLEY, MAYOR

Attest:

Approved as to Form:

Valerie J. Loffler, City Clerk

Grant K. Weed, Interim City Attorney

Published: _____

Economic Development Strategy and Action Plan: December, 2013

Illusions
BEAUTY LOUNGE
• Tanning • Nails • Hair



THIS SPACE
IS NOT EMPTY.

HISTORIC
DOWNTOWN
OAK HARBOR

IT IS FULL OF
OPPORTUNITY



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Acknowledgements

Oak Harbor Mayor: Scott Dudley

Oak Harbor City Council: Danny Paggao, Rick Almberg, James Campbell, Beth Munns, Tara Hizon, Bob Severns, Joel Servatius

Planning Commission: Keith Fakkema, Bruce Freeman, Sandi Peterson, Anna Schlect, Kristi Jensen, Greg Wassinger, David Fikse

Economic Development Ad Hoc Committee: Bob Severns City Council • Patty Cohen, Former Mayor • Cathy Reed, Executive Director Oak Harbor Chamber of Commerce • Ron Nelson, Executive Director Island County Economic Development Council • Mick Donahue, Executive Vice President - Skagit Valley College • Jennifer Meyer, NASWI Community Liaison • Dee Boothe, President Technical Services Inc. • Courtney Richmond, WorkSource Whidbey • Ron Apgar, Paint Your World • David Fikse, Gerald's Jewelry and Planning Commission • Dwight Galbraith, Whidbey Cleaners • Stan Stanley, consultant; Ed Wilkins, citizen • Sandi Peterson, Planning Commission • Christine Cribb, citizen

Focus Group Participants: Jason Trit, Flyer's Restaurant • David Wilson, Woody's Carwash • Jennifer Meyers, NASWI • Scott Smith, NASWI • Mike Welding, NASWI • Todd Krantz, Whidbey Island Bank • Abdul Sharif, Technical Services, Inc. • Lance Gibbon, Oak Harbor School District • Calvin Hewitt, Habitat for Humanity

City of Oak Harbor Staff: Larry Cort, City Administrator • Ethan Spoo, Economic Development Coordinator

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Purpose

In the early to mid-1990s, Oak Harbor was faced with the prospect that Naval Air Station Whidbey Island (NASWI) would close as part of the federal Base Realignment and Closure Commission's recommendations. As a result of that process, Oak Harbor and its County partners produced the *North Whidbey Diversification Action Plan* in an effort to attract businesses to North Whidbey not dependent on the Navy.

Now, the City of Oak Harbor is faced with an entirely different prospect than it was in the 1990s: the US Navy has announced that it will relocate between four and seven new squadrons for the P-8A aircraft to NASWI. These new squadron personnel and their families will have a large impact on Oak Harbor's economy. Oak Harbor needs a new economic development strategy moving forward to capitalize on the squadron relocation, as well as address long-standing economic challenges.

This document is meant to meet Oak Harbor's need for an economic development strategy given the new reality the City faces. The Economic Development Strategy and Action Plan (EDSAP) is intended to be a concise document, while still capturing actions Oak Harbor can take to promote job and revenue growth in the next 3-5 years. The document is not meant to be a "pie-in-the-sky" vision, but rather a specific list of actions that purposely account for staff resources to implement them. The EDSAP is a short-term "strategy and action plan" to be carried out in the coming few years as opposed to a long-term plan or vision. Finally, the EDSAP is not a departure from existing City policy, but a further step toward implementing the goals in the Oak Harbor Comprehensive Plan.

Consistent with current trends in economic development and with staff resources in mind, the EDSAP is most focused on existing business. In the past, cities have spent huge sums of money and untold sums to attract new businesses. While attracting new businesses is important, research shows that 60-80 percent of new job growth comes from existing businesses. Consequently, the strategies and actions in this document emphasize retaining and growing Oak Harbor's existing businesses.

Background

Framework for Local Economic Development

Traditionally, local economic development has focused on "catching the big fish"- herculean efforts made to attract large employers to a city. Cities have waived taxes and fees; installed expensive infrastructure at their cost; undertaken special studies; and used eminent domain to condemn land and clear blight; all in an effort to convince an employer to move to their city. In some cases, those employers moved, stayed and were successfully integrated into the community. In other cases, the employer went out of business or moved on to the next city in a few years when a better package of incentives was offered.

Given the high risk of spending substantial local resources on attracting new business, modern economic development tends to emphasize retaining and growing existing businesses. These businesses are already located in the city, have relationships with the community, and are familiar with local market conditions.

Economic development professionals have a variety of tools they can use to encourage job growth. However, these tools usually fall into eight main categories:

- **Business attraction:** marketing the advantages of a particular location or city to attract new businesses.
- **Business retention:** communicating with existing businesses and addressing their needs.
- **Business development:** providing training and information resources for business owners and managers such as finance or customer service classes.
- **Development fee and tax incentives:** reducing, waiving, abating fees and taxes to encourage development of new and expanded businesses.
- **Workforce education:** educating and training employees to meet the needs of businesses.
- **Land supply:** ensuring that an adequate land supply exists for new and expanding businesses.
- **Infrastructure:** ensuring that there is adequate public infrastructure to allow businesses to relocate or expand.
- **Quality of life:** providing a quality of life (proximity to doctors, quality of schools, access to recreation, etc.) conducive to business innovation.

These broad categories cover nearly all economic development activities that cities and governments undertake. Some of these categories, such as workforce education and business development, are not the purvey of a local government because cities' natural strengths are not education or training. Other categories, like quality of life, are best addressed by a combination of public, private, and non-profit organizations. The economic development functions cities are typically best at performing are land supply strategies, infrastructure investments, reduced development fees/financial incentives, business retention, and some types of business attraction. Business retention activities, such as communicating with local businesses about their needs and working to address those needs, are some of the most successful and effective economic development tools cities have. Therefore, the EDSAP is heavily weighted toward business retention activities.

Relationship to the Oak Harbor Comprehensive Plan

The Oak Harbor Comprehensive Plan has a chapter containing economic development goals and policies. There are six goals and 31 policies in the Comprehensive Plan. The goals focus on diversifying Oak Harbor's economy from its reliance on NASWI, implementing the Waterfront Redevelopment, Branding and Marketing Program, reducing retail sales leakage, and strengthening Oak Harbor's appeal to tourists. This strategy and action plan should be viewed as consistent with and complimentary to the Comprehensive Plan and a further step in implementing it. The strategy should not be viewed as steering Oak Harbor in a new direction or directing resources toward goals and actions inconsistent with already adopted City policies. Rather, the EDSAP should be seen as an economic development project list implementing the Comprehensive Plan.

Economic Profile and Needs Assessment

The Mayor's Economic Development Ad Hoc Committee convened in early 2012. Beginning in January 2013, with the guidance of newly dedicated staff, this committee began discussions on the EDSAP. As part of the background research for the Draft EDSAP, staff prepared the "Economic Profile and Needs Assessment" and presented the findings to Planning Commission in March, 2013 and to City Council in May, 2013. The Economic Profile and Needs Assessment forms the foundation of the EDSAP and is the basis of the strategies and policies in it. It is important to have a factual basis for the EDSAP moving forward as the evidence for the actions the plan recommends. Among the key trends of the Economic Profile and Needs Assessment are:

- **Slow population growth.** Oak Harbor's population growth has slowed dramatically over the last two decades from an annual rate of eight percent prior to 1990 to a rate between just above one percent thereafter. However, looking to the future, Oak Harbor's population is expected to grow again dramatically as new squadron personnel and their families move to the area assuming the City's housing stock, infrastructure, and employment opportunities can accommodate the prospective residents.
- **Young demographic.** Oak Harbor has a young demographic with strong representation of people in their 20s and 30s, but also has a fast growing population of senior citizens.
- **Housing affordability.** Oak Harbor has a housing affordability problem for civilian sector workers whose median wages are often too low to leave budget for non-housing related expenses (food, clothes, transportation, etc.).
- **High unemployment.** Oak Harbor's unemployment rate is higher than average and was the highest in the state for a city its size in 2010 at 11.1 percent. Oak Harbor's unemployment rate has been persistently high over the last decade in which NASWI was reducing military personnel.
- **Low incomes.** As previously mentioned, Oak Harbor's incomes are quite low, not considering Navy allowances for housing. Oak Harbor's median household income is approximately \$50,000 per year compared with median incomes of \$70,000 for other cities its size across the state.
- **High per capita sales.** Despite its low income Oak Harbor' businesses have high per capita sales figures. This paradox might be partly due to Navy allowances for housing and other living expenses which give Navy personnel and families higher disposable incomes than their household income would imply.

Following the completion of the Economic Profile and Needs Assessment, the Economic Development Committee conducted several months of discussions on the EDSAP. The Committee worked diligently to create a document that is based on implementable projects that Oak Harbor can accomplish over the next 3-5 years with existing staff resources. For that reason, the EDSAP is primarily a list of projects as opposed to a policy document.

Focus Groups

In addition to the Economic Profile and Needs Assessment and the work the ad hoc committee completed, staff conducted four focus groups in June and July of 2013 to obtain additional input on Oak Harbor's economy and potential obstacles to economic growth. The four focus groups conducted were: (1) US Navy (2) Small Businesses (3) Large Businesses and (4) Public Non-profit Institutions.

Although there were four different focus groups, there were shared themes across the four groups. The shared themes, as well as the focus groups notes, are included in Appendix B. All participants noted the positive impact of the Navy, that Windjammer Park is an underutilized space, the lack of activities for children in the community, need for employee training for businesses, and the need for an upscale waterfront restaurant, among other issues. The fact that there were shared themes across groups is a strong indication that these are long-standing issues need to be addressed.

Strategy and Action Plan

The EDSAP is organized into four goals with actions listed under each goal. Each action is organized into those actions which require no additional funding or staffing and actions which require additional

funding or staffing. There are a total of 31 different actions, 12 of which will require additional funding or staffing to accomplish and 19 which can be accomplished with existing funding and staffing levels.

The 31 actions are organized under four broad goals chosen to promote economic development in Oak Harbor over the next 3-5 years:

1. Retain and Grow Existing Businesses
2. Foster a Business-friendly Culture at the City
3. Redevelop to Catalyze Job Growth
4. Welcome Tourists to Oak Harbor

Retaining and growing existing businesses was chosen because research has shown that 60-80 percent of all job growth comes from existing businesses. In the past, economic development in cities across the US has focused heavily on recruiting new businesses. While recruiting new businesses is still important and tends to be what many people think of as economic development, research is showing that helping existing businesses thrive is more productive and cost effective.

Fostering a business-friendly culture at the City was chosen because the committee perceived that improvements were needed to reach out to new and existing businesses to make them feel welcome and cared for. In addition, the committee wanted to see that business interests were continually represented and taken into consideration in City decision making.

Goal 3 refers to efforts the City would take to redevelop key properties thereby catalyzing development on adjacent properties and creating high-quality buildings in which businesses can locate. For many years, downtown has been the focus of efforts to attract new development. The EDSAP affirms that redevelopment is an important activity for the City to undertake to revitalize Oak Harbor’s business districts. Redevelopment might be accomplished by selling city-owned land to a developer who would meet City goals for project outcomes and design or by targeting needed infrastructure improvements to promote private investment.

Goal 4 focuses on tourism. Tourism can be a controversial economic development focus because tourist-oriented jobs such as restaurants, tours, etc. usually pay low wages. However, the committee chose this goal because the Economic Profile and Needs Assessment showed that Oak Harbor lags far behind other communities for its lodging tax revenues meaning that Oak Harbor has work to do just to be perceived as an “average” tourist destination.

The following table includes the goals and actions that make up the EDSAP:

Goal/Action	Schedule	Funding
Goal 1: Retain and grow existing businesses		
Actions – No Additional Funding or Staffing		
1. Annual Business Survey and Reporting. Nurture open communication lines with existing businesses to anticipate their expansion or relocation needs. To do so, the City will implement a business survey to ascertain how the City can help existing businesses remain successful or avoid closing. The City will also have a business visitation program, as well as contact businesses which closed or left the City. The City will issue annual	Q1 2014 & annually thereafter	Nominal

reports for survey and business visitation efforts.		
2. Coordinate with the Chamber on researching “shop local” campaigns and report on the findings.	End of 2014	N/A
3. Seek grants/money to build the knowledge of existing business owners/operators to help them succeed and grow.	Ongoing	N/A
a. Actively promote free entrepreneurship training available to businesses through the Island EDC.	Ongoing	N/A
b. Spread the word about Skagit Valley College business classes and secure possible funding to send business owners to these classes. These classes would work in tandem with training classes offered by the Chamber.	Ongoing	N/A
4. Assist merchants in creating a Main Street program for downtown Oak Harbor allowing a portion of B&O taxes to be used locally. Part of this effort should be to explore the feasibility of creating a historic district downtown.	End of 2014	N/A
Additional Funding and Staffing		
5. Explore creating a business incubator in coordination with Island EDC, Skagit Valley College, and the high school. Such incubator could be a light manufacturing/industrial incubator in the Goldie Road corridor and could work in conjunction with the high school vocational program.	End of 2014	Unknown
6. “Business Leadership Breakfast.” Organize events in which the Mayor and Council can meet with business owners on a quarterly basis. These events may be hosted by different businesses in Oak Harbor.	Q1 2014	\$1,000 per event
Goal 2: Foster a business-friendly culture at the City		
No Additional Funding or Staffing		
7. Develop “welcome packages” for those considering opening a business in Oak Harbor. The packages should be tailored to retail, office, and industrial sectors and would provide information on the steps required to open their doors. The packages will include information on the economic impact of the Navy and information on WorkSource. The City should also develop recruitment/marketing packages with basic demographic/workforce information for Oak Harbor that can be used to attract new businesses. In addition, the City should contact new businesses, with the assistance of designated ambassadors, and establish relationships.	End of 2013	Nominal
8. Actively maintain business owner membership on boards and commissions.	Ongoing	N/A
9. Actively engage with the Chamber of Commerce and maintain constructive relationships with its leadership	Ongoing	N/A
10. Research financial incentives for new and existing businesses such as reducing/waiving/abating fees and taxes, tax increment financing, industrial revenue development bonds, and storefront improvement grants.	End of 2014	N/A
11. Create a business impact section in City agenda bills.	End of 2014	N/A
12. Research target industries to attract to the City to determine which are most likely to succeed in Oak Harbor and fit the community’s long-term vision.	End of 2014	N/A

13. Make a stronger link between the City's Capital Improvement Plan and the budget with realistic reflections of cost and time to complete projects to reduce guesswork and risk for developers.	End of 2015	N/A
14. Revise the list of permitted/conditional uses for the Central Business District code to streamline permitting and align uses with community policies.	End of 2016	N/A
15. Explore issuing planned action SEPA's to reduce regulatory barriers	N/A	N/A
Additional Funding or Staffing		
16. Complete a buildable lands analysis to ensure that there is an adequate supply of residential, commercial, and industrial land in the City and incorporate the findings from this study into the Comprehensive Plan.	End of 2014	\$10,000-\$15,000
17. Excellent customer service should be the hallmark of the business-friendly atmosphere at the City. Customer service training for employees should be regular and recurring.	Ongoing	\$10,000-\$20,000
18. Revise the "business" portion of the City website to include tools for new and expanding businesses, including possible financial incentives.	End of 2014	\$10,000
19. Consider developing a streamlined development review process and implementing it, including a "fast response" review team for the review of new business and job-generating uses.	End of 2016	Unknown
20. Complete a cultural resources management plan to more accurately quantify risk of encountering resources and to inform developers/builders about their responsibilities.	End of 2016	Unknown
21. Explore partnerships with nonprofit and private organizations to create a community center focused on, but not exclusively for, youth. A new senior center may be a component of the overall community center complex.	End of 2017	Unknown
22. Gauge parking supply and demand in downtown for now and the future. Explore feasibility of a public garage downtown which will help facilitate redevelopment of this area. Adequate parking is a precursor to investment in new retail and office space in downtown.	End of 2015	N/A
Goal 3: Redevelop to Catalyze Job Growth		
No Additional Funding or Staffing		
23. Explore selling land to a developer to create a catalyst development in downtown or elsewhere. The developer would need to meet City objectives for development of the land. The catalyst development might include a new City library.	End of 2015	N/A
Addition Funding and Staffing		
24. Determine the feasibility of overnight moorage pier/dock near downtown/Flintstone Park.	End of 2015	\$20,000
25. Explore creating a port district.	End of 2016	Unknown
Goal 4: Welcome Tourists to Oak Harbor		
No Additional Funding or Staffing		
26. The City, in coordination with the Chamber and Island County Tourism, needs to explore what it can do to increase tourism, including creating tourist attraction(s) and a regular schedule of events.	End of 2014	N/A
27. Explore better transportation options to and from the Marina, including	End of 2014	N/A

pursuing grants for city bicycles and/or trolley.		
28. Explore options for funding restrooms for downtown.	End of 2015	N/A
Additional Funding or Staffing		
29. Commission a study to explore ways that it can create a more tourist-oriented atmosphere in the City including an arch/gateway for downtown and updated design regulations for downtown.	End of 2016	\$15,000
30. Study the feasibility of constructing an amphitheater near the waterfront as envisioned by the Waterfront Redevelopment, Branding, and Marketing Program as well as other improvements envisioned by that plan such as vendors. The Windmill is a potential location for a vendor.	End of 2014	\$15,000
31. Market the City to tourists using the Whidbey Island Scenic Byway and the Cascade Scenic Loop, including capitalizing on visitors to Deception Pass Bridge possible transportation to and from the bridge. The City should work in coordination with the merchants to develop a “hot list” of things to do in Oak Harbor for tourists.	End of 2014	Unknown

Conclusion

Oak Harbor has significant economic opportunities and challenges ahead. Opportunities include the arrival of the new squadrons, its quality of life, youthful population, growing population of seniors, and high per capita sales. Challenges the City faces are high civilian unemployment, low incomes, and housing affordability. To be successful at economic development and encourage diverse, private-sector growth, Oak Harbor needs not to lose sight of these challenges and opportunities. Since other cities in the region are strategically positioning themselves to compete for new jobs and residents, Oak Harbor needs to remain competitive by embracing its own economic plan for the future. Economic development is a lofty, but achievable goal if Oak Harbor applies appropriate resources to the issue, tackles its problems head-on, and internally cooperates to meet its economic development needs.

Appendix A: Economic Profile and Needs Assessment



**Economic Profile and Needs Assessment
May 21, 2013**

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Acknowledgements

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Cover Photo: Oak Harbor looking Northeast toward Mt. Baker

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Executive Summary

The major driver of Oak Harbor's economy for the past half century has been the US Navy. In the past few decades, however, Oak Harbor's population growth has slowed. After experiencing year-over-year growth rates above 10 percent from 1940-1970, Oak Harbor's population growth has slowed to less than 1.5 percent per year since 1990, a rate comparable to that of Coupeville and Langley, and slower than the statewide average for cities.

Recently, US Navy officials and Representative Larsen announced a commitment of additional P-8A squadrons to Naval Air Station Whidbey Island (NASWI). According to Representative Larsen's office, the base will be home to all seven Pacific squadrons of P-8As which "will bring hundreds of new military families and will create hundreds of local jobs."

While the announcement of new squadrons and personnel at NASWI is excellent news, in the context of large federal deficits and debt it is difficult to predict with complete certainty what will happen to staffing levels at NASWI in the decades to come as the political climate changes. For this reason and others, Oak Harbor should focus its economic development efforts on the private sector. Doing so will also benefit NASWI in the long run by increasing the overall stability of the base in the region and increasing the quality of life of Oak Harbor's residents and veterans.

Previous discussions and plans, including the 1995 "*North Whidbey Community Diversification Action Plan*", have focused on the concept of growing Oak Harbor's private sector economy and diversifying its employment base. This plan led to the rezoning and annexation of much of the north Oak Harbor area for industrial and business park uses.

Since the time of the *Diversification Plan*, there has been very little inquiry into the size and nature of Oak Harbor's economy. This *Economic Profile and Needs Assessment* provides descriptive information on Oak Harbor's business environment including characteristics of its population, housing, and economy. This document will provide the foundation of an economic strategy/action plan so that Oak Harbor can refocus on diverse, private sector growth.

The Needs Assessment chapter of this report performed a Strengths, Weaknesses, Opportunities, and Threats (SWOT) analysis to determine what the inherent advantages and disadvantages are of Oak Harbor's economy for new business growth and expansion. SWOT analysis is commonly used in business planning. Figure A is a visual representation of a SWOT analysis.

Figure A: SWOT Analysis Diagram



Source: businessteacher.org.uk

The following highlights key findings from this *Economic Profile and Needs Assessment* report in the categories of population, housing, and economy:

Population

- **Slowing population growth.** Oak Harbor’s population grew rapidly at annual rate near eight percent from 1950-1990 after which the city grew at a slower annual rate near one percent. The City’s population growth since 1990 is comparable to the rates in Langley and Coupeville.
- **Young demographic.** Oak Harbor’s population is heavily slanted toward people aged 10 or younger and people in their 20s. This comes as no surprise given that the Navy is by far the City’s largest employer.
- **Growing population of seniors.** Despite its young demographic, Oak Harbor’s fastest growing age group are those aged 65 and over. This age group grew 13 percent from 2000-2010. The growing population of seniors presents opportunities for Oak Harbor to consider infrastructure, such as a new senior center, serving this population and to plan for housing and services that anticipate their needs.
- **Large veteran population.** In 2010, Oak Harbor’s veterans made up nearly 1/3rd of its population aged 18 and older, more than double the percentage in the state which stood at 12 percent. Oak Harbor’s veterans are also younger and have served in more recent conflicts, such as the Gulf War, whereas most of the State’s veterans are from the Vietnam era. Veterans have lower unemployment rates than the general population and special skills that present opportunities for attracting employers.

Housing

- **Housing unit mismatch.** Based upon available evidence, there seems to be a mismatch between the availability of housing units in Oak Harbor and what is actually in demand. Well over half, 57 percent, of Oak Harbor’s housing units are rented. While this may come as no surprise in a military town, it is unusual since the County and the State have approximately 30 percent of their housing stock which is rented. In addition, Oak Harbor has a lower proportion of one-bedroom units than the County or State. Household size declined 6% over the decade meaning

smaller houses may be more in demand. Even considering all these facts, Oak Harbor's housing stock is over 60 percent single-family units implying that its supply does not match demand.

- **Unaffordable housing.** Oak Harbor's average home values are approximately \$50,000 below those of the County or the State. Taken by itself, that means that Oak Harbor's housing is more affordable to new residents than that of the County or the State. However, when compared to the incomes of jobs in Oak Harbor, which are quit low, housing is actually less affordable for Oak Harbor workers than it is in Island County or Washington.

Economy

- **High unemployment.** Oak Harbor's unemployment rate has historically been higher than the County or the State. In fact, Oak Harbor's unemployment rate of 11.1% was the highest in the State for any city with a population of 20,000-30,000 in 2010. This fact may come as a surprise to those who might have assumed that the presence of NASWI might mean that Oak Harbor's unemployment rate was lower than average. The high unemployment rate is likely due to the lack of diversity in Oak Harbor's industries and businesses.
- **Industry sectors.** Oak Harbor's top four industries in 2010 were: (1) education, health, and social services; (2) public administration; (3) arts, entertainment, recreation, accommodation and food services and (4) retail trade. The fastest growing sectors from 2000-2010 were: (1) construction, (2) transportation and warehousing, and utilities, (3) arts, entertainment, recreation, accommodation and food services. Oak Harbor saw a major decline in the information sector over the decade.
- **Low incomes.** Oak Harbor's average income levels, both on a per capita and household basis, are significantly lower than those of the County or the State. Oak Harbor has the second lowest per capita income in the State for any city with a population of 20,000-30,000. The median household income for cities in this population category outside of King County is about \$70,000 per year compared to Oak Harbor's median household income which is approximately \$50,000. Income levels typically have a significant bearing on business growth in a community because it usually implies that residents have low disposable incomes. Nonetheless, Oak Harbor's average incomes are growing, having risen 21% in the last decade.
- **High per capita sales.** Despite the fact that Oak Harbor has some of the lowest income levels in the State, it has some of the highest per capita sales. In fact, only Moses Lake and SeaTac have higher per capita sales. Oak Harbor's per capita sales are equal to that of Bainbridge Island and Mercer Island, which is an impressive statistic given that these are much wealthier communities. This report hypothesizes that Oak Harbor's high per capita sales are likely due to housing stipends that US Navy personnel receive which, in turn, gives them more disposable income than their gross income might imply.
- **Educational attainment.** Oak Harbor's population and workforce has a smaller proportion with Bachelor's Degrees than does Island County or the State. Many employers in today's economy require that employees, at a minimum, have Bachelor's Degrees. This finding may make it more difficult for Oak Harbor to attract certain types of employers who require Bachelor's Degrees. At the same time, Oak Harbor has a higher proportion of its population with Associate's Degrees and at least some college than the County or the State. Associate's Degrees are becoming more commonplace in the workforce and more sophisticated as the price of four-year degrees rises. Oak Harbor has an opportunity to capitalize on its high population of persons with Associate's Degrees. In addition, the City may want to work with Skagit Valley College to explore

opportunities for four year degree programs so that those with Associate's Degrees, such as Navy spouses, can graduate with four year degrees, making Oak Harbor a more attractive locale.

- **Workforce age.** Because Oak Harbor has a much younger than average population and workforce, it has special workforce training needs. The City, in coordination with workforce training organizations, should help bring experience and skills to young workers so that it can offset the lack of experience when attracting new employers. In addition, the City should focus on attracting employers with workers in their 30s, 40s, and 50s.
- **Commute patterns.** Oak Harbor's commuters travel by car and less by transit or carpooling than do Island County or commuters across the State. Oak Harbor's drive alone mode share is 84%, a full 10% above the County or the State. This trend is important for economic development purposes, because driving alone is more expensive than taking transit or carpooling, resulting in less disposable income for workers to spend at Oak Harbor businesses.

Oak Harbor has significant challenges that it this report recommends it address, such as high civilian unemployment, low incomes, and unaffordable housing. The City also has opportunities it can take advantage of like the skills and experience of its veterans, quality of life, potential for waterfront recreation and development, and young demographic, and growing population of seniors. To be successful at economic development and encourage diverse, private sector growth, Oak Harbor needs to not lose sight these challenges and opportunities Economic development is a lofty, but achievable goal if Oak Harbor applies appropriate resources to the issue, tackles its problems head-on, and internally cooperates to meet its economic development needs. If it chooses, Oak Harbor can be a standout on economic development in Washington State.

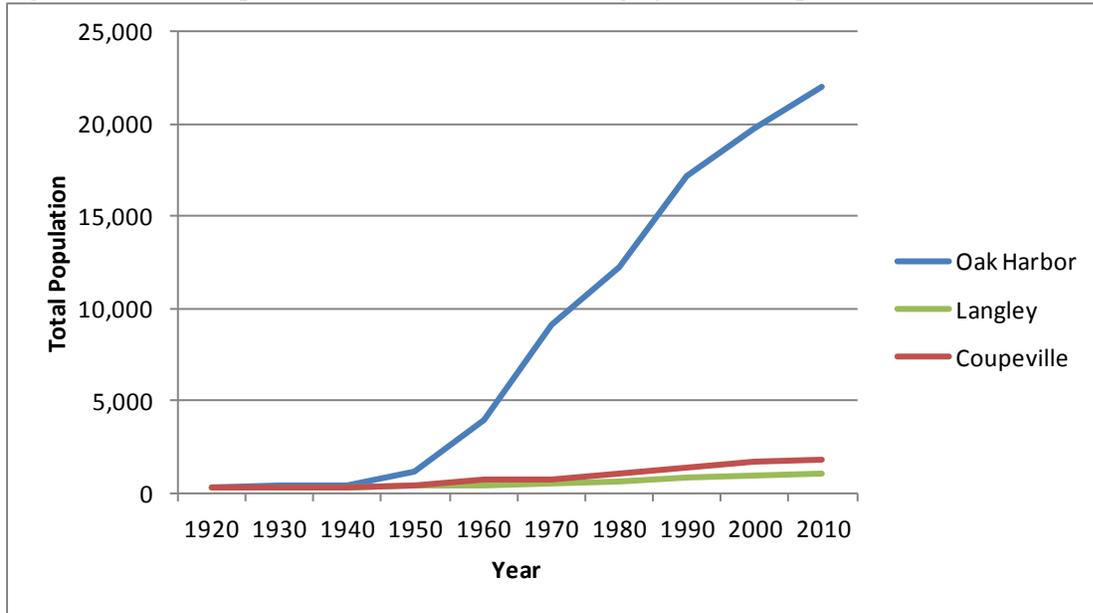
Chapter 1: Population

Metrics

Total Population

Analysis

Figure 1. Total Population in Oak Harbor, Langley, and Coupeville 1920-2010



Source: Washington State Office of Financial Management, April 1 Population Estimates for Cities and Towns

Oak Harbor has grown rapidly since the mid-1940s and the arrival of the US Navy base. Figure 1 shows Oak Harbor’s total population by decade compared to Langley and Coupeville. Each of these cities had approximately the same number of people in 1940, but Oak Harbor’s growth rapidly accelerated from that point forward. The US Navy has been the major economic driver for Oak Harbor.

Table 1. Average Annual Growth Rates by Decade for Oak Harbor, Langley, and Coupeville, 1930–2010.

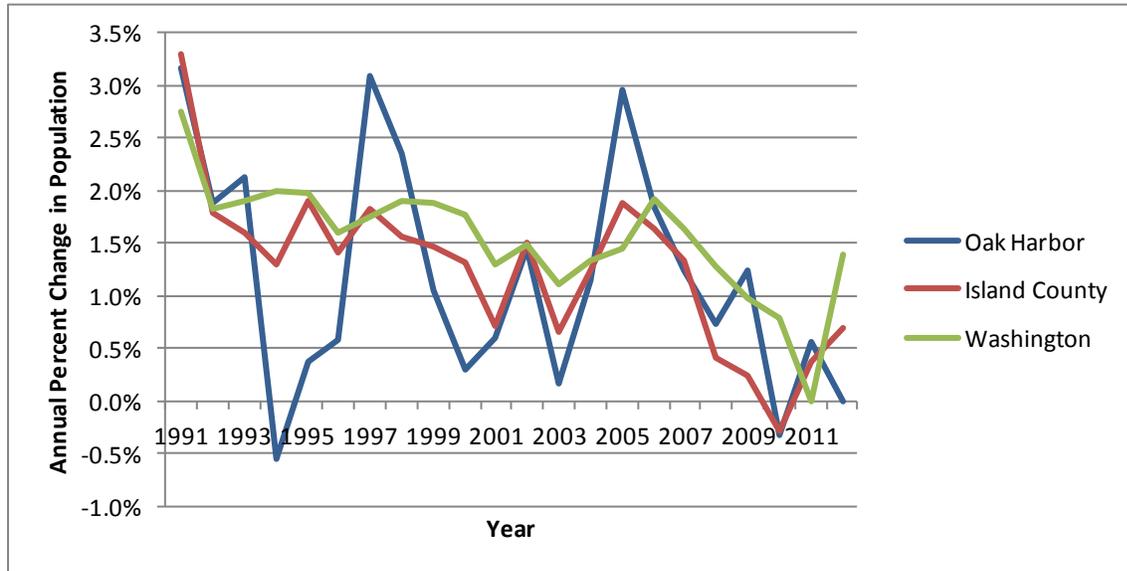
	Oak Harbor	Langley	Coupeville
1920-1930	0.7%	-0.2%	-2.1%
1930-1940	0.4%	2.3%	1.6%
1940-1950	12.2%	2.4%	1.5%
1950-1960	12.7%	0.5%	6.9%
1960-1970	8.8%	2.0%	-0.5%
1970-1980	3.0%	1.8%	3.6%
1980-1990	3.4%	2.6%	3.2%
1990-2000	1.4%	1.3%	2.3%
2000-2010	1.1%	0.8%	0.6%

Source: Washington State Office of Financial Management

Since 1980, however, Oak Harbor’s rate of growth has slowed dramatically. After experiencing growth rates averaging above ten percent per year from 1950 – 1970, Oak Harbor’s population has increased more gradually since 1990 with rates below 1.5 percent—about equal to that of Langley and Coupeville. That annual growth rate is slower than Washington State (1.54 percent), or the statewide average for

cities (2.5 percent) since 1990, suggesting that the US Navy has not been the driver of economic growth that it once was, although that may change again with the arrival of additional P-8A squadrons.

Figure 2. Population Growth Rates for Oak Harbor, Island County, and Washington State, 1991-2012



Source: Washington State Office of Financial Management April 1 Population Estimates for Cities and Towns

Figure 2 shows that Oak Harbor’s growth has not necessarily followed County or State patterns. This may be due to the US Navy employment levels and the resulting variability from deployments and personnel assignments. In 1994, for instance, Oak Harbor’s population declined during the Base Realignment and Closure (BRAC) discussions, whereas the County’s and State’s grew. This demonstrates the effect the US Navy has on Oak Harbor’s population and, consequently, its economy.

Implications for Economic Development

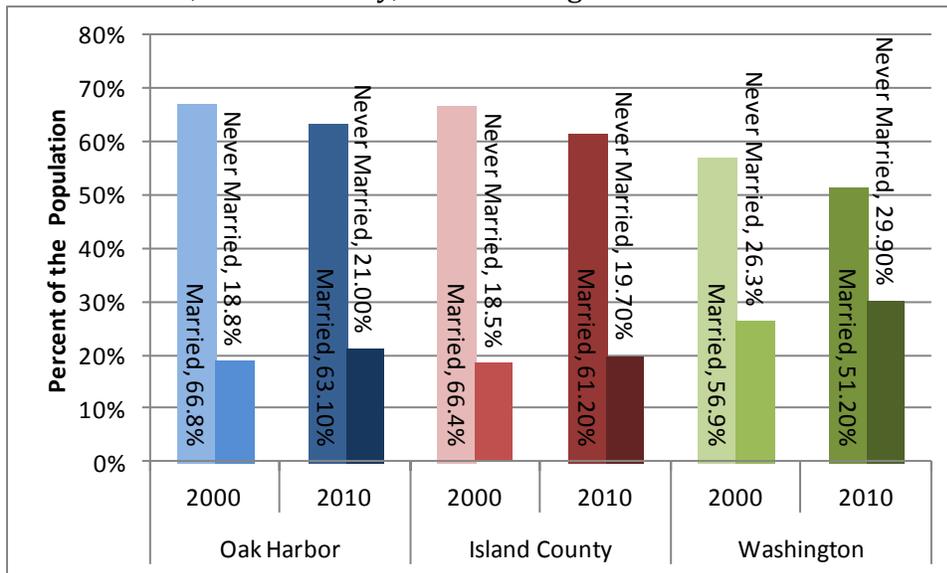
Oak Harbor’s slowing population growth in the past decades and dependence on Federal dollars via the US Navy means that it may likely need to explore economic growth from the private sector going forward. Additionally, because the City of Oak Harbor has a smaller population base and economy than does the County or the State, its annual growth trends are more variable. Changes initiated by the US Navy or Oak Harbor’s other industry sectors can dramatically effect population growth from year-to-year.

Opportunity: The US Navy has provided a stable source of economic growth attracting civilian population as well to spending to Oak Harbor in the post World War II period. The future of NASWI seems solid in the near to medium term with the addition of P-8A squadrons to the base.

Threat: Although the US Navy has been a consistent driver of fast-paced economic growth up until 1990, Oak Harbor has grown much more slowly since then. NASWI will add P-8A squadrons, but political climates and priorities can change in Washington D. C. quickly. Oak Harbor should safeguard against this threat, even if it is remote, by focusing on diverse, private sector growth.

Marital Status Analysis

Figure 3. Percent of the Population Married and Never Married in the Years 2000 and 2010 in Oak Harbor, Island County, and Washington



Source: American Community Survey 3-year estimates for 2009–2011.

Both Oak Harbor and Island County have a higher proportion of the population, which are married than does Washington State. This might be a surprise to some who have viewed Oak Harbor as having more unmarried males and females in their 20s and 30s due to the military influence. In fact, the opposite is true. However, like the Country at large, Oak Harbor’s marriage rates are falling having decreased by 4 percent over the last decade.

Implications for Economic Development

While Oak Harbor’s population is much younger than average as earlier discussed, it also has a larger proportion of married people and this is especially true of people in their 20s and 30s. Fully 58 percent of people aged 20-34 are married in Oak Harbor compared to 47 percent in the County and 32 percent in Washington State.

Married couples have different market needs than do unmarried couples. Married couples share housing, may be looking to settle down, have lower taxes, and perhaps most importantly, often have children. As borne out by the discussion on age, Oak Harbor has a higher than average population of 0-9 year olds which puts special demands on City infrastructure such as parks. The City should relay this information to new and expanding businesses to help them better understand their market.

Looking at the above information, it is probable that Oak Harbor has many young, married couples with one of the spouses in the US Navy. Since US Navy jobs can be transitory, the spouse who is not employed by the US Navy might need living-wage work while stationed in Oak Harbor, but have a hard time finding such work. As a result, the non-military spouse may not work or would settle for low-paying, service sector jobs.

These facts have several implications for economic development in Oak Harbor. First, Oak Harbor may want to look at developing a cutting edge code which encourages neighborhood-based employment so that US Navy spouses can work from home. Flexible live/work housing units might facilitate work for these spouses. Secondly, Oak Harbor should closely consider the work needs of these spouses by

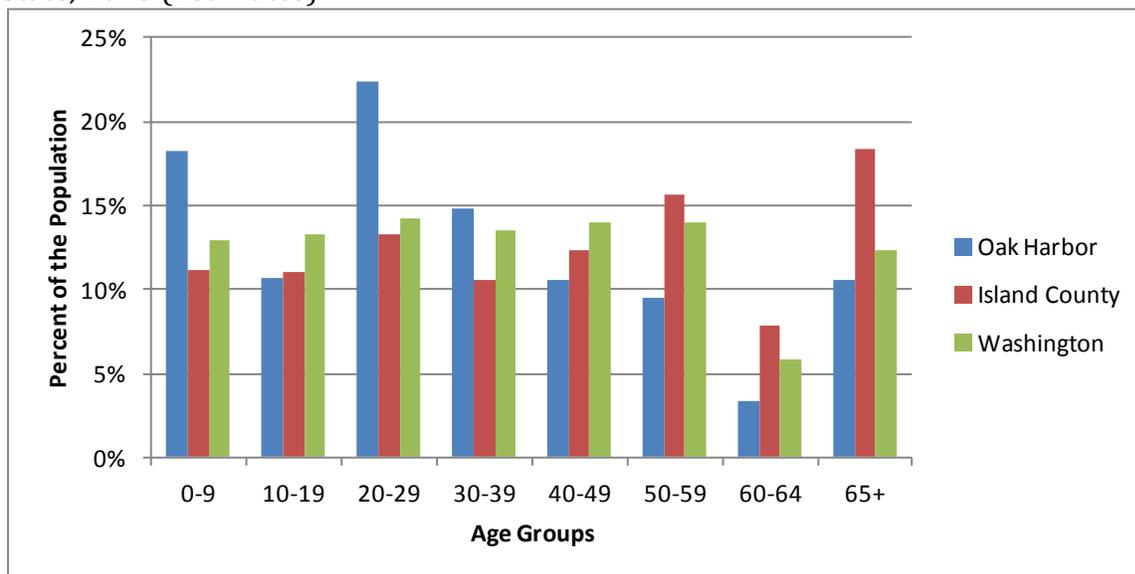
examining their level of education and experience in cooperation with the US Navy. It could then focus on attracting an employer or expanding an existing employer utilizing these skill sets. For example, if it was discovered that many military spouses are trained as nurses or could become nurses with some training, Oak Harbor might focus on attracting health care focused businesses. Given the growing population of seniors, there could be a strategic opportunity for nurse training and work in Oak Harbor.

Opportunity: The Oak Harbor business community has an opportunity to focus on the consumer needs of married couples. Married couples have different consumer preferences than do single people, including for cars, houses, clothing, and if they have children, for children’s items.

US Navy spouses are likely looking for work in their fields. Oak Harbor may have a built-in workforce for new businesses if it can ascertain the training and desired occupations of the spouses.

Age of the Population
Analysis

Figure 4. Age Distribution of the Population for Oak Harbor, Island County, and Washington State, 2010 (Estimates)



Source: American Community Survey 3-Year Estimates for 2009-2011

Not surprisingly, Oak Harbor has a younger population than does Island County or the State. Over 50 percent of Oak Harbor’s population is below the age of 30, as compared with Island County (35 percent) or Washington State (40 percent). Oak Harbor has especially high proportions of children aged 0-9 and people in their 20s. These are not surprising findings given the presence of NASWI. On the other end of the age spectrum, Oak Harbor has fewer persons in their late working years (50 – 64) and senior citizens (65+). However, people age 65 and above are Oak Harbor’s fastest growing demographic having grown 13 percent since 2000.

Implications for Economic Development

In a State which already has a younger than average population than the nation, Oak Harbor’s young demographic is remarkable. Population age has multiple implications for economic development and

attracting new businesses. Oak Harbor can capitalize on its young average age to create a youthful vibe. Younger workers typically have fewer healthcare expenses, but also commonly have less experience and job training. Those in their 20s tend to be more physically active and look for opportunities to be engaged in recreational and social activities. The higher-than-normal percentage of children in the community places a greater need on public services such as schools, parks, and after school facilities/activities. New residents or employees in their 20s with children looking to locate in Oak Harbor will compare the quality of schools, and availability of social activities and physical infrastructure (i.e. parks, trails, and other amenities) to serve their children and themselves.

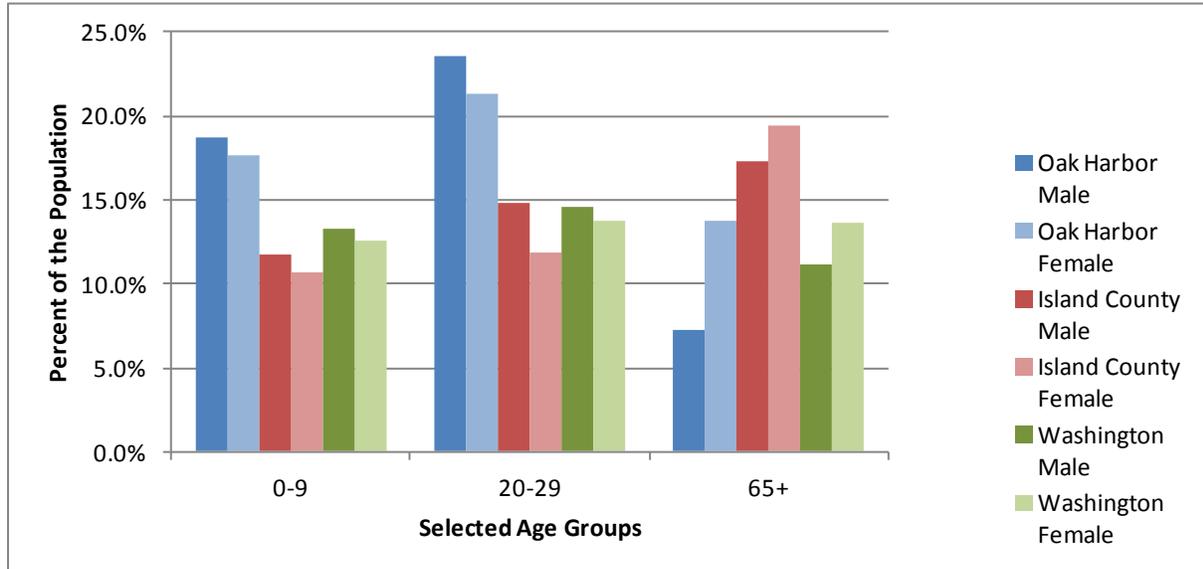
Opportunity: Oak Harbor has the opportunity to tap into advantages of having a large under 30 population. Businesses can market to this demographic by focusing on products and services, which tend to be more in demand by younger people. On the public side, the City might do well to place a greater emphasis on infrastructure investments that cater to the young demographic, such as parks, that serve school-age children or trails that allow for recreational opportunities for those in their 20s and 30s (and older residents too!) The City can capitalize on its youthful population by targeting infrastructure investments and business recruiting with this demographic in mind.

Oak Harbor has a fast growing retirement population which will have special needs of its own such as a quality senior center, as well as infrastructure that meets their needs.

Threat: Oak Harbor's young population also means that it has fewer than average people of prime working age (late 30s, 40s and 50s). Companies seeking an experienced workforce might interpret Oak Harbor's young demographic as a sign of inexperience. The City, non-profits, and businesses should consider training programs and opportunities to help workers obtain, keep, and be promoted in local businesses. Additionally, the City might want to place a greater emphasis on creating an atmosphere and attracting businesses that employ those in their 40s, 50s, and early 60s.

Gender Analysis

Figure 5. Gender for Selected Age Groups in Oak Harbor, Island County, and Washington State, 2010(Estimates)



Source: From the American Community Survey. Figures are 3-year estimates for 2009–2011.

Implications for Economic Development

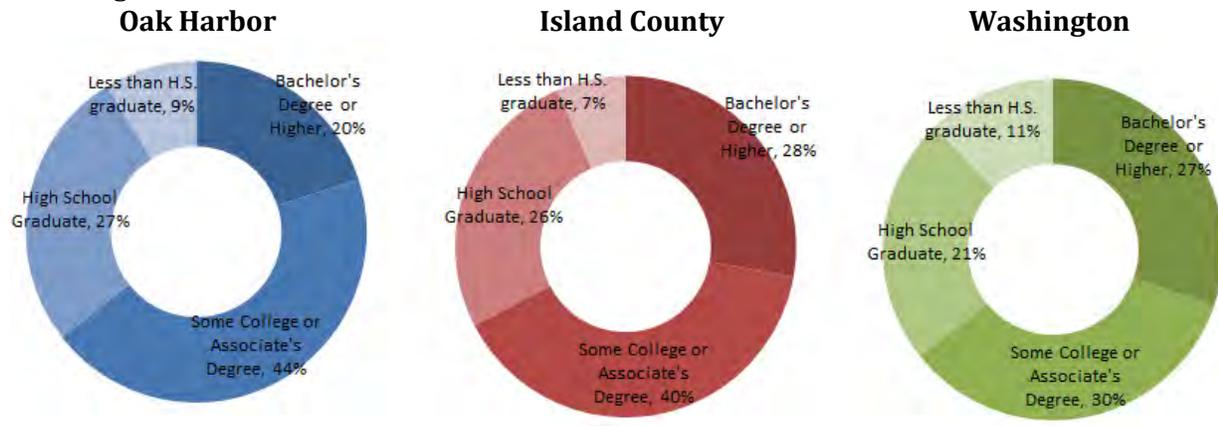
Figure 5 shows the breakdown by gender of the population for selected age groups in Oak Harbor, Island County and Washington State. As discussed earlier, Oak Harbor has significantly more school-age children and 20-somethings than does the County or the State, but far fewer seniors, although seniors are a rapidly growing demographic. Interestingly, the population of females over 65 in Oak Harbor is almost double the male population.

Opportunity: Oak Harbor’s young population presents opportunities to focus business and public investments on this demographic. Additionally, the high proportion of young males means that Oak Harbor has a workforce suited for heavy, manual labor such as construction. The City should seek to recruit businesses which compliment this demographic. The City should also target investments and businesses toward its growing demographic of senior citizens.

Threat: Because Oak Harbor’s population is young, its workforce may have less work experience.

Education Analysis

Figure 6. Educational Attainment for the Population in Oak Harbor, Island County, and Washington in 2010.



Source: 2000 US Census and 2009-2011 American Community Survey 3-year estimates

Figure 6 shows the educational attainment for the population in Oak Harbor, Island County, and Washington in 2010. Oak Harbor has a smaller proportion of the population with bachelors or graduate degrees than does Island County or Washington, but a much larger proportion with Associate's Degrees and some college. These facts have both positive and negative implications for Oak Harbor. Many employers require skilled workforces and employees with Bachelor's Degrees, meaning that it could be more difficult for Oak Harbor to attract that type of employer. On the other hand, Oak Harbor has a higher proportion of the population with Associate's Degrees. There is a high demand for those with Associate's Degrees in trade related industries. In addition, many community colleges are beginning to offer four year degrees for those who already have Associate's Degrees. Associate's Degrees are less expensive and can adequately prepare the degree holder for many job opportunities not otherwise available to them.

Implications for Economic Development

Education is an important consideration for employers when choosing employees and geographic locations and is also an important predictor of an individual's earnings and economic well-being. Bachelor's Degrees are a minimum requirement for an increasingly higher percentage of jobs, especially those which pay a living wage. However, Associate's Degrees are on the rise and are attractive to employers in certain career fields.

Weakness: Because Oak Harbor has a lower proportion of the population which has Bachelor's Degrees, it is likely in a weaker position to attract employers who require a college degree. Oak Harbor should work to support its existing educational institutions such as its public schools and Skagit Valley College. Support could include opening lines of communication to anticipate expansions and development of new schools and campuses in town as well as helping Skagit Valley College capitalize on the trend for community colleges to offer four year degrees.

Opportunity: Oak Harbor's high proportion of the population with Associate's Degrees means that it may have special advantages in attracting employers utilizing the skillset of this workforce.

Threat: Oak Harbor’s lower than average level of Bachelor’s Degrees are a threat to attracting employers who require four year degrees. Oak Harbor should work to emphasize its higher than average proportion of Associate’s Degrees.

Income Analysis

Table 2. Median Household Income in Washington Cities with Populations of 20,000-30,000 for the Years 2000 and 2010 (Estimates)

	2000	2010	% Change
Bainbridge Island	\$ 83,415	\$ 96,130	15%
Camas	\$ 64,885	\$ 77,967	20%
Des Moines	\$ 57,003	\$ 60,762	7%
Kenmore	\$ 72,139	\$ 81,097	12%
Lake Stevens	\$ 68,250	\$ 73,128	7%
Maple Valley	\$ 70,008	\$ 98,264	40%
Mercer Island	\$ 110,830	\$ 123,328	11%
Moses Lake	\$ 42,096	\$ 47,535	13%
Mountlake Terrace	\$ 52,117	\$ 58,018	11%
Mukilteo	\$ 79,487	\$ 93,120	17%
Oak Harbor	\$ 41,579	\$ 50,372	21%
SeaTac	\$ 47,630	\$ 48,319	1%
Average for King County Cities	\$ 71,522	\$ 82,354	15%
Average for Cities Outside King County	\$ 61,690	\$ 70,896	15%
Average for All Cities	\$ 65,787	\$ 75,670	15%

Source: 2000 US Census and 2009-2011 American Community Survey 3-year estimates

Table 2 shows the median household incomes in 2000 and 2010 in Oak Harbor compared to other Washington Cities with populations of 20,000-30,000 people. For both 2000 and 2010, Oak Harbor has a significantly lower household income. Oak Harbor’s income was \$25,298 below the average incomes of cities in its population category. Cities in King County tend to have higher incomes than the remainder of the State and, therefore, skew the average. However, even excluding cities in King County, Oak Harbor’s income was \$20,000 below the average for cities between 20,000 and 30,000. Median household income is a strong predictor of disposable income and purchasing power of consumers. Lower income communities are also indicative of lower-paying jobs.

On a positive note, Oak Harbor’s income grew 21 percent which was faster than the average for all cities in the 20,000-30,000 population group and faster than any single city in that group with the exception of Maple Valley. Although Oak Harbor incomes are low, the gap is narrowing.

Implications for Economic Development

Consumer businesses pay close attention to income statistics. Lower income communities are seen as having less disposable income and less purchasing power. Because income is a primary consideration for new retail businesses, especially national or regional chain businesses, Oak Harbor’s low income level could be sending a strong message to new businesses that there is no market for them here.

Weakness: Oak Harbor’s lower-than-average incomes are a weakness. Oak Harbor should seek to attract new firms from industries with higher wages.

Opportunity: Given that US Navy households receive housing and childcare allowances, Oak Harbor probably has higher disposable income than its gross income figures would suggest. To the degree that this is true, Oak Harbor should broadcast this fact widely to help attract consumer businesses which might otherwise assume Oak Harbor is not a profitable location to do business.

Additionally, many state and federal grants are targeted toward low income communities. Oak Harbor should exploit these funding opportunities.

Threat: Oak Harbor’s lower than average household income means that many mid and high-end consumer oriented businesses may choose not to locate here. Lower incomes are interpreted by businesses as a population which has less disposable income.

Veteran Status
Analysis

Table 3. Veteran Status in Oak Harbor, Island County, and Washington State in 2000 and 2010 (Estimates)

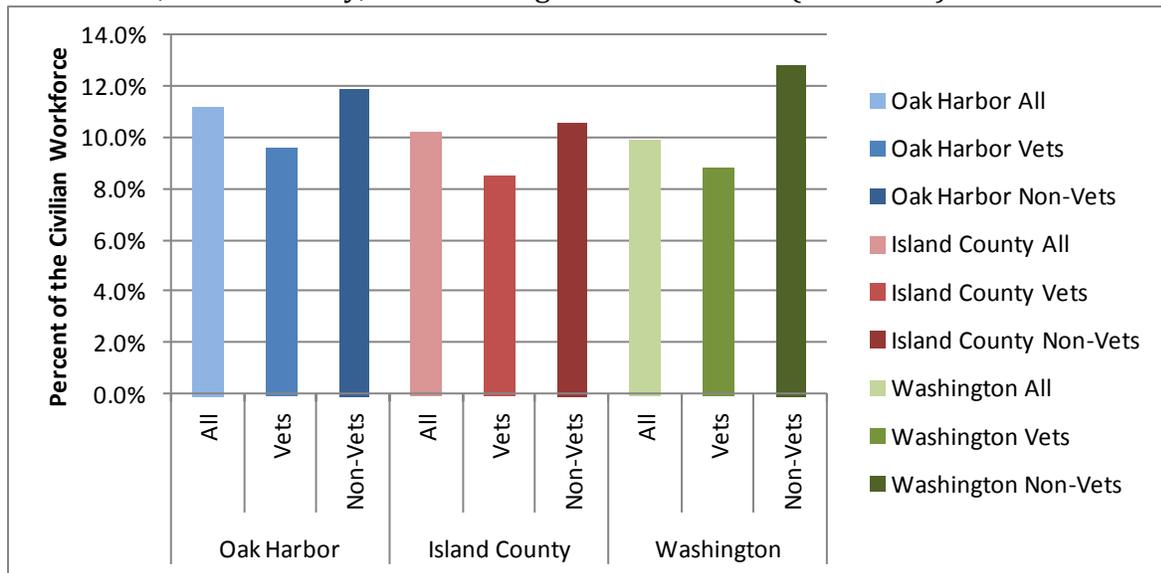
	Oak Harbor		Island County		Washington	
	2000	2010	2000	2010	2000	2010
Total Civilian Population 18 and Over	13,608	13,740	53,352	58,244	4,384,341	5,114,750
Veteran Population	19%	29%	22%	22%	15%	12%
Gender						
Male	81%	75%	89%	85%	93%	92%
Female	19%	25%	11%	15%	7%	9%
Period of Service						
Gulf War (9/2001 or later) veterans	N/A	49.5%	N/A	25.2%	N/A	11.5%
Gulf War (8/1990 to 8/2001) veterans	N/A	36.1%	N/A	25.4%	N/A	18.4%
Vietnam era veterans	N/A	24.2%	N/A	37.1%	N/A	37.6%
Korean War veterans	N/A	4.4%	N/A	8.8%	N/A	10.2%
World War II veterans	N/A	7.3%	N/A	8.5%	N/A	8.0%

Source: 2000 US Census and American Community Survey 2009-2011 3- year estimates
Note: Figures represent percentages of the civilian population 18 and over.

Oak Harbor’s veteran population is large and growing. In 2000, veterans comprised 19 percent of the civilian population 18 years and older and by 2010 it was 29 percent. Island County’s proportion of veterans stayed about the same over the decade and the State’s dropped somewhat. The overwhelming proportion of veterans are male in all locations. It is notable, however, that Oak Harbor’s female veteran population grew by six percentage points over the decade and is much higher than in the County or the State.

Oak Harbor also has an entirely different mix of veterans than does the County or the State. Oak Harbor’s veterans are younger and have served more recently and are more likely to be female. Nearly 50 percent of Oak Harbor’s veterans are from the second Gulf War, having served since 2001 and another 36 percent are from the first Gulf War having served in the 1990s. Oak Harbor’s veterans contrast greatly with Island County and the State which have much higher proportions who served in the Vietnam War.

Figure 7. Unemployment Rates for the General Population, Veterans, and Non-Veterans in Oak Harbor, Island County, and Washington State in 2010 (Estimates)



Source: American Community Survey 2009 – 2011, 3-year estimates

Figure 7 shows the unemployment rates for the general population, for veterans, and for non-veterans in 2010. Veterans had lower unemployment rates than did the general population or non-veterans. Unfortunately, Oak Harbor had a higher unemployment rate among the general population and veterans than did Island County or Washington State in 2010.

Because the nation has volunteer armed forces it isn't uncommon for today's veterans separating from service to have Associate's or Bachelor's Degrees and some private sector job experience. Oak Harbor can capitalize on its larger proportion of veterans in attracting new employers.

Implications for Economic Development

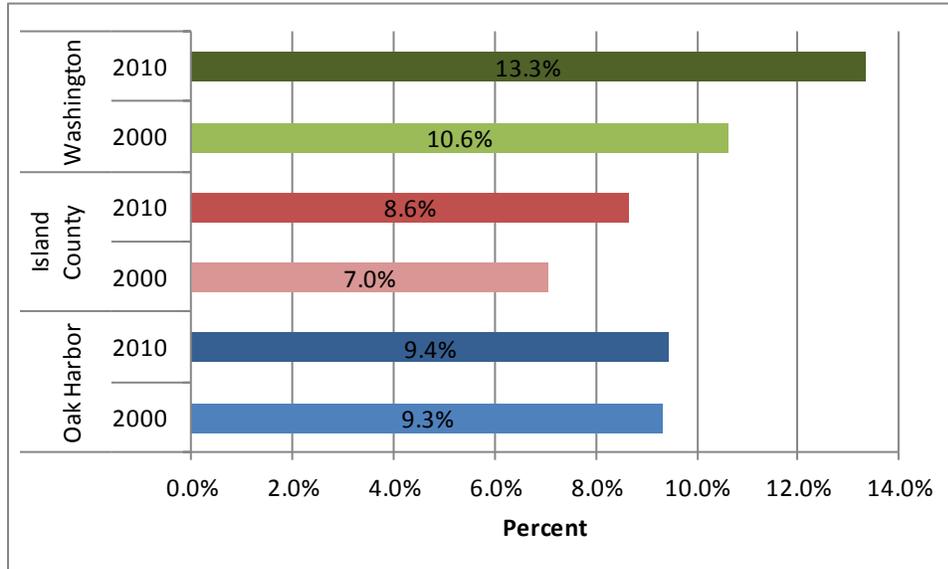
Oak Harbor's veteran population has a higher unemployment rate than does Island County or the Washington State. This is probably due to the characteristics of the veteran population: they are younger and are freshly returned from service and have had less time to adjust to civilian life. The higher unemployment rates can also be partly explained by the fact that Oak Harbor's economy in general is overly concentrated on a few industry sectors.

Job training programs can help specific populations find jobs, train for those jobs, and readjust to civilian life. WorkSource Northwest, part of the Workforce Development Council, has a career center on Highway 20 which helps the unemployed find and train for jobs. WorkSource has specific job training programs for veterans. The City should help spread the word to local businesses and the US Navy about WorkSource and its benefits to them in helping veterans train for jobs offered by local businesses.

Opportunity: Oak Harbor is blessed to have a high proportion of veterans due to the influence of NASWI. Veterans bring unique life experiences that give them skills to succeed in the private sector and have lower unemployment rates than the population at large. Many US Navy personnel have skills-related training which can help them succeed in the private sector. Oak Harbor should become more aware of the skills of its veterans and attract businesses which use these skills. This could be done by opening better lines of communication with the US Navy.

Poverty Status Analysis

Figure 8. Poverty Status for Oak Harbor, Island County, and Washington State in the Years 2000 and 2010 (Estimates)



Source: 2000 US Census and American Community Survey 3-year estimates, 2009-2011.

Poverty is defined by income and the number of persons in a household. For a household of four, poverty level in 2011 was about \$23,000 according to the US Census Bureau. Oak Harbor had a higher poverty level than Island County in 2000 and 2010, but lower than Washington State in those years. Interestingly, the poverty rate grew by almost two percentage points in Island County and more than two percentage points in Washington in the decade, but was static in Oak Harbor.

Implications for Economic Development

Poverty status is one indicator of economic health. People in poverty tend to use more assistance services from churches, non-profits, and government for food, housing, healthcare, etcetera. Fortunately, Oak Harbor's poverty rate does not seem to be growing.

Poverty cycles can be hard to break because poverty is generational: parents pass on financial habits to their children which can contribute to cyclical poverty. Poverty affects a community's economic development potential, because it affects the image of a community. Communities seen as impoverished are less likely to attract new businesses or be visited by tourists. The root causes of poverty are difficult to explain and even harder to address at a municipal level.

Weakness: Oak Harbor's poverty rates are within state norms. But, to the degree that poverty does exist in Oak Harbor, it is a weakness because it tends to be associated with other social problems such as crime, low educational levels, and lack of economic development. Since Oak Harbor's poverty rates are within norms, we do not suggest particular programmatic or policy recommendations at this time.

Chapter 2: Housing

Metrics

Number of Units and Tenure (Own vs. Rent)

Analysis

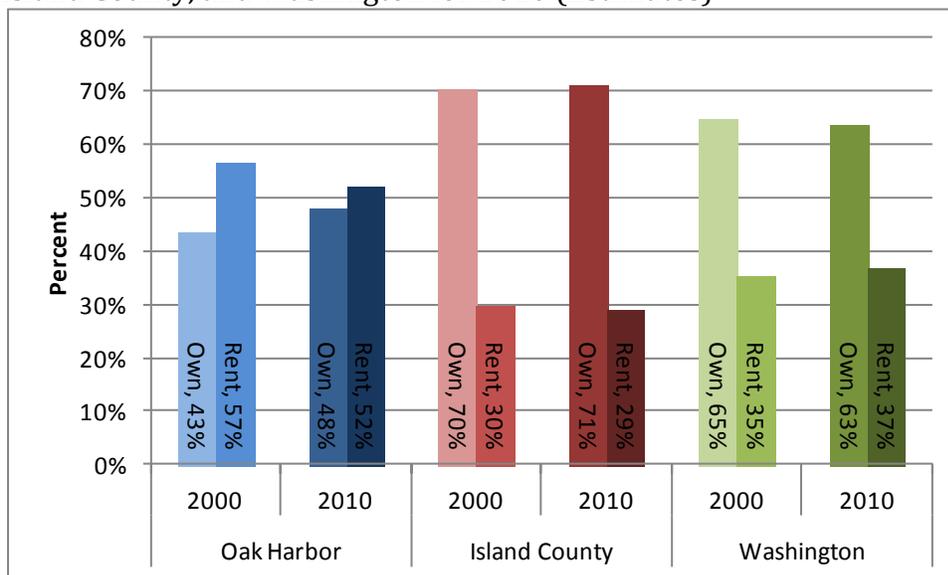
Table 4. Number of Housing Units for Oak Harbor, Island County, and Washington for 2000 and 2010 (Estimates)

Year	Oak Harbor			Island County			Washington State		
	2000	2010	Growth	2000	2010	Growth	2000	2010	Growth
Number of Units	7,736	9,799	26.7%	32,378	40,328	24.6%	2,451,075	2,890,127	17.9%

Source: 2000 US Census and American Community Survey 2009 – 2011 3-year estimates

Table 4 shows the number of housing units in Oak Harbor, Island County and Washington State in the years 2000 and 2010, as well as the percentage increase in the number of units over the decade. Oak Harbor’s unit supply grew slightly faster than the County and much quicker than did the State over that period.

Figure 9. Percent of Housing Units Owned or Rented in 2000 and 2010 in Oak Harbor, Island County, and Washington for 2010 (Estimates)



Source: American Community Survey 2009–2011 3-year estimates

Figure 9 shows the mix of housing units which are owned versus rented in Oak Harbor, Island County and Washington State for the years 2000 and 2010. In contrast to Island County, the State and most communities across the country, Oak Harbor has more units which are renter-occupied than owner-occupied. The percentage of owner-occupied units did increase over the decade, even considering that the opposite was true for the State as a whole. Oak Harbor’s own versus rent mixture has special implications for land use planning and the local economy. With so many renter occupied units, Oak Harbor needs to make sure it is planning adequately for housing which accommodates renters such as duplexes, townhouses, and apartments. Since US Navy personnel occupy so many of Oak Harbor’s units,

planning for enough multifamily units will help ensure that housing is affordable and meets the needs of Oak Harbor’s largest employer over the long run.

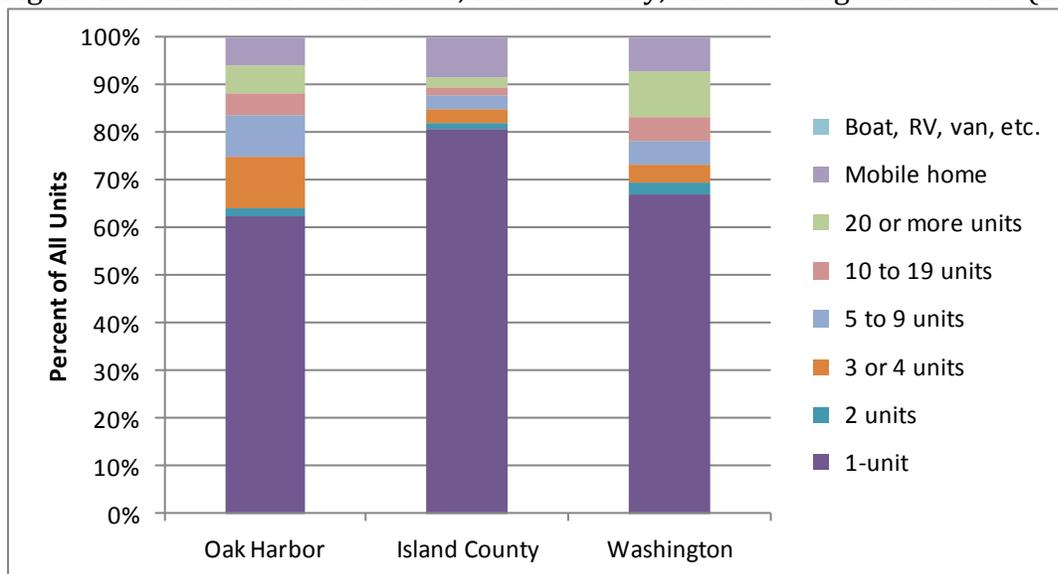
Implications for Economic Development

The City of Oak Harbor should ensure that it has adequate land supply to meet the future needs of all types of housing. Too little land in particular categories will constrain the supply and employees and employers will look elsewhere for housing. The City should regularly check the supply of units within the City in each category and ensure that there is adequate vacant land to provide for additional units based upon absorption rates.

Opportunity: Oak Harbor’s housing stock grew faster than Island County or the State in the decade 2000-2010. Housing growth brings some construction jobs and spending to a community’s economy. Additionally, a growing housing stock helps keep housing prices low which, in turn, helps attract new residents. Oak Harbor’s tenure mix is heavily weighted toward renters. Renters typically have smaller household sizes and seek smaller housing units, which are usually built at greater densities. Greater densities, especially in infill areas, can help Oak Harbor make better use of infrastructure (roads, sewers, water, stormwater, parks, etc.) and build a vibrant central core.

Unit Mix Analysis

Figure 10. Unit Mix in Oak Harbor, Island County, and Washington for 2010 (Estimates)



Source: American Community Survey, 2009–2011 3-year estimates

Figure 10 shows Oak Harbor’s existing unit mix. Oak Harbor’s housing stock is more diverse, having greater proportions of units in different categories than is Island County or Washington State. Nonetheless, as with most communities around the country, the vast majority of Oak Harbor’s housing units are single-family residences. Given that Oak Harbor’s tenure mix is slanted toward renter-occupied housing, it is possible that there is a shortage of multifamily units in the community to serve renter’s needs.

Implications for Economic Development

Although Oak Harbor has a more diverse unit mix than most communities, its unit mix is still predominantly single-family residences. Single-family houses tend to have higher mortgages and rents than do multi-family units or mobile homes. Given that Oak Harbor has more renters than owners and yet its housing stock is predominantly single-family, there is quite possibly a shortage of multifamily units in the City. Anecdotal evidence from conversations in the Development Services Department with property owners and neighbors indicate that many single-family houses are being rented, sometimes with multiple families in one unit. Many Navy personnel rent multifamily units with multiple people in each bedroom. Many of these people would likely choose to have their own unit, if it was available and affordable.

The mismatch between owner and renter mix and the availability of units is an important quality of life factor for economic development. Overcrowded single-family houses create parking problems in neighborhoods and a general perception that the neighborhood is in decline. The City should examine the mismatch issue further and, depending upon the conclusions, make more land available for duplexes, townhomes, condominiums, and apartments.

Opportunity: Oak Harbor’s unit mix has a greater diversity than Island County or the State, but the unit mix does not match the tenure. Oak Harbor should explore making a greater amount of land available for more diverse housing stock. The land can include, not only undeveloped green fields, but infill parcels within already developed areas of the City. A greater diversity of units tends to help economic development since future employees are more likely to find the type of housing they desire within the City instead of searching elsewhere.

Threat: The apparent mismatch between tenure and housing type could hinder economic development in the City. Anecdotal evidence shows that multiple families are living in single-family houses, creating impacts for neighborhoods and perceived overcrowding issues. Workers who cannot find the type of housing they need may live in other communities and spend their incomes in those communities, rather than Oak Harbor. Employers looking to locate in Oak Harbor may conclude that the housing stock does not match their worker’s needs and may locate their business elsewhere.

Physical Characteristics

Analysis

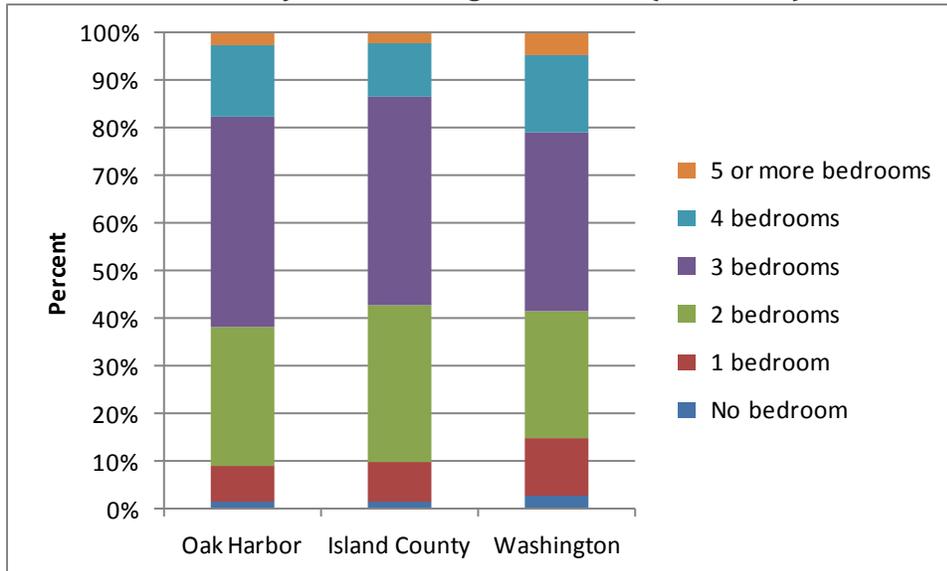
Table 5. Median Number of Rooms per Housing Unit in Oak Harbor, Island County, and Washington 2000 and 2010 (Estimates)

	Oak Harbor		Island County		Washington	
	2000	2010	2000	2010	2000	2010
Median # of Rooms	5.0	5.2	5.5	5.5	5.4	5.5

Source: 2000 US Census and American Community Survey 2009-2011, 3-year estimates

Table 5 shows the median number of rooms for houses in Oak Harbor, Island County, and Washington in 2000 and 2010. Oak Harbor houses had about six percent fewer rooms than did houses in Island County or Washington. Over the decade, Oak Harbor houses came closer to the median number of rooms provided in houses in Island County and the State.

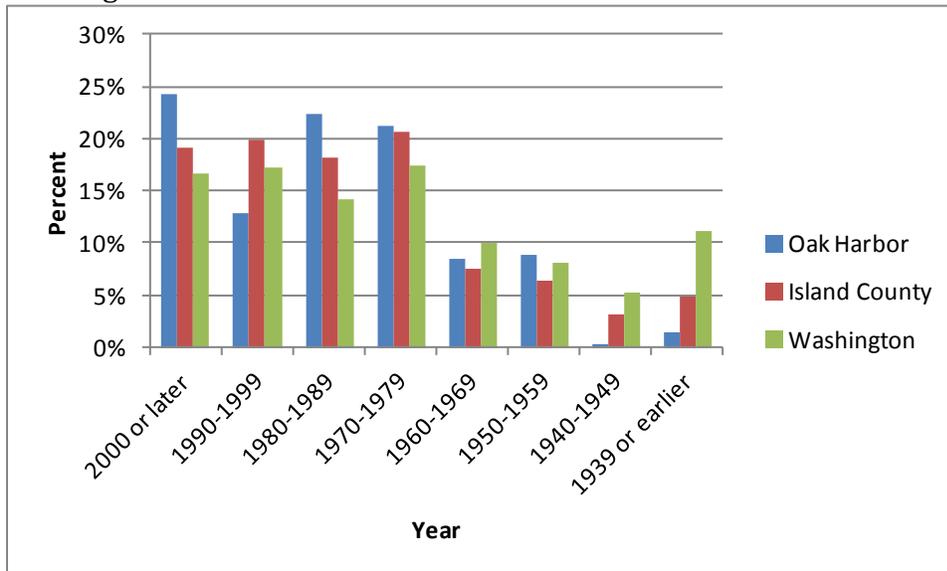
Figure 11. Percentage of Housing Units Having Specified Number of Bedrooms for Oak Harbor, Island County and Washington in 2010 (Estimates)



Source: American Community Survey 2009-2011, 3-year estimates

Table 6 shows the percent of housing units in Oak Harbor, Island County, and Washington having a specified number of bedrooms. Oak Harbor’s housing stock is very similar to that of Island County and Washington. Most houses in each jurisdiction are two or three bedroom units with a smaller stock of two and four bedroom units. However, Oak Harbor has a smaller proportion of 1-bedroom units than Island County or Washington which is somewhat surprising given the number of renters it has.

Figure 12. Distribution of Housing Units by Year Built for Oak Harbor, Island County, and Washington



Source: American Community Survey 2009-2011 3-year estimates

According to Figure 12, Oak Harbor’s housing market boomed in three decades: the 1970s, 1980s and the 2000s. Nearly 70 percent of all Oak Harbor housing stock was built in these three decades. Thus, Oak Harbor’s housing stock tends to be somewhat newer than that in Island County or Washington.

Implications for Economic Development

Oak Harbor’s housing stock is more diverse (greater number of styles), has fewer rooms on average, is slightly newer, and has about the same mix of bedrooms as compared with housing in Island County and Washington State.

Since housing takes up the majority of land in almost any community, it has a large part in defining the character of the community. Neighborhoods are where people and families spend most of their time. Oak Harbor needs to pay special attention to how its new neighborhoods develop since this will largely be the future character of the community. Housing quality and price are primary considerations for attracting new residents and employees to the City.

Strength: Oak Harbor’s housing stock tends to be newer than what is found in the County or the State. All things considered, newer housing tends to be more attractive than older housing for most owners. Thus, a newer housing stock may help attract employees and businesses to the area.

Weakness: Oak Harbor needs to ensure that its housing stock meets quality standards so that its houses are appealing for generations to come not just for the first or second owner. The City should analyze the pros and cons of design regulations to ensure that homes have character and maintain desirability for years to come and, thus, help make Oak Harbor attractive to future businesses and residents, especially in areas of town where older houses are located and infill housing may have impacts on the neighborhood. A frequently cited assertion in the community is that many US Navy officers live in Anacortes due to the lack of higher quality housing units in Oak Harbor. Further, Oak Harbor has a relative lack of one-bedroom units compared to Island County and the State. Providing for more one bedroom units may help ease overcrowding situations in existing neighborhoods where single-family homes have more than one family.

Vacancy Analysis

Table 6. Vacancy Rates for Owned and Rented Housing Units in Oak Harbor, Island County, Washington, and the US in 2010

	Oak Harbor		Island County		Washington		US	
	2000	2010	2000	2010	2000	2010	2000	2010
Owner	2.8	3.5	2.2	3.0	1.8	2.4	1.7	2.4
Renter	4.0	8.9	5.1	8.7	5.9	7.0	6.8	9.2

Source: American Community Survey 3-year estimates for 2005-2007, 2006-2008, 2007-2009, 2008-2010, and 2009-2011

Table 6 shows the owner and renter vacancy rates in Oak Harbor, Island County, Washington, and the Nation in 2000 and 2010. Vacancy rates for owner occupied housing in Oak Harbor have historically been somewhat higher than the other geographies. Rental housing had much lower vacancy rates in 2000 in Oak Harbor than the County, State or Nation, but by the end of the decade, the rate exceed that of the County or the State and was slightly less than that of the Nation. Because Oak Harbor is a smaller housing market than the other geographies, its vacancy rate has fluctuated more. In addition, deployments and transfers of military personnel likely also affect Oak Harbor’s rental market.

Implications for Economic Development

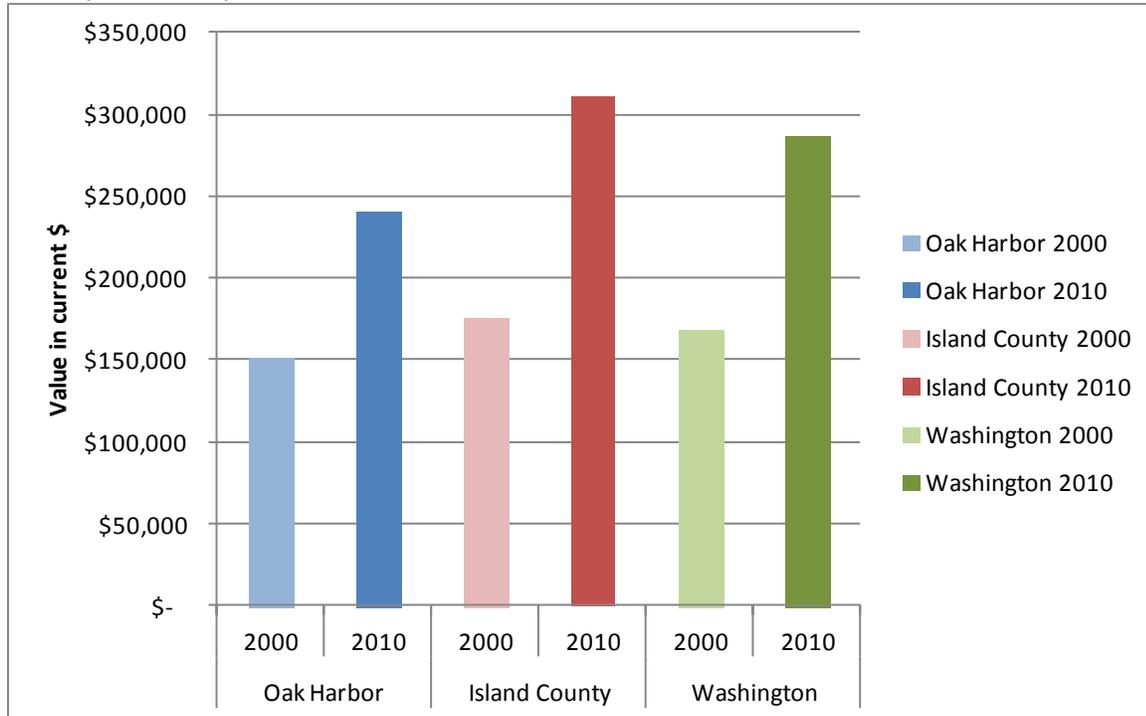
Oak Harbor’s landlords face special challenges in keeping units rented due to the turnover in military population, especially during times of conflict and war when deployments are greater. Vacancy for both

owner and renter occupied housing will decrease as Oak Harbor’s population grows over the next decade.

Weakness: Oak Harbor faces greater challenges in its housing units occupied due to military deployments and transfers.

**Values
Analysis**

Figure 13. Home Values in Oak Harbor, Island County, and Washington State for 2000 and 2010 (Estimates)



Source: 2000 US Census and American Community Survey 2009-2011 3-year estimates

Oak Harbor’s housing costs have increased by 58 percent over the last decade from a median of about \$150,000 to \$241,000. Although the increase has been steep, it has not been as dramatic as the increases in Island County and the Washington State which rose over 70 percent. Median home values in Island County are over \$300,000 which are 25 percent higher than those in Oak Harbor.

Implications for Economic Development

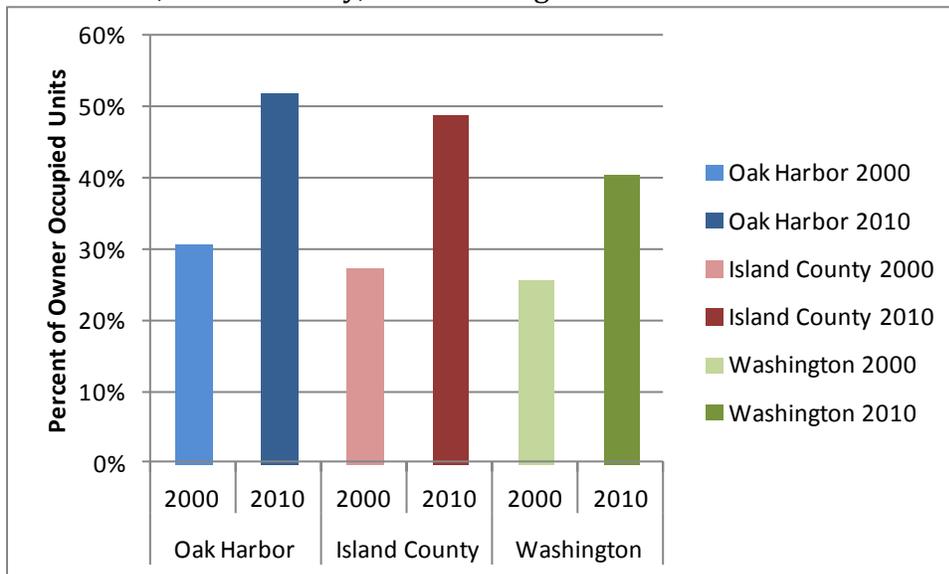
Average home prices in Oak Harbor are lower than Island County and the Washington State. Lower housing costs, considered in isolation, attract new residents to Oak Harbor, because Oak Harbor is a more affordable place to live than the rest of the Island or the State. However, an important question remains: is Oak Harbor affordable to its current residents and workers?

Strength: Oak Harbor’s relatively lower home prices as compared with Island County and the State are a comparative advantage in attracting new residents and new employers.

**Housing Affordability
Analysis**

The housing industry and the Federal government have long considered 30 percent of gross monthly income to be the maximum a household should spend on housing costs. Households which spend more than 30 percent of their income on housing are considered to be living in unaffordable housing and will likely cut back on other essential items such as food, clothing or transportation to make rent payments. In this context, housing costs include mortgage or rent and utilities.

Figure 14. Percent of Owner Occupied Households for Which Housing is Unaffordable in Oak Harbor, Island County, and Washington in the Years 2000 and 2010 (Estimates)

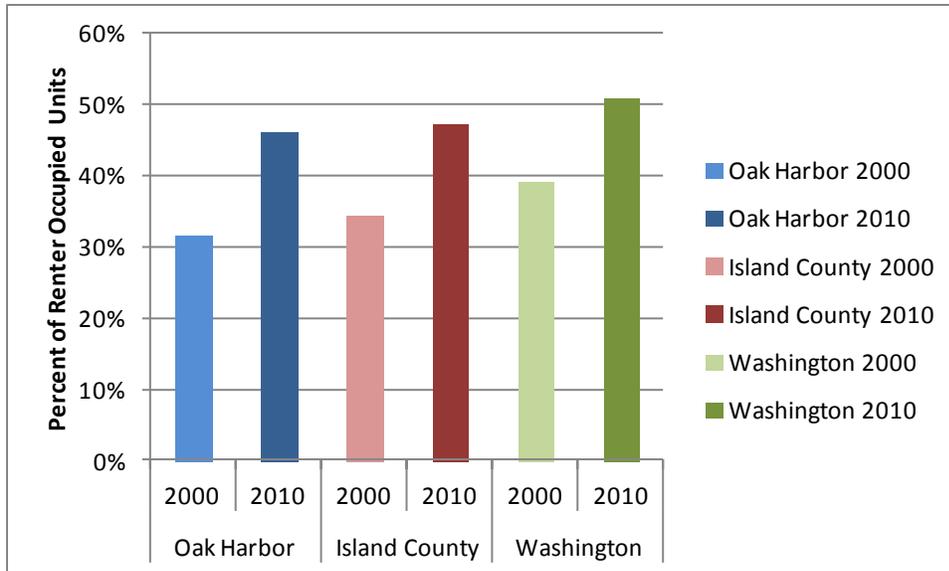


Source: American Community Survey 2009 – 2011 3-year estimates.

Housing cost is just one component of affordability with income being the other. An important question to consider for economic development is: are Oak Harbor’s home prices affordable to its existing residents?

To aide in answering that question, Figure 14 shows the percentage of owner-occupied households which paid more than 30 percent of their income in housing costs (including mortgage and utilities) for Oak Harbor, Island County, and Washington. In 2000, housing was unaffordable to 31 percent of owners in Oak Harbor in 2000. By 2010, the problem had worsened in Oak Harbor: 51 percent of households paid more than 30 percent of their income in mortgage compared to 49 percent in Island County and 41 percent in Washington.

Figure 15. Percent of Renter Occupied Households for Which Housing Was Unaffordable in 2000 and 2010 (Estimates)

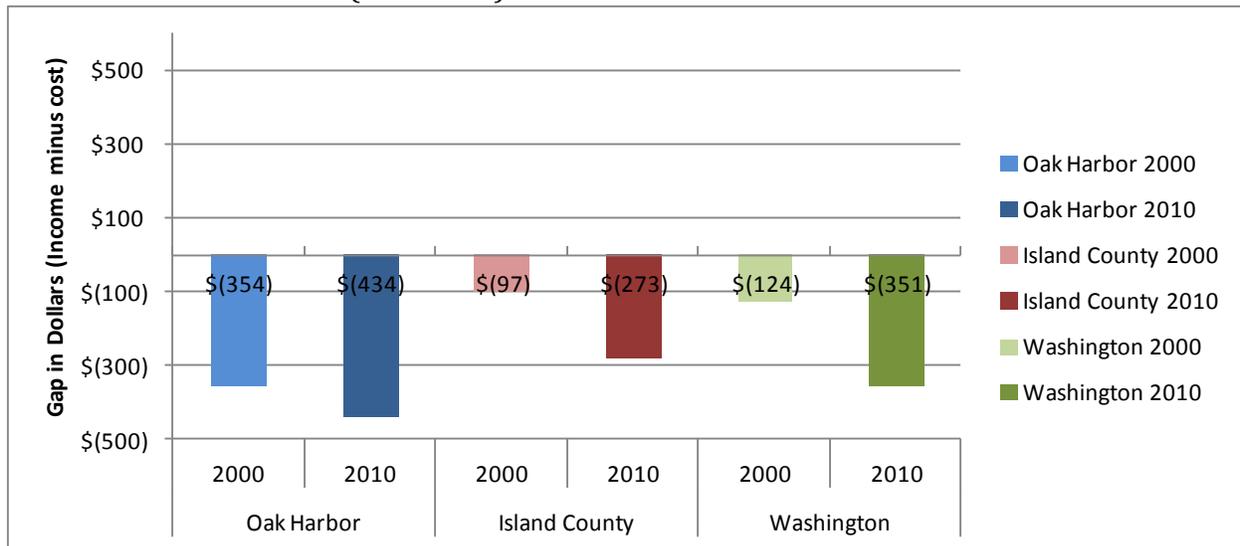


Source: 2000 US Census and American Community Survey 2009–2011, 3-year estimates.

Figure 15 shows the percent of renter-occupied households paying more than 30 percent of their income in rent for Oak Harbor, Island County, and Washington. Housing was unaffordable to 46 percent of households in 2010 in Oak Harbor. That percentage grew by 15 percent from 2000 to 2010. Rental housing is more affordable in Oak Harbor than Island County or the State.

Another measure of affordability is the affordability gap. Figure 16 shows the affordability gap for owner-occupied units in Oak Harbor, Island County, and Washington. The affordability gap is calculated as 30 percent of median household income (affordable housing cost) minus median housing costs. In 2000, median monthly housing costs exceeded what the median household could pay by \$354 in Oak Harbor and this gap grew to \$434 by 2010. Even though housing costs were more in Island County and Washington, Oak Harbor's affordability gap was larger.

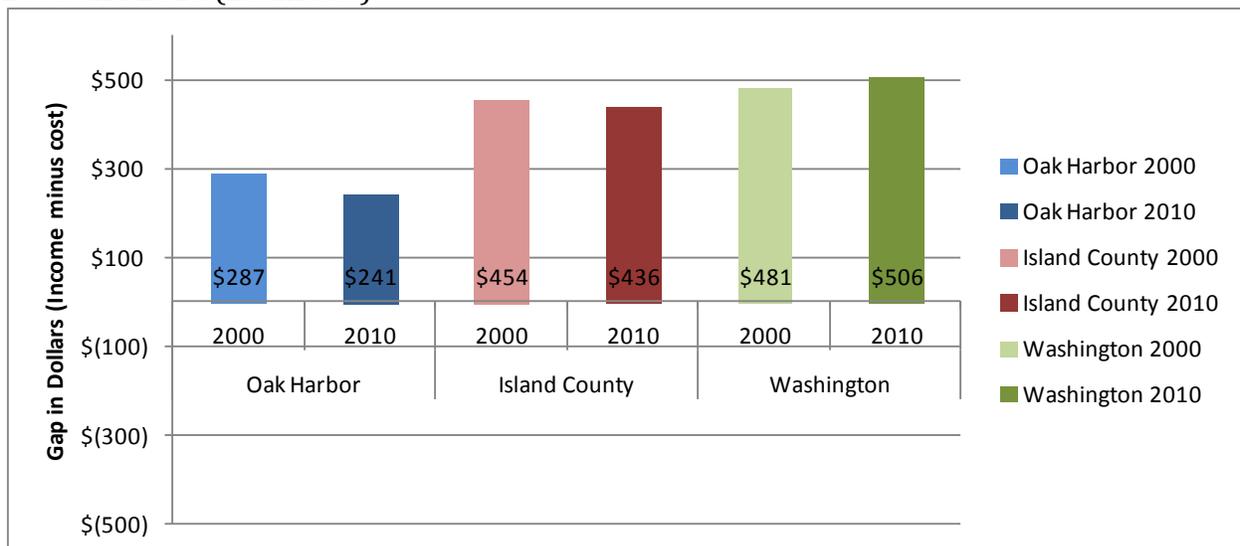
Figure 16. Owner Occupied Affordability Gap for the Median Household (\$ per Month) for the Years 2000 and 2010 (Estimates)



Source: 2000 US Census and American Community Survey 2009–2011 3-year estimates

For rental units, the story is different. The median household income is still adequate to rent housing in Oak Harbor. Figure 17 shows that monthly housing costs were less than what was considered affordable for the median household. In other words, for the median household, rental units are still affordable in Oak Harbor, although becoming less so. Additionally, rental units are less affordable in Oak Harbor than in Island County or Washington when compared to median incomes.

Figure 17. Renter Occupied Affordability Gap for the Median Household (\$ per Month) for 2000 and 2010 (Estimates)



Source: 2000 US Census and American Community Survey 2009–2011, 3-year estimates

Implications for Economic Development

It is less expensive to rent or own a housing unit in Oak Harbor than Island County or Washington. Nevertheless, Oak Harbor households pay more for housing as a percentage of their incomes than do Island County or Washington State residents. The fact that housing is less affordable in Oak Harbor even

though its housing costs are lower means Oak Harbor resident's incomes are much lower than average. The affordability issue has broad implications for economic development.

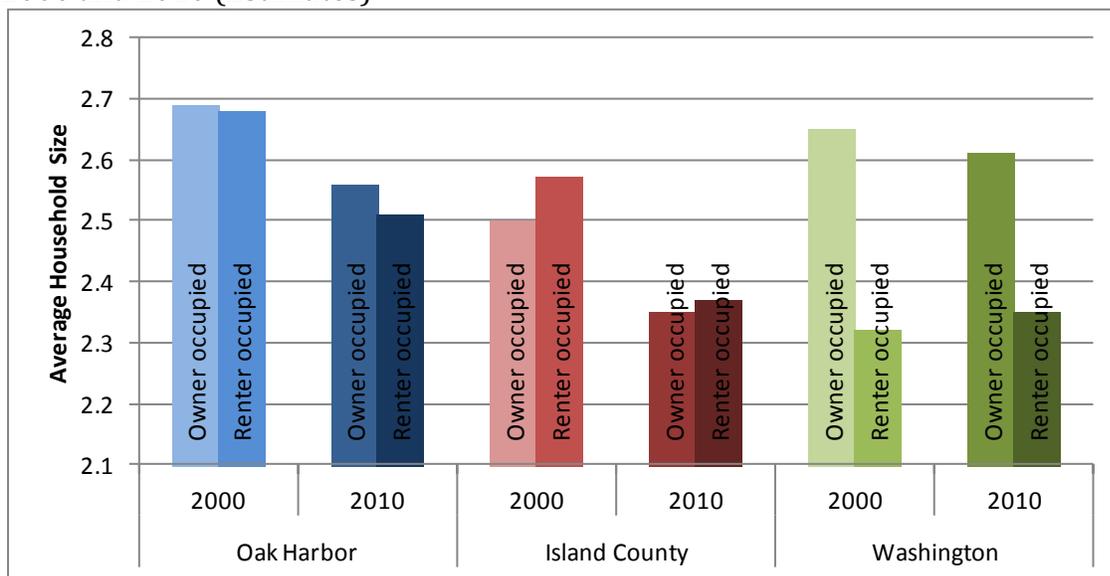
On one hand, housing is less expensive in Oak Harbor than in the County or the State, so that is an impetus for new residents and businesses to move to Oak Harbor. On the other hand, it is not affordable to own a house in Oak Harbor for existing residents. As new residents come to Oak Harbor, they will likely drive up the average cost of housing, making Oak Harbor even less affordable for existing residents and workers. People who already live in Oak Harbor may have to move elsewhere to find affordable housing and would be highly likely to leave the Island.

Since it is unaffordable to own a house in Oak Harbor, but remains affordable to rent, the City may need to explore what it can do to supply different ownership opportunities such as duplexes, condos, or townhouses which cost less than single-family and can be owned. Rezoning some land for these uses might help address this situation.

Weakness: Oak Harbor has an affordability problem for existing residents, which threatens to undermine economic growth because residents and employees will choose to move elsewhere. Because we know that housing prices are lower in Oak Harbor than Island County or the State, Oak Harbor's housing affordability problem is almost entirely related to the low income of its residents. Nevertheless, Oak Harbor should explore strategies to maintain an adequate supply of housing and to reduce the effects of housing price inflation that come from constrained supply.

Household Size Analysis

Figure 18. Average Household Size in Oak Harbor, Island County, and Washington State in 2000 and 2010 (Estimates)



Source: 2000 US Census and American Community Survey 2009-2011, 3-year estimates.

Household sizes are dropping across the nation and the state as fewer people get married, have kids, and divorce rates increase. Oak Harbor's household size dropped about six percent over the decade, versus seven percent in the County and just one percent in the State. Smaller household sizes likely

mean that demand is increasing for smaller units. As evidence of this, there is a nationwide trend toward smaller housing near downtowns located close to services and amenities.

Implications for Economic Development

Smaller household sizes mean that Oak Harbor's housing stock will need to change and adapt in the future to accommodate this trend. Oak Harbor should remove barriers to building multifamily housing in existing neighborhoods.

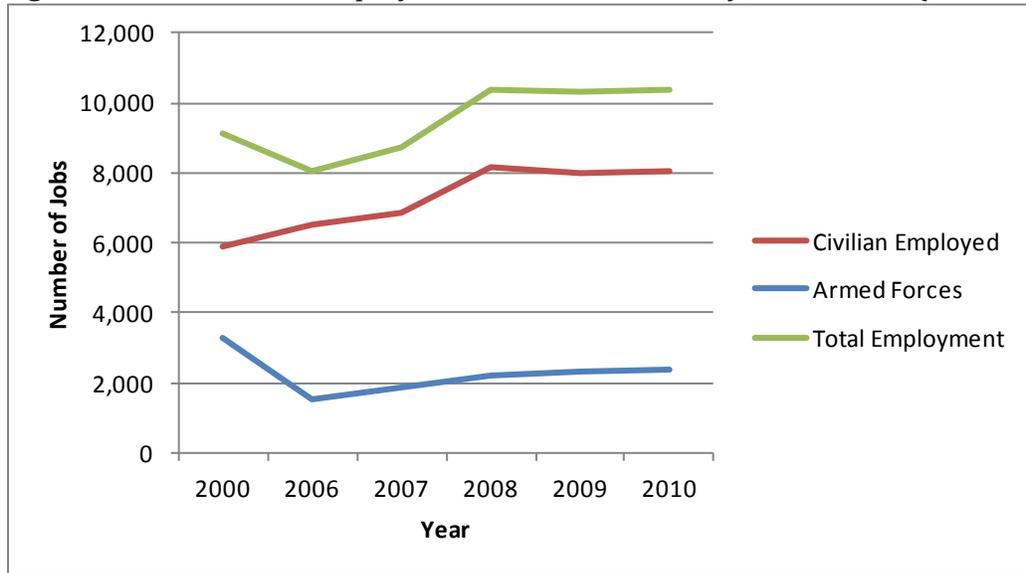
Opportunity: The decreasing household sizes represent an opportunity for the City to explore rezoning land which encourages different types of residential units such as condos, townhouses, and apartments which are tastefully integrated into existing and new neighborhoods.

Threat: The decreasing housing size could mean that Oak Harbor's housing stock, which is heavily slanted toward single-family units, becomes outdated and too large for smaller household sizes. Thus, the City should proactively track the supply of land zoned for all types of housing to make sure that it has enough land to meet future needs.

Chapter 3: Economy

Employment Analysis

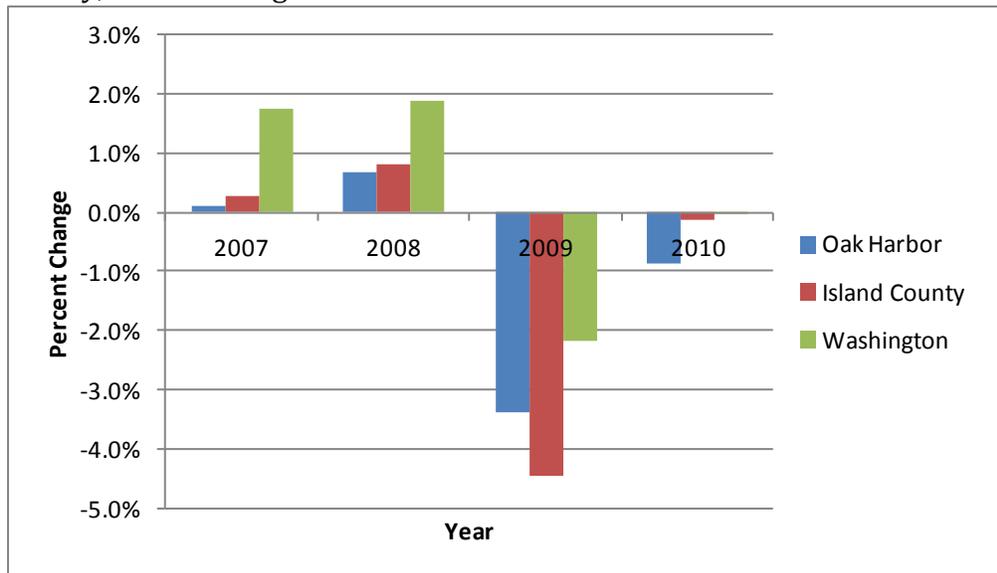
Figure 19. Oak Harbor Employed Civilians and Military, 2000-2010 (Estimates)



Sources 2000 US Census and American Community Survey 3-year estimates for 2005-2007, 2006-2008, 2007-2009, 2008-2010, and 2009-2011.

Oak Harbor's total employment dropped between 2000 and 2006, climbed steadily from 2006-2008, and has remained level since. The drop in employment from 2000-2006 was almost entirely due to a decrease in armed forces employment in those years, possibly due to personnel deployments overseas. Civilian employment grew between 2000-2008, but has since remained flat. Armed forces employment represented more than one-third of all employment within City limits in 2000, but has since fallen to less than a quarter.

Figure 20. Estimated Percent Change in Numbers of Civilian Jobs in Oak Harbor, Island County, and Washington State from 2007-2010.



Source: From the US Census "On The Map" program.

Local economies frequently follow State and national trends. Looking at just civilian employment in Oak Harbor, Figure 20 shows the annual percent change in number of jobs in Oak Harbor, Island County, and Washington State. The graph does not include armed forces employment. Oak Harbor gained jobs in 2007 and 2008, although not as quickly as the County or Washington State. The City lost jobs in 2009 and 2010 during the recession.

Implications for Economic Development

Not surprisingly, Oak Harbor's employment is heavily dependent upon the US Navy. In fact, this is so much the case, that decreases in US Navy employment caused a local downturn in 2000-2006.

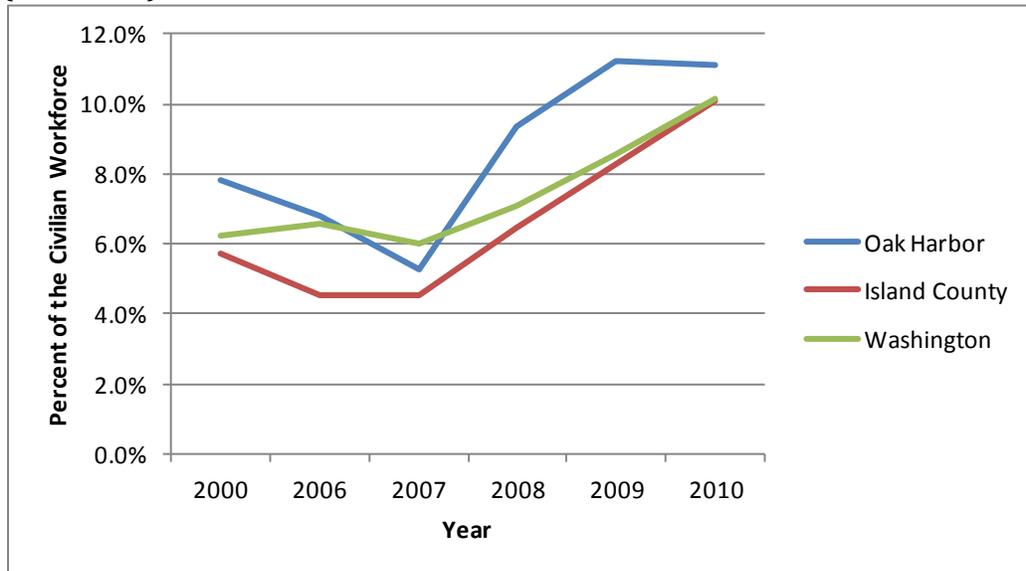
Oak Harbor should strongly consider policies to grow the private sector and diversify the local economy to cushion the impact of changes in US Navy staffing. US Navy employment has been stable since 2006, but the period 2000-2006 saw decreases in the number of employed persons in the US Navy living within City limits. As the nation winds down two wars and defense cuts loom, it will be especially important for Oak Harbor to set the stage for private sector growth.

Opportunity: Approximately 20 percent of Oak Harbor's residents are active duty military. The active duty population has remained stable, but is a smaller percentage of the total workforce than it was in 2000. If the US Navy increases personnel and operations in the future, this will represent an opportunity for Oak Harbor businesses to grow and accommodate this new population.

Threat: A decrease in operations and personnel at NASWI would negatively affect Oak Harbor's economy. To mitigate the impacts from potential future NASWI job losses, Oak Harbor should work to attract a greater diversity of employers in the private sector.

Unemployment Analysis

Figure 21. Unemployment Rates in Oak Harbor, Island County, and Washington 2000-2010 (Estimates)



Source: 2000 US Census and American Community Survey 3-year estimates for 2005-2007, 2006-2008, 2007-2009, 2008-2010, and 2009-2011.

Unemployment rates measure the percent of the civilian population which is unemployed. Unemployed is defined as someone who is actively looking for work, but unable to obtain either part-time or full-time work. Since the most recent recession began in 2007, Oak Harbor's unemployment rate has been higher than that of Island County or the State. In 2010, Oak Harbor's unemployment rate was 11.1 percent compared to 10.1 percent for Island County and Washington State.

Table 7. Labor Force Unemployment Rates (Including Armed Services Personnel) for Oak Harbor, Island County, and Washington State for 2000-2010.

	Oak Harbor	Island County	Washington
2000	5.2%	4.7%	6.1%
2006	5.6%	3.6%	6.5%
2007	4.2%	3.6%	5.9%
2008	7.5%	5.5%	7.0%
2009	8.9%	7.3%	8.4%
2010	8.8%	9.0%	10.0%

Source: 2000 US Census and American Community Surveys 3-year estimates for 2005-2007, 2006-2008, 2007-2009, 2008-2010, and 2009-2011.

However, because Oak Harbor has such a significant active duty military component of its workforce, it is useful to include this population in the calculation of the unemployment rate. With active duty military taken into consideration, Oak Harbor's unemployment rate was 8.8 percent in 2010, slightly lower than that of the County and 1.2 percent lower than Washington State (See Table 7).

Implications for Economic Development

Oak Harbor has, indeed, been fortunate to have NASWI as its major employer. That said, Oak Harbor’s civilian economy has suffered in the most recent recession more so than the civilian economy of the County or the State. Oak Harbor needs to explore options to bolster private sector employment and lower its unemployment rate.

As has the nation, the State, and the County, Oak Harbor’s economy has suffered substantially since the recession began in 2007 and the US Navy base has not shielded Oak Harbor’s private sector from the recession. For this reason and many others, the City of Oak Harbor needs to strongly consider what it can do to foster private sector job growth and diversify its economy.

Threat: Oak Harbor’s higher unemployment rates are probably due to the lack of diversity in its employment base, which is overly concentrated in low-paying retail, accommodations, and food services jobs. Oak Harbor should work to attract a greater diversity of employers and businesses to the community in higher paying sectors.

Income and Wages **Analysis**

Table 8. Household Income Distribution for Oak Harbor, Island County, and Washington in 2000 and 2010 (estimates).

Income Category	Oak Harbor		Island County		Washington	
	2000	2010	2000	2010	2000	2010
Less than \$10,000	6.5%	5.1%	5.8%	4.0%	7.6%	6.2%
\$10,000 to \$14,999	6.6%	5.1%	5.2%	4.7%	5.5%	4.4%
\$15,000 to \$24,999	15.5%	9.6%	11.9%	8.9%	11.7%	9.4%
\$25,000 to \$34,999	18.9%	11.1%	13.9%	9.7%	12.5%	9.6%
\$35,000 to \$49,999	20.3%	17.8%	18.5%	13.9%	17.1%	13.7%
\$50,000 to \$74,999	19.6%	25.6%	24.4%	22.8%	21.4%	19.3%
\$75,000 to \$99,999	7.9%	15.3%	10.4%	15.2%	11.6%	13.4%
\$100,000 to \$149,999	3.3%	7.7%	6.7%	14.1%	8.3%	14.4%
\$150,000 to \$199,999	0.6%	2.2%	1.9%	4.5%	2.1%	5.2%
\$200,000 or more	0.8%	0.4%	1.3%	2.2%	2.2%	4.3%

Source: 2000 US Census and American Community Survey 3-year estimates for 2009-2011.

Oak Harbor’s household income distributions largely resembled those of Island County and Washington with 59 percent of households making between \$35,000 and \$100,000 per year in 2010. However, Oak Harbor has far fewer households concentrated in the highest income categories above \$100,000 per year.

Over the decade 2000-2010, Oak Harbor’s lower income categories (\$34,999 per year or less) shrank (more than Island County and Washington (16.6 percent versus 9.5 percent and 7.7 percent), while the upper income categories (\$100,000 or more) grew less (5.6 percent) versus the County (10.9 percent) and the State (11.3 percent).

Table 9: Wage Levels for Jobs In Oak Harbor, Island County, and Washington for 2002 and 2010

Wage Level	Oak Harbor		Island County		Washington	
	2002	2010	2002	2010	2002	2010
\$1,250 per month or less	44.5%	37.8%	40.6%	32.3%	28.6%	23.2%
\$1,251 to \$3,333 per month	40.5%	39.8%	41.3%	37.5%	39.8%	33.9%
\$3,333 per month and up	15.0%	22.3%	18.1%	30.2%	31.6%	42.9%

Source: US Census “On the Map” Program accessed via internet in January, 2013. Data is from Quarterly Census of Employment and Wages (QCEW), Unemployment Insurance Wage Records, and the Office of Personnel Management.

Table 9 shows three categories of wage levels for jobs in Oak Harbor, Island County, and Washington. Oak Harbor’s two lowest wage categories are shrinking, while its highest wage category is growing. Like Table 8, Table 9 shows that Island County and the State are growing more quickly in the highest wage categories than is Oak Harbor. Oak Harbor’s highest wage category grew by 7.3 percent versus 12.1 percent in Island County and 11.3 percent in Washington.

Implications for Economic Development

Oak Harbor has a greater proportion of households and wage earners making less than \$35,000 per year than does Island County or Washington. It also has a smaller proportion of its workforce and households in the highest wage and income categories than does the County or the State.

While it is apparent there is wage and income growth happening at all levels (City, County, State), Oak Harbor is not growing as quickly at the upper income levels as are the State and the County. This finding is problematic from an economic development perspective because Oak Harbor is not capturing its proportionate share of upper income households and wage earners. These people are not drawn to Oak Harbor in as great a proportion as they are to Island County or the State in general. Higher income earners have more disposable income and spend more money at local businesses. To attract and retain the higher income/higher wage earners to Oak Harbor, the City should think about what it can do to make the City attractive to this demographic in terms of new development, new businesses, and infrastructure. For instance, this may require higher quality development.

Strength: Oak Harbor’s wages and incomes are growing and it has a smaller proportion of low income households and jobs than it did a decade ago. The growing wages will help attract new residents and employees to the City.

Weaknesses: While Oak Harbor’s wages and incomes are growing, they are not growing as fast as the County or the State. Oak Harbor needs to gear infrastructure investments, business attraction efforts, and new development toward retaining the middle and upper income demographic.

**Industry Sectors
Analysis**

Table 10. Percentage of Jobs by Industry for Oak Harbor, Island County, and Washington in 2000 and 2010

Industry	Washington		Island County		Oak Harbor	
	2000	2010	2000	2010	2000	2010
Agriculture, forestry, fishing	2.5%	2.5%	1.7%	0.7%	0.7%	0.7%
Construction	7.0%	6.4%	8.0%	7.4%	4.7%	5.6%
Manufacturing	12.5%	10.4%	11.8%	9.3%	10.2%	5.6%
Wholesale trade	4.1%	3.1%	1.4%	1.4%	0.7%	2.0%
Retail trade	12.1%	11.7%	12.1%	12.9%	13.2%	12.4%
Transportation and warehousing, and utilities	5.4%	5.1%	4.8%	4.6%	3.9%	4.5%
Information	3.4%	2.3%	2.9%	1.7%	3.0%	0.2%
Finance, insurance, real estate, and rental leasing	6.1%	5.8%	6.5%	5.3%	6.5%	5.5%
Professional, scientific, management, administrative, and waste management services	9.8%	11.9%	8.0%	10.3%	7.4%	6.6%
Educational, health and social services	19.4%	21.6%	21.3%	20.9%	22.0%	20.5%
Arts, entertainment, recreation, accommodation and food services	7.9%	8.9%	8.8%	9.7%	14.3%	14.3%
Other services (except public administration)	4.8%	4.8%	5.9%	6.0%	6.1%	4.2%
Public administration	5.0%	5.5%	6.9%	9.9%	7.2%	17.7%
Number of Jobs	2,793,722	3,103,049	27,023	31,363	5,864	8,038

Source: 2000 US Census and American Community Surveys 3-year estimates for 2005-2007, 2006-2008, 2007-2009, 2008-2010, and 2009-2011.

Table 10 shows the percentage of jobs by industry for Oak Harbor, Island County, and Washington in 2000 and 2010. Educational, health and social services; public administration; arts, entertainment, and recreation; and retail trade were the top industry sectors in Oak Harbor in 2010. These four sectors comprised 54 percent of all civilian jobs in 2010. Despite the recession, Oak Harbor's economy grew by 37% over the decade which was greater than the growth in the County (16%) and State (11%).

Compared to the State and the County, Oak Harbor's economy seems to be somewhat underrepresented in construction; manufacturing; and professional, scientific, management, administrative, and waste management services. These industry sectors might represent opportunities for future growth. Oak Harbor's economy has higher than average proportions of the population working in arts, entertainment, recreation, accommodation, and food services; and public administration.

Table 11. Growth by Industry for Oak harbor, Island County, and Washington From 2002-2010.

Industry	Oak Harbor		
	2000	2010	% Change
Agriculture, forestry, fishing	41	60	46%
Construction	277	454	64%
Manufacturing	599	450	-25%
Wholesale trade	43	160	272%
Retail trade	776	993	28%
Transportation and warehousing, and utilities	228	361	58%
Information	178	17	-90%
Finance, insurance, real estate, and rental and leasing	380	446	17%
Professional, scientific, management, administrative, and waste management	435	534	23%
Educational, health and social services	1,289	1,651	28%
Arts, entertainment, recreation, accommodation and food services	841	1,152	37%
Other services (except public	356	340	-4%
Public administration	421	1,420	237%
Total	5,864	8,038	37%

Source: US Census "On the Map" Program accessed via internet in January, 2013. Data is from Quarterly Census of Employment and Wages (QCEW), Unemployment Insurance Wage Records, and the Office of Personnel Management.

Over the period 2000-2010, Oak Harbor's economy both grew and contracted in key areas. Of all industries, wholesale trade grew the most increasing from 43 jobs to 160 jobs, with public administration also increasing dramatically from 421 to 1,420 jobs due to the location of a branch office of the Department of Social and Health Services in Oak Harbor. The following industries also grew in Oak Harbor over the time period:

- Construction +64 percent (from 277 jobs to 450 jobs)
- Transportation and Warehousing and Utilities +58 percent (from 228 to 361 jobs)
- Arts, entertainment, recreation, accommodation and food services +37% 70 to 98 jobs)

The following industry sectors lost jobs:

- Information – 90% (from 178 to 17 jobs)
- Manufacturing – 25% (from 599 to 450 jobs)
- Other services – 4% (from 356 to 340)

Implications for Economic Development

Oak Harbor's civilian economy is heavily concentrated in four main sectors: (1) educational, health, and social services (2) arts, entertainment, recreation, accommodation and food services (3) retail trade and

(4) public administration. The Accommodation and Food Services and Retail Trade sectors are not high paying and are especially sensitive to recessions and changes in the overall economy. This has made Oak Harbor's civilian economy volatile and subject to swings in the national economy, as well as changes in US Navy base staffing. In addition, the concentration of jobs in retail trade and accommodation and food services means that these jobs tend to be low paying ones.

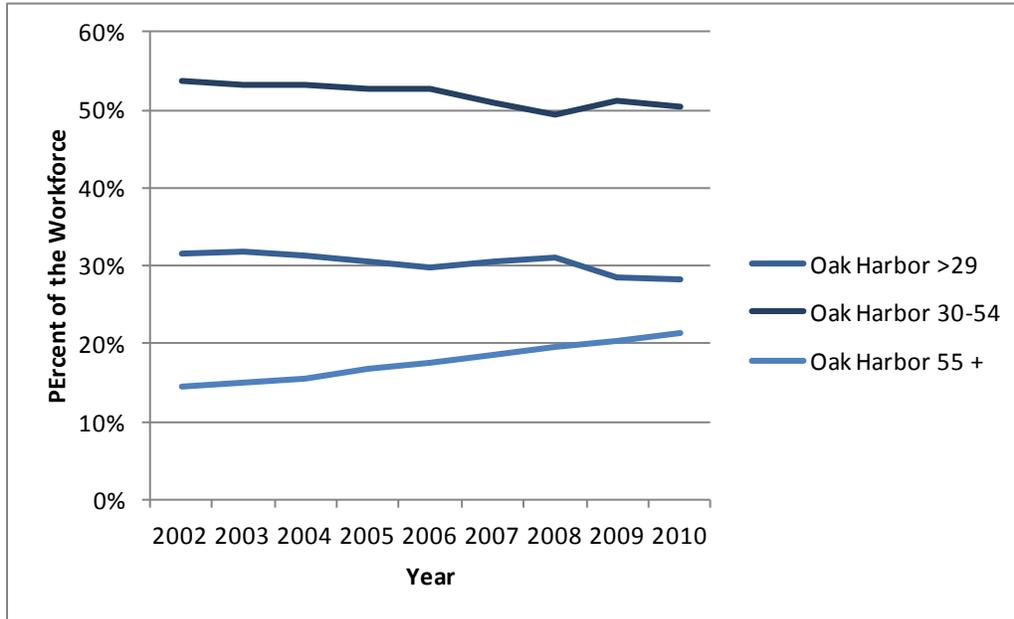
Oak Harbor needs to diversify its economy and look for new opportunities in growing industries such as arts, entertainment, and recreation, health care, administration and support. As long as Oak Harbor's economy is concentrated in only a few, low paying industries, its economy will underperform.

Strength: Oak Harbor's economy has grown in certain sectors such as (1) construction (2) transportation and warehousing and (3) arts, entertainment, recreation, accommodation and foods services. It may want to capitalize on this growth in the future by having a targeted attraction effort for these industry sectors.

Weakness: Oak Harbor's overly concentrated economy threatens to undermine future job and business growth, especially during downturns. Oak Harbor should work to retain jobs in sectors which have contracted over the past decade such as information.

Age of the Workforce Analysis

Figure 22. Estimated Proportion of Jobs by Age of Worker, 29 or less, 30-54, and 55 and over for Oak Harbor from 2002-2010



Source: US Census "On the Map" Program accessed via internet in January, 2013. Data is from Quarterly Census of Employment and Wages (QCEW), Unemployment Insurance Wage Records, and the Office of Personnel Management.

Like the County and the State, the City has an aging workforce with a declining share of workers under 55 and an increasing share over 55. The City is different than the County and the State in that its workforce is still younger on average. Approximately 23 percent of the workforce in the County and the State are 29 or less versus 28 percent in the City. Additionally, 50 percent of the workforce in the City is age 30-54 versus 60 percent at the State level.

Implications for Economic Development

As is common all over the nation, the City has an increasing share of workers who are 55 or older. People are working longer and retiring later than they ever have before because of good health, unpaid bills from earlier in life, the impacts of the recession, or by choice.

The City stands out for its higher-than-average share of younger workers. Younger workers usually have less experience, but also typically cost less for employers due to their lack of experience and lower health care costs.

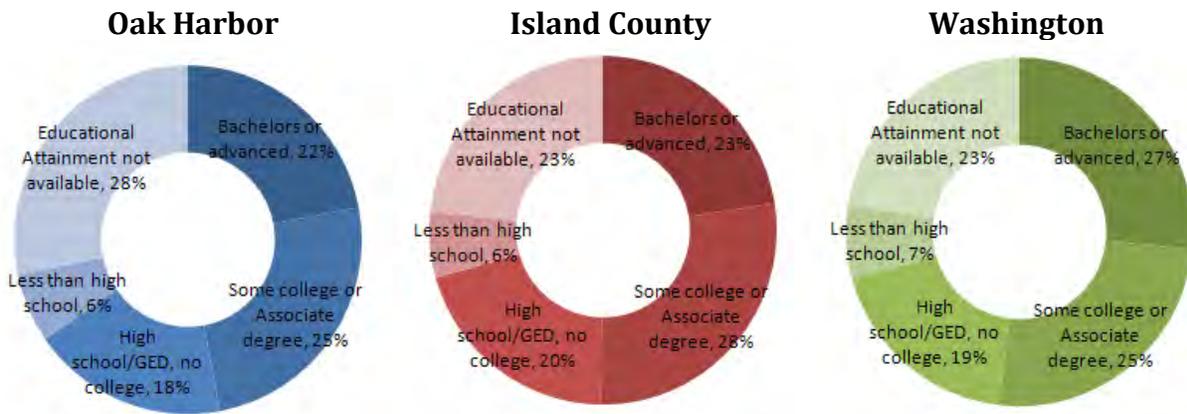
The City should seek to attract new employers and help existing employers expand who appreciate this young demographic. An example of an employer who may appreciate this young workforce would be a recreational company (boating, hiking, mountain biking, etc.).

Opportunity: Like many communities, Oak Harbor has an aging workforce. Unlike many rural areas, Oak Harbor also has a stable population of young workers, as well. Both of these trends represent opportunities for Oak Harbor to cater to these groups. Oak Harbor should consider investing in public facilities like an updated senior center and trails, the later of which would likely be popular with both

the younger and older worker demographic. Alternatively, the City could attract private sector investment to build senior communities with recreational facilities.

Educational Attainment Analysis

Figure 23. Educational Attainment for Workers in Oak Harbor, Island County, and Washington for 2010.



Source: US Census "On the Map" Program accessed via internet in January, 2013. Data is from Quarterly Census of Employment and Wages (QCEW), Unemployment Insurance Wage Records, and the Office of Personnel Management.

In a State with a highly educated workforce, Oak Harbor and Island County have a lower than average number of workers who have completed bachelors or advanced degrees. Education has a positive impact on economic development because workers with degrees are paid more and have lower unemployment rates. Furthermore, many employers require Bachelor’s Degrees at a minimum. Thus, a highly educated workforce makes a location more likely to attract new employers.

Implications for Economic Development

Oak Harbor and Island County lag behind the State in the education level of its workforce. This makes it more difficult for the County and the City to attract new employers who may require bachelors or advanced degrees as a minimum for obtaining a job.

With the number of young people exiting military service in Oak Harbor, and the number of young people from established families who leave the Island to go to college, the City and Skagit Valley College might want to explore the possibility of starting four year degree programs. Perhaps Washington State University could team with Skagit Valley College to provide four year degree programs at the Oak Harbor campus.

Weakness: Because Oak Harbor has a lower proportion of its workforce, which has a college education, it is likely in a weaker position to attract employers who require Bachelor’s Degrees. Oak Harbor should work to support its existing educational institutions such as its public schools and Skagit Valley College. Support could include opening lines of communication to anticipate expansions and development of new schools and campuses in town.

Threat: Oak Harbor’s lower than average proportion of workers with Bachelor’s Degrees are a threat to attracting employers who require four-year degrees. Oak Harbor should work to emphasize positive

aspects of its workforce such as its younger-than-average age, and higher percentage of the population with Associate’s Degrees.

Retail Sales
Analysis

Table 12. Sales Tax Rates for Washington Cities with Populations between 20,000-30,000.

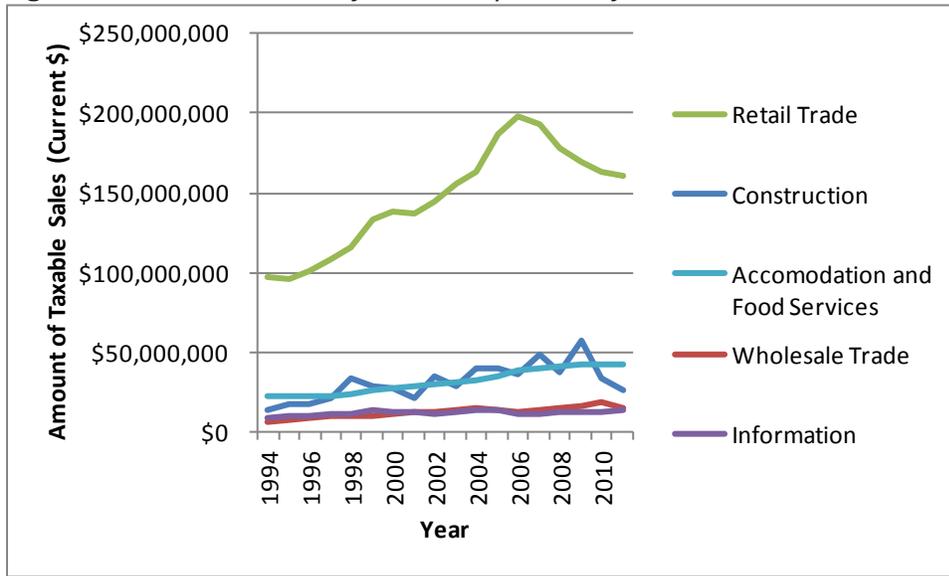
City	Local Rate	State Rate	Total
Moses Lake	1.4%	6.5%	7.9%
Camas	1.9%	6.5%	8.4%
Bainbridge	2.1%	6.5%	8.6%
Lake Stevens	2.1%	6.5%	8.6%
Maple Valley	2.1%	6.5%	8.6%
Oak Harbor	2.2%	6.5%	8.7%
Average	2.5%	6.5%	9.0%
Des Moines	3.0%	6.5%	9.5%
Kenmore	3.0%	6.5%	9.5%
Mercer Island	3.0%	6.5%	9.5%
Mountlake	3.0%	6.5%	9.5%
Mukilteo	3.0%	6.5%	9.5%
SeaTac	3.0%	6.5%	9.5%

Source: From the Washington Department of Revenue

Sales taxes are a major source of revenue to Washington cities and towns. The state base rate is 6.5 percent on all sales and cities may charge up to 0.85 percent. Oak Harbor’s local rate of 2.2 percent includes local option levies such as transit and public safety taxes. Sales taxes are levied on the sale of tangible personal property and some services, with food and prescriptions being two of the most noteworthy exceptions.

Taxable sales are reported quarterly by all Oak Harbor businesses. Oak Harbor’s taxable sales are heavily weighted toward retail sales, with construction, accommodation and food services, wholesale trade, and information making up smaller amounts. As shown in Figure 24, there was a large build up of retail sales from the mid 1990s until the most recent recession began in 2007 and then a subsequent decline. Since 2007, retail sales have not stopped their downward slide although the decline leveled off in 2011. Construction made up over \$50 million of revenue to local businesses in 2009, but there was a precipitous fall off in taxable construction sales thereafter. Interestingly, accommodation and food services, wholesale trade, and information have not seen recessionary declines as did construction and retail trade.

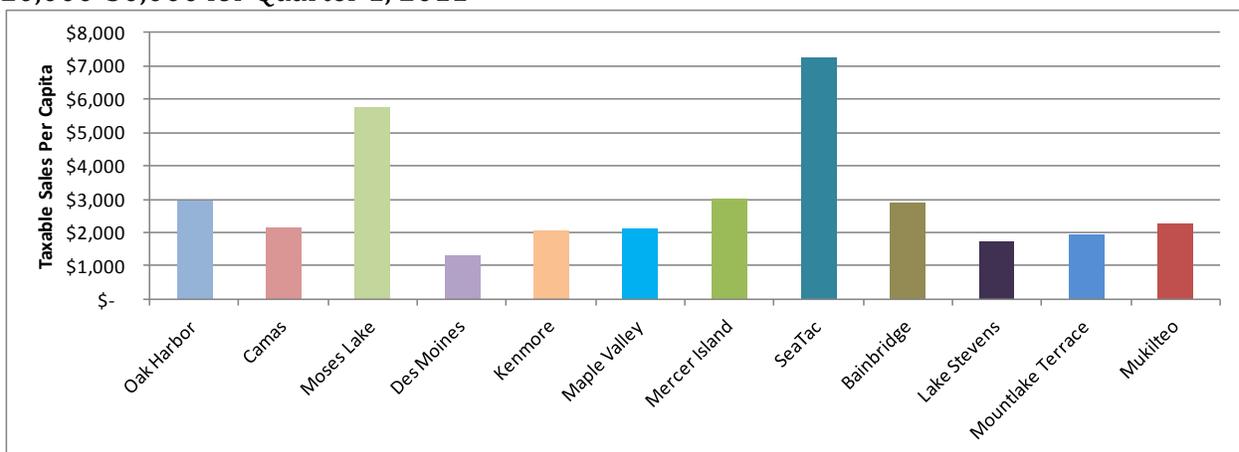
Figure 24. Taxable Sales by Business/Industry Sector in Oak Harbor 1994-2011.



Source: Washington Department of Revenue

Looking at taxable sales, Oak Harbor is a standout performer. Figure 25 shows the per capita sales taxes for all Washington cities with populations between 20,000 and 30,000 for the first quarter of 2011. Oak Harbor averaged about \$3,000 per person in taxable sales which was about equal to that of Mercer Island and the Bainbridge Island, which are both much more affluent communities. Moses Lake and SeaTac were top performers in the State. Looking again at Table 12, there does not appear to be a strong relationship between the local tax rate and the per capita amount of taxable sales; lower local rates do not result in greater sales or economic activity. SeaTac has one the highest local rates, but also has the highest amount of taxable sales. Lake Stevens has one of the lowest local rates, and one of the lowest taxable sales totals.

Figure 25. Taxable Sales Per Capita for Washington Cities with Populations Between 20,000-30,000 for Quarter 1, 2011



Source: Washington Department of Revenue and the Office of Financial Management

Implications for Economic Development

Opportunity: Oak Harbor has a very healthy level of taxable sales, which are third highest among cities its size in the state. Only SeaTac and Moses Lake have higher per capita sales. This is a surprising finding considering that Oak Harbor’s median household income are well below State averages. Consumer-oriented businesses commonly conduct market studies of which income is a primary consideration. Oak Harbor’s income levels would suggest that its residents have little disposable income, but the high taxable sales figures say otherwise. Hypothetically, this could be due to the presence of the US Navy; active service personnel receive housing and childcare allowances, which increases their disposable incomes. This finding has positive implications for attracting new retail stores to Oak Harbor and may even mean that Oak Harbor has the ability to attract a variety of stores appealing to a range of consumers.

Sales Leakage **Analysis**

Island County Economic Development Council (EDC) recently completed a sales leakage study examining spending in Island County and its cities. The study looked at per capita spending by the state’s residents in different types of business and compared those state averages to averages in those same types of businesses in Oak Harbor. The study shows industry sectors where sales revenue per capita in Oak Harbor are below state averages, and therefore implies that Oak Harbor consumers are leaving the City to purchase these products.

The leakage study gives both surprising and, perhaps, not so surprising information. For instance, new car dealers were identified as one type of business at which Oak Harbor residents do not spend as much as the statewide average. Given that a number of new car dealers have closed in Oak Harbor over the past five years, this finding will not come as a surprise to most. Perhaps more surprising would be the finding that Oak Harbor residents spend less at “general automotive” businesses than the statewide average. Table 13 gives a complete list of all businesses and industries in Oak Harbor at which per capita spending levels are at least \$10 per quarter per capita (approximately \$40 per year) below the statewide average. Spending of \$10 per quarter per capita is equal to annual revenues of \$888,000 per year based on Oak Harbor’s current population of 22,200.

One important caveat about the study is that it assumes that Oak Harbor consumers demand goods and services in the same quantities as the average consumer across the state not accounting for age, income level, or other factors which may affect a consumer’s desire for a good or service. Thus, even though the study identified that Oak Harbor consumers do not spend as much for certain goods and services as the statewide average, that does imply certainty that there is a strong market for that good or item in Oak Harbor.

Table 13. Businesses and Industries for Which There is a Sales Deficit of \$40 Per Capita or More in Oak Harbor as Compared with State Averages for Quarter 1, 2012.

Sector	NAICS	Businesses/Industries
Construction	23	New single-family housing construction; residential remodelers; highway, street, and bridge construction; electrical contractors; plumbing heating and electrical contractors; all other specialty trade contractors
Wholesale Trade	42	Automobile and other motor vehicle merchant wholesalers; computer & computer peripheral equipment & software; medical & dental supplies; industrial machinery & equipment
Retail Trade	44-45	New car dealers; used car dealers; boat dealers; furniture stores; electronic stores; other building material dealers; family clothing stores; sporting goods stores; all other miscellaneous store retailers (except tobacco)
Information	51	Wireless telecommunication carriers
Real Estate & Rental Leasing	53	Other commercial and industrial machinery and equipment rental leasing
Professional, scientific, and technical services	54	Computer systems design services
Accommodation and Food Services	72	Hotels & Motels

Source: Island County EDC

Note: NAICS is the North American Industry Classification System

Implications for Economic Development

Detailed market studies are needed to determine if there is demand for a good or service offered by a particular business. The Island EDC leakage study gives a general indication that there may be significant out-of-town sales occurring for certain categories of businesses and industries. This information could be useful as a first step in determining what type of businesses there *may* be a market for and that the City should potentially recruit.

Weakness: Oak Harbor appears to have a large amount of sales leakage with residents relying heavily on businesses from outside of the City and the island.

Opportunity: The sales leakage data would suggest that there are a number of types of businesses that should further explore locating in Oak Harbor, especially those listed in Table 13.

Local Taxes

Analysis

Sales Taxes

As previously mentioned, Oak Harbor's local tax rate is 0.85 percent, the maximum allowed under state law. Over 99 percent of cities levy the full 0.85 percent, so Oak Harbor is on a level playing field with other cities in this respect.

Business and Occupation Taxes

Washington businesses are subject to state business and occupation taxes on the gross proceeds from business transactions. These rates vary by industry, but are the same for industries across the state and

are not set at a local level. The state does offer tax credits for new employees in rural areas, for high technology, and small business which Oak Harbor businesses should be aware of and use.

In addition, cities may impose their own business and occupation up to 0.2 percent of gross proceeds. Only 13 percent of cities across the state do this of which Oak Harbor is not one.¹

Property Taxes

Property taxes are levied at the County level. Cities may impose their own property taxes, but the base property tax levy amount cannot rise more than one percent per year under state law. Special levies can be approved by voters for specific city expenses, such as new capital facilities (parks, fire stations, etc.). This has left cities and counties with declining revenues since expenses, especially employee health care, are rising much faster than one percent. Overtime, cities are, thus, left no choice but to decrease the level of services they provide to their residents or find new sources of revenue. Oak Harbor’s regular levy is \$2.04 per \$1,000 of property value, which is below the statewide city average of \$2.17 per thousand of assessed value². The total Oak Harbor levy including all special districts (hospital, parks, cemetery, roads, etc.) is between \$8 and \$9 per \$1,000 assessed, an especially low rate considering that the average for counties across the state is \$11.78 not including city rates and special city levies. Table 13 shows per capita property taxes for cities in Island County in 2011. Oak Harbor’s property taxes are lower than Coupeville and Langley on a per capita basis.

Table 14. Total Property Tax Levies and Per Capita Property Tax for Coupeville, Langley, and Oak Harbor, 2011

City	Total Levy	Population	Per Capita Amount
Coupeville	\$ 328,786.17	1855	\$ 177.24
Langley	\$ 377,786.17	1045	\$ 361.52
Oak Harbor	\$3,745,984.59	22,200	\$ 168.74

Source: Island County Assessor and Washington Office of Financial Management.

Lodging Taxes

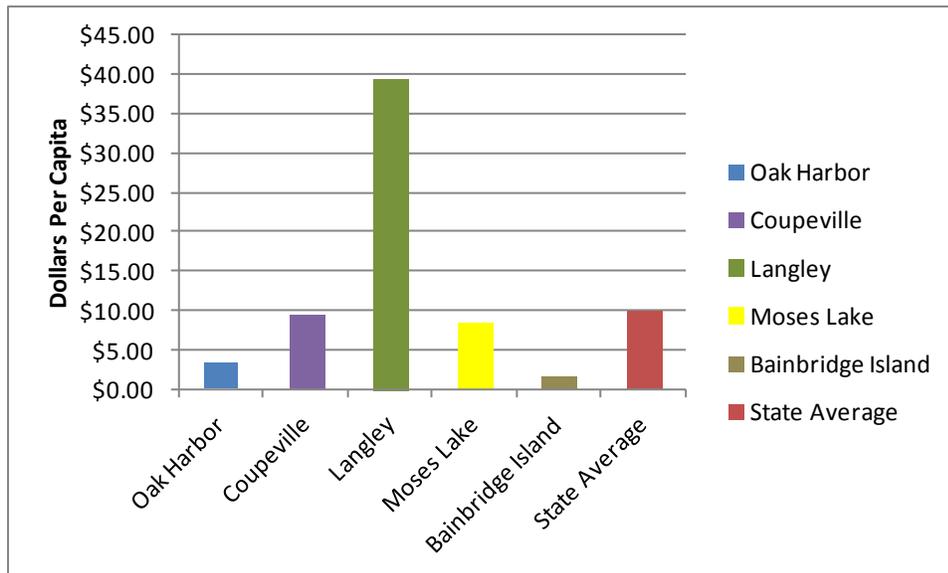
Lodging Taxes are one indication of tourist activity in a community, since it is primarily tourists who stay in hotels, motels, and bed and breakfasts. Most cities in the state, including Oak Harbor, are authorized to levy a rate of up to two percent on lodging in addition to the local sales tax. Certain jurisdictions, including Grey’s Harbor County, Pierce County, Chelan, Leavenworth, Long Beach, Bellevue, Yakima, and Winthrop can levy up to four percent³. Figure 26 shows the 2012 per capita lodging tax receipts for Oak Harbor, Coupeville, Langley, Moses Lake, and Bainbridge Island. Bainbridge Island, Moses Lake, and Oak Harbor are the only two communities in the state with populations between 20,000 and 30,000 that impose a lodging tax. Oak Harbor averaged \$3.35 per capita of lodging tax, which was only 1/3rd of the statewide average of \$9.80. The tourist-oriented community of Langley averaged \$40 per capita.

¹ According to the *Tax and User Fee Survey, 2012* from the Association of Washington Cities.

² According to the *Tax and User Fee Survey, 2012* from the Association of Washington Cities.

³ According to *A Revenue Guide For Washington Cities and Towns*, Municipal Research Services Center, 2009.

Figure 26. Lodging Tax Receipts Per Capita for Oak Harbor and Select Washington Cities in 2012.



Source: Washington Department of Revenue and the Washington Office of Financial Management

Utility Taxes

Utility taxes are levied on the gross operating revenues of utilities operating within city boundaries. Oak Harbor’s utility rates are six percent for natural gas, electricity, telephone, storm drainage, and cable TV. and 6.25 percent for water, sewer, and garbage. The following table shows the state average rates for each of the utilities.

Table 15. Average Utility Tax Rates in Washington by Utility Type for 2012

	Average	High Low	Low
Natural Gas	5.9%	9.0%	2.0%
Electricity	5.9%	9.0%	2.0%
Telephone	5.9%	9.0%	2.0%
Water	9.3%	36.0%	1.5%
Sewer	9.1%	36.0%	1.5%
Storm drainage	8.0%	23.0%	1.0%
Cable TV	5.5%	10.0%	1.0%
Garbage	8.5%	10.0%	2.0%

Source: From the Association of Washington Cities *Tax and User Fee Survey*

Implications for Economic Development

As shown by the data, Oak Harbor has not traditionally been a tourist-oriented community. Tourist-oriented communities, especially Langley, restrictively monitor their character for the purposes of drawing tourists and creating a certain look and feel for their town. Oak Harbor’s downtown is the most unique part of the City and it currently has very little in the way of special restrictions which protect its character that are not common to other parts of the City. Oak Harbor should consider special protections for its historic center that will help protect the character for this area and draw tourists in

the future. Oak Harbor also needs to consider implementing more events and festivals which draw tourists to the area.

Strength: In general, Oak Harbor’s tax rates are largely comparable to other Washington cities. It doesn’t have remarkably lower or higher tax rates, with the exception of property taxes. Oak Harbor can use this advantage to market itself to new businesses and employees.

Weakness: Oak Harbor collects a remarkably small amount of lodging tax receipts per capita. Lodging taxes are generated by hotel and motel visits to a community and are, therefore, a good indication of a community’s overall appeal to tourists.

Opportunity: The City has an opportunity to increase tourism by creating a tourist atmosphere and tourist facilities. For example, the City could revise regulations for downtown Oak Harbor to make the design of new businesses in this area more appealing to tourists. It could also invest in public facilities, such as an amphitheater in Windjammer Park, as called for in the City’s Comprehensive Plan.

Development Fees

Analysis

Lower-than-average fees tend to stimulate development activity. However, fees which are too low can hurt economic development since the fees are used to pay for new capital facilities supporting population growth. Very low fees might, therefore, mean that the City’s facilities are not keeping up with growth and can negatively impact economic development.

Transportation Impact Fees

Recently, the City of Bellingham commissioned a study looking at transportation impact fees (TIF) across the State. Oak Harbor’s TIFs were some of the lowest in the state, with a fee of \$907 per single-family dwelling unit and \$589 per trip. Only Everett, Kitsap County, Mountlake Terrace, SeaTac, Anacortes, and Bonney Lake had lower fees of 60 cities in the Bellingham study.

Park Impact Fees

Average park impact fees for single-family residential units across the state are \$6,998 and for multifamily are \$4,408. Oak Harbor’s park impact fees are \$1,673 for single-family and \$1,344 for multifamily, both of which are much lower than state averages.

Building Fees

Oak Harbor has building permit fees very comparable to state averages. Building plan review fees are also comparable to state averages. Thus, no further discussion is provided on this topic here.

Weakness: Oak Harbor’s impact fees are so low that it is likely that the City’s roads and parks are not keeping up with new population growth and possibly impeding economic development. The City should also consider adopting a level of service standard for parks (i.e. acres per person) so that it does not fall behind the average for all other cities.

Opportunity: The City should update all of its impact fees to meet future anticipated growth.

Permit Activity

Analysis

For cities with a population of 10,000-24,999, the average number of permits issued per year is 324. Oak Harbor averaged 117 permits per year from 2000-2012, far below the average for cities in its population category, especially since Oak Harbor is near the upper end of the category.

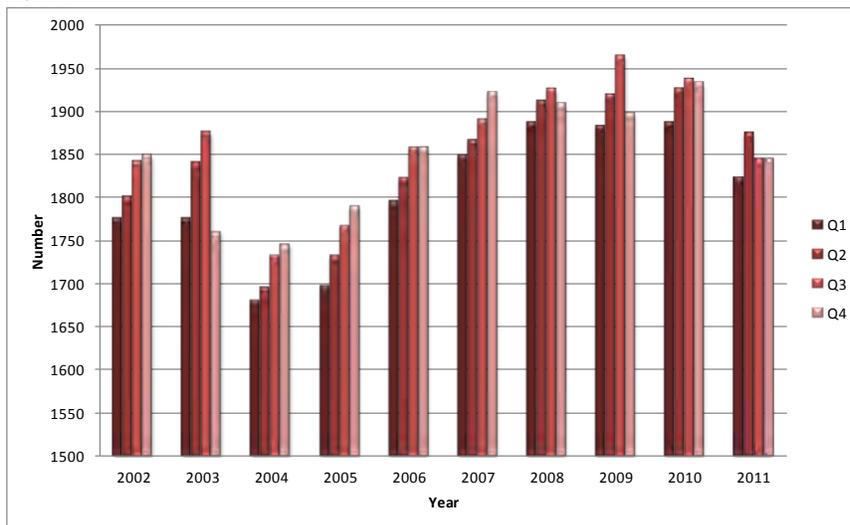
Implications for Economic Development

Permit levels are an overall indication of construction activity in communities, which is an important part of the overall economy. Oak Harbor’s permit levels are much lower than communities its size meaning that the construction economy has not been as fast paced as for other communities. This means fewer construction jobs have been available in Oak Harbor.

Weakness: Oak Harbor’s construction economy has not been as fast paced as compared to other cities its size.

Number of Business Establishments
Analysis

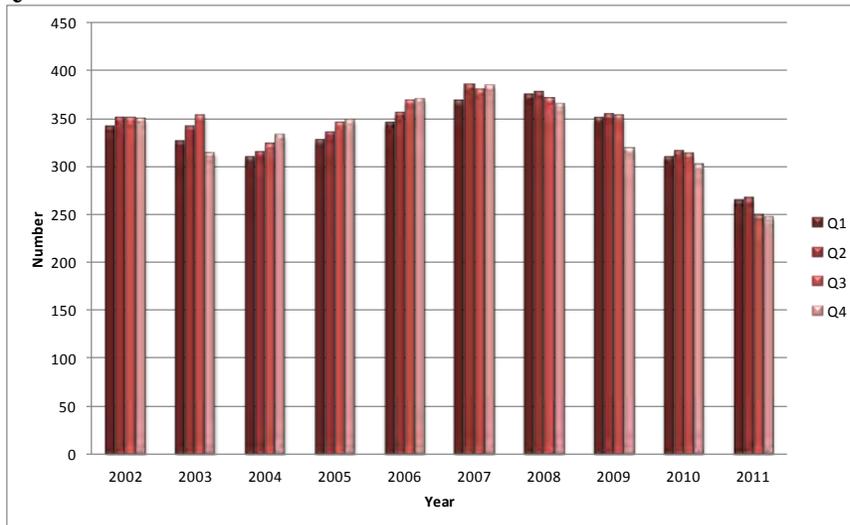
Figure 27. Estimated Average Number of Establishments by Quarter, Island County, 2002-2011



Source: Washington State Employment Security Department, Labor Market Economic Analysis Division

Figure 27 shows the number of business establishments for Island County, by quarter for the years 2002-2011. Data is not available at the city level. The County experienced a business downturn in 2004 and then again beginning in 2010. As of 2011, the number of business establishments had not recovered to prerecession levels. The number of Island County businesses typically peaks in the later part of each year, with a few exceptions such as 2008, 2009, and 2011. The number of business establishments has fallen to 2005 and 2006 levels, meaning that the County lost five to six years of business growth because of the most recent recession.

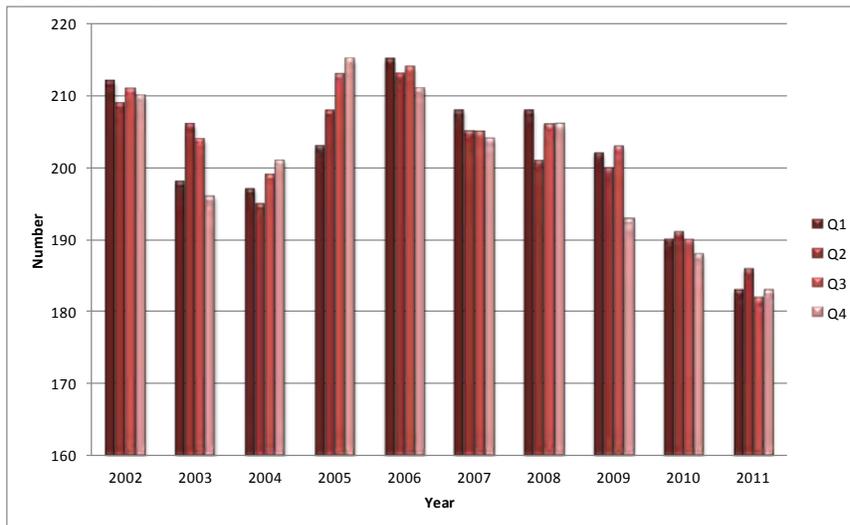
Figure 28. Average Estimated Number of Construction Establishments in Island County by Quarter 2002-2011



Source: Washington State Employment Security Department, Labor Market Economic Analysis Division

As was true of all establishments, the number of construction businesses declined in 2004 in Island County and then recovered until 2007. Since 2007 and the beginning of the most recent recession, which was strongly connected to mortgage lending, the number of Island County construction businesses has continued to decline. The number of construction establishments has fallen 47 percent since their peak in 2007.

Figure 29. Average Estimated Number of Retail Establishments, Island County by Quarter for 2002-2011



Source: Washington State Employment Security Department, Labor Market Economic Analysis Division

The number of retail establishments decreased in Island County in 2004 then gained until 2006 and have fallen ever since with a notable exception in 2008. The downturn in retail establishments began a full year earlier than for the business community at large. Since their peak in 2006, the number of retail establishments in Island County has fallen by 16 percent.

Implications for Economic Development

Island County's business community has suffered during the most recent recession, especially in the construction and retail sectors. Retail and construction combined comprised about 1/5th of the civilian economy in Island County in 2010. These two sectors are especially vulnerable to recessions because they are highly dependent upon discretionary income.

This information speaks to the need for Oak Harbor to diversify its economy. The national economy has reached bottom or has even begun to recover in many cases. Island County's economy, as measured by the number of business establishments, continued to retract in 2011, the most recent year for which data is available. This is troubling for Island County which also seemed to experience a recession somewhat earlier than the rest of the nation, with retail businesses shutting down starting in 2006.

Weakness: Nearly 1/5th of Oak Harbor's economy is in retail and construction in typical years. This concentration has made Oak Harbor sensitive to recessions because these industries are sensitive to consumer spending and disposable income.

Size of Business Establishments **Analysis**

Table 16. Size of Firms in Oak Harbor (Zip Code 98277) for 2010

Number of Employees	Number of Firms	Percent
1 to 4	366	54%
5 to 9	162	24%
10 to 19	97	14%
20 to 29	40	6%
50 to 99	9	1%
100 to 249	5	1%
250 to 499	0	0%
500 to 999	0	0%
1000 or more	0	0%
Total	679	100%

Source: U.S. Census Bureau, 2010 ZIP Code Business Patterns, Washington Department of Employment Security

Oak Harbor has predominantly small businesses with 50 or less employees and a just a few large employers with 100 or more employees. Seventy eight percent of all Oak Harbor firms have nine employees or less.

Implications for Economic Development

Small firms make up the vast majority of the nation's economy and are the backbone of Oak Harbor's economy, as well. Small firms with innovative leadership are nimble and can adapt quickly to changing economic circumstances more easily than larger firms, but often don't have enough cash on hand to weather recessions.

Oak Harbor needs to support its existing small businesses in growing and becoming gradually larger businesses. This support could include frequent communication with these firms about their needs and how they might grow through an annual business survey, as well as analysis about which industry sectors and firms are most likely to grow in the future.

Strength: Oak Harbor's economy is dominated by small business. Small businesses are the backbone of the US economy, as well. Oak Harbor should help its small businesses grow by engaging them in business development activities provided by the Island EDC and Skagit Valley College, so that these businesses have the know-how to grow.

Weakness: Oak Harbor has a lack of medium to large businesses, making it more sensitive to recessions which can close small businesses entirely. Larger businesses can often weather recessions without shutting down. Oak Harbor should focus attraction efforts on medium to large businesses. The lack of medium and large businesses may signal an underlying economic disadvantage in Oak Harbor which prevents firms from growing.

Commuting Patterns

Analysis

Mode Split

Table 17. Mode Split for Commuters in Oak Harbor, Island County, and Washington State 2010 (Estimates)

	Oak Harbor	Island County	Washington
Drive Alone	84%	74%	73%
Carpool	10%	11%	11%
Public Transit	1%	3%	6%
Walk	3%	3%	3%
Other Means	1%	2%	2%
Worked At Home	1.9%	6.1%	5%

Source: American Community Survey 2009-2011, 3-year estimates

Oak Harbor is notable for its commute patterns. Over 84 percent of commuters drive alone to their place of work, versus 74 percent in Island County and 73 percent in Washington State. Oak Harbor has many fewer public transit users, likely because public transit does not serve NASWI during morning commute hours.

Place of Work

Table 18. Place of Work for Commuters Residing in Oak Harbor, Island County, and Washington State, 2010 (Estimates)

	Oak Harbor	Island County	Washington
PLACE OF WORK			
Worked in state of residence	99%	98%	97%
Worked in county of residence	85%	69%	81%
Worked outside county of residence	14%	29%	15%
Worked outside state of residence	1%	2%	3%

Source: American Community Survey 2009-2011, 3-year estimates

Oak Harbor has a far smaller share of commuters who travel outside of Island County for their job than does the County as a whole. Oak Harbor's share of workers traveling outside the county is about equal to the state's as a whole. Nearly 1/3rd of Island County commuters travel outside Island County for work.

Travel Time to Work

Table 19. Travel Time to Work for Oak Harbor, Island County, and Washington, 2010 (Estimates)

	Oak Harbor	Island County	Washington
Mean Travel Time to Work (Minutes)	17.1	26.5	25.4

Source: American Community Survey 2009-2011, 3-year estimates

Not surprisingly, Oak Harbor has shorter commute times than compared to the County or the State. Oak Harbor's commute times are nearly 10 minutes shorter, likely due to the proximity of the NASWI.

Implications for Economic Development

Oak Harbor is fortunate to have shorter commute times than average due to the presence of NASWI. Since people generally prefer short commutes, the location of NASWI near to Oak Harbor is a built in economic advantage for Oak Harbor. To the degree that short commute times are more desirable, Oak Harbor can market itself and attract workers who value this as a part of their quality of life.

The data also indicates that Oak Harbor's commuters tend to rely more on drive alone options, probably due in part to the fact that there aren't ample public transit options which serve NASWI. Public transit can be an important aspect of economic development, because it can reduce commute costs as well as provide greater access to jobs for those who cannot afford vehicles. More park-and-ride lots may also be a necessity for Oak Harbor residents who commute to jobs in Anacortes or elsewhere such as to the Tesoro refinery or to Boeing. In coordination with Island Transit, Oak Harbor might want to advocate for expanding transit service to NASWI. At the time this report was produced, there was no Island Transit service which shuttled commuters to the base by or before 8:00 a.m. during the typical morning peak commute.

Strength: Oak Harbor commuters enjoy shorter commute times and are more likely to work close to where they live. Oak Harbor should capitalize on this positive aspect of its quality of life in attracting new businesses and residents.

Weakness: Oak Harbor’s commuters overwhelmingly drive alone to get to their place of work. This fact places greater strain on Oak Harbor’s road infrastructure, leading to greater costs for resurfacing and street expansions. Oak Harbor should plan for transit, bike and pedestrian transportation options in new developments and in already developed areas of town.

Opportunity: Oak Harbor can work with Island Transit to provide greater frequency of transit service to NASWI and decrease the number of drive alone commuters on Oak Harbor roads.

Chapter 4: Needs Assessment

This chapter summarizes the findings from chapters 1-3 into a strengths, weaknesses, opportunities, and threats (SWOT) analysis and then into a needs assessment by categories of economic development.

SWOT Analysis

In the context of municipal economic development, a SWOT analysis looks at a city's inherent strengths and weaknesses, as well as opportunities and threats that may influence it from external sources. The following figure illustrates a SWOT analysis.

Figure 30: SWOT Analysis Diagram



Source: businessteacher.org.uk

As identified in Chapters 1-3, the following is a discussion of the City's strengths, weaknesses, opportunities and threats.

Strengths

- **Age of housing:** Oak Harbor's housing stock tends to be newer than what is found in the County or the State. All things considered, newer housing tends to be more attractive than older housing. Thus, a newer housing stock may help attract employees and businesses to the area.
- **House prices:** Oak Harbor's relatively lower home prices as compared with Island County and the State are a comparative advantage in attracting new residents and new employers.
- **Growing incomes:** Oak Harbor's wages and incomes are growing and it has a smaller proportion of low income households and jobs than it did a decade ago. The growing wages will help attract new residents and employees to the City.
- **Economic Growth in Certain Industry Sectors:** Oak Harbor's economy has grown in certain sectors such as (1) construction (2) transportation and warehousing and utilities and (3) public administration. The City should seek to capitalize on this growth in the future by having a targeted attraction effort for these industry sectors.
- **Taxes:** In general, Oak Harbor's tax rates are largely comparable to other Washington cities. With the exception of property taxes, it doesn't have remarkably lower or higher local tax rates. Oak Harbor can use its low property tax rates to market itself to new businesses and employees.
- **Business Size:** Oak Harbor's economy is dominated by small businesses, which means there may be a potential for these firms to grow. Oak Harbor should help its small businesses grow by engaging them in business development/education efforts provided by the Island EDC and Skagit Valley College, so that these businesses have the knowledge to grow.

- **Commute Times:** Oak Harbor commuters enjoy shorter commute times and are more likely to work close to where they live. Oak Harbor should capitalize on this positive aspect of its quality of life in attracting new businesses and residents.

Weaknesses

- **Education Level and Attainment:** Because Oak Harbor has a lower proportion of the population and workforce which has a four-year degree, it is in a weaker position to attract employers who require Bachelor's Degrees. Oak Harbor should support its existing educational institutions such as its public schools and Skagit Valley College and help them expand to include four-year degree programs, if feasible. Support could include opening lines of communication to anticipate expansions and development of new schools and campuses in town.
- **Wages and Income levels:** Oak Harbor's lower-than-average incomes are an impediment to economic development. Furthermore, the number of jobs with high wages (above \$100,000) is not growing as fast in Oak Harbor as in Island County or the State. Even more disturbing, jobs paying wages of \$200,000 or more per year are leaving Oak Harbor, but increasing in the County and the State as a whole. Oak Harbor needs to work to retain and attract higher paying jobs.
- **Character of housing:** Newer housing may lack the aesthetic character of older housing. Oak Harbor needs to ensure that its housing stock meets quality standards so that its houses are appealing for generations to come not just for the first or second owner. The City should analyze the pros and cons of design regulations to ensure that older neighborhoods maintain their character.
- **Apparent lack of smaller units.** Oak Harbor has a relative lack of one-bedroom units, especially when looking at its large renter population. Looking at ways to provide for more one-bedroom units may help ease overcrowding situations in existing neighborhoods where single-family homes currently house more than one family.
- **Housing affordability:** Oak Harbor has an affordability problem for existing residents, which threatens to undermine economic growth because residents and employees will choose to move elsewhere. Because we know that housing prices are lower in Oak Harbor than Island County or the State, Oak Harbor's housing affordability problem is almost entirely related to the income of its residents. Nevertheless, Oak Harbor should explore strategies to maintain an adequate supply of affordable housing and to reduce the effects of housing price inflation that come from constrained supply.
- **Vacancy rate:** Oak Harbor had higher owner and renter occupied vacancy rates in 2010 than the County or State.
- **Segmented economy:** Oak Harbor's economy is narrowly focused on a handful of sectors/industries a fact which may undermine future job and business growth, especially during recessions. Oak Harbor should work to retain jobs in sectors which have contracted over the past decade such as Information, while diversifying into new areas.
- **Taxable sales leakage:** Oak Harbor appears to have a large amount of sales leakage with residents relying heavily on businesses from outside of the City and the island.
- **Weak tourist economy:** Oak Harbor collects a remarkably small amount of lodging tax receipts per capita. Lodging taxes are a good indication of a community's overall appeal to tourists. As a waterfront community, Oak Harbor has a strategic advantage in attracting tourists with strategic investments along its waterfront.
- **Low impact fees:** Oak Harbor's impact fees are very low and it is likely that the City's roads and parks are not keeping up with new population growth and possibly impeding economic development. Oak Harbor should update all of its impact fees periodically (i.e. every three years)

and tie them to inflation. The City should also consider adopting a level of service standard for parks (i.e. acres per person) so that its level of service does not fall.

- **Weak economy for new construction:** Oak Harbor's permit activity has not been as fast paced as compared to other cities its size.
- **Lack of medium to large businesses:** Since Oak Harbor's economy is dominated by small businesses, it is more sensitive to recessions. Larger businesses can often weather recessions without shutting down. Oak Harbor should have focused attraction efforts for medium to large businesses.
- **Drive-alone commuting:** Oak Harbor's commuters overwhelmingly drive alone to get to their place of work. This fact places greater strain on Oak Harbor's road infrastructure, leading to greater costs for capacity expansions especially when combined with its abnormally low transportation impact fees. Oak Harbor should plan for transit, bike and pedestrian transportation options in new developments and in already developed areas of town, as well as make a greater effort to execute capacity-enhancing projects.

Opportunities

- **Potential future US Navy expansion:** The US Navy has provided a stable source of population growth for Oak Harbor in the post-World War II period. The Navy has announced that they will be adding P8-A squadrons to the base leading to an influx of population and US Navy jobs.
- **Young demographic:** Oak Harbor has the opportunity to take advantage of its youthful population. Businesses can market to this demographic by focusing on products and services, which tend to be more in demand by younger people. On the public side, the City might do well to place a greater emphasis on infrastructure investments that cater to the young demographic, such as parks, that serve school-age children or trails that allow for recreational opportunities for those in their 20s and 30s (and older residents too!). There may be an opportunity to expand secondary educational programs such as Associate's and professional degrees focusing on those transitioning out of the US Navy or which compliment US Navy training.
- **Growing demographic of seniors:** Although not growing as quickly as their counterparts in Island County, Oak Harbor has a fast growing population of seniors. Oak Harbor should plan for this demographic by ensuring that its infrastructure, housing, and businesses are taking this demographic into account.
- **Married Demographic:** The Oak Harbor business community has an opportunity to focus on the consumer needs of married couples. Married couples have different consumer preferences than do single people, including for cars, houses, clothing, and if they have children, for kids items.
- **Veteran population:** Oak Harbor is blessed to have a high proportion of veterans due to the influence of NASWI. Veterans bring unique life experiences that give them skills to succeed in the private sector and have lower unemployment rates than the population at large. Oak Harbor should become more aware of the skills of its veterans and attract businesses which use these skills. This could be done by opening greater lines of communication with the US Navy.
- **Growing housing stock:** Oak Harbor's housing stock grew faster than Island County or the State in the decade 2000-2010. Housing growth brings some construction jobs and spending to a community's economy. Additionally, a growing housing stock helps keep housing prices low which, in turn, helps attract new residents. Oak Harbor's tenure mix is heavily weighted toward renters. Renters typically desire smaller units, which are usually built at greater densities. Greater densities, especially in infill areas, can help Oak Harbor make better use of infrastructure (roads, sewers, water, stormwater, parks, etc.) and build a vibrant central core.
- **Diversity of housing options:** Oak Harbor's unit mix has a greater diversity than Island County or the State. Oak Harbor should explore making a greater amount of land available for an even

more diverse housing stock to meet the large market for rental housing and to encourage home ownership. A greater diversity of units tends to support a greater diversity of new residents and employees looking to relocate to the City.

- **Decreasing household size:** The decreasing average household sizes represent an opportunity for the City to explore zoning which encourages different types of residential units such as condos, townhouses, and apartments which are tastefully integrated into existing and new neighborhoods.
- **Aging Workforce:** Like most communities, Oak Harbor has an aging workforce. Unlike many rural areas, Oak Harbor also has a stable population of young workers, as well. Both of these trends represent opportunities for Oak Harbor to cater to these groups. Oak Harbor should consider investing in public facilities like an updated senior center for the aging population and trails which might be popular with both groups.
- **High level of taxable sales:** Oak Harbor has a very healthy level of taxable sales, which are third highest amongst cities its size in the state. Only SeatTac and Moses lake had higher per capita sales during the first quarter of 2011. This is a surprising finding considering that Oak Harbor's median and per capita incomes are well below State averages. Consumer-oriented businesses commonly conduct market studies of which income is a primary consideration. Oak Harbor's income levels would suggest that its residents have little disposable income, but the high taxable sales figures say otherwise. Hypothetically, this could be due to the presence of the US Navy; active service personnel receive housing payment vouchers and subsidized childcare, which raises their disposable incomes. This finding has positive implications for attracting new retail stores to Oak Harbor and may even mean that Oak Harbor has the ability to attract higher end retail stores that typically locate in areas with higher disposable incomes.
- **Sales leakage:** The sales leakage data would suggest that there are a number of types of businesses that should further explore locating in Oak Harbor as listed in Table 13.
- **New tourism market possibilities:** The City has an opportunity to increase tourism by creating a tourist atmosphere and facilities. For example, the City could revise regulations for downtown Oak Harbor to make the design of new businesses in this area more appealing to tourists. It could also invest in public facilities, such as an amphitheater in Windjammer Park as called for in the City's Comprehensive Plan.
- **Unusually low impact fees:** The City should update all of its impact fees to meet future anticipated growth.
- **Transit service:** Oak Harbor can work with Island Transit to provide greater frequency transit service to NASWI and decrease the number of drive alone commuters on Oak Harbor roads.

Threats

- **Potential US Navy contraction:** Although the US Navy has announced that they will increase squadrons and personnel at NASWI associated with the relation of P-8A squadrons, there continues to be some uncertainty in the long run (10-20 years) about the political climate and budget cuts at the federal level. Political priorities can change leading to possible contractions at the base. Thus, Oak Harbor should focus on diverse, private sector growth as a long-term economic strategy.
- **Lack of experienced workers:** Oak Harbor's young population also means that it has fewer-than-average people of prime working age (late 30s, 40s and 50s). Companies looking for an experienced workforce might interpret Oak Harbor's young demographic as a sign of inexperience. The City, non-profits, and businesses should consider training programs and opportunities to help workers obtain, keep, and be promoted in local businesses. Additionally,

the City might want to place a greater emphasis on creating an atmosphere and attracting businesses with experienced workers in their 40s, 50s, and early 60s.

- **Educational attainment:** Oak Harbor’s lower-than-average educational levels for the population and its workforce are a threat to attracting employers who require degrees and also tend to drive wages and income down. Oak Harbor should work to emphasize positive aspects of its workforce such as its young average age.
- **Low income levels:** Oak Harbor’s lower than average household and per capita incomes mean that many mid and high-end consumer oriented businesses may choose not to locate here. Lower incomes are interpreted by businesses as a population which has less disposable income.
- **Housing demand and supply mismatch:** There is an apparent mismatch between the tenure of Oak Harbor’s units (predominantly renter) and the availability of units (predominantly single family). This mismatch could hinder economic development in the City. Anecdotal evidence shows that multiple families are living in single-family houses, creating impacts for neighborhoods and perceived overcrowding issues. Workers who cannot find the type of housing they need may live in other communities and spend their incomes in those communities, rather than Oak Harbor. Employers looking to locate in Oak Harbor may conclude that the housing stock does not match their worker’s needs and may locate their business elsewhere.
- **Decreasing household size:** The decreasing housing size could mean that Oak Harbor’s housing stock, which is heavily slanted toward single-family units, becomes outdated and too large for smaller household sizes. Thus, the City should proactively track the supply of land zoned for alternative types of housing to make sure that it has enough land to meet future needs for all types of housing.
- **Potential US Navy downsizing:** Since the City has no control over US Navy staffing levels, it is possible that the US Navy will decrease operations at NASWI at some point in the future. The decrease in operations and personnel at NASWI would negatively affect Oak Harbor’s economy. To mitigate the impacts from potential future NASWI job losses, Oak Harbor should work to attract a greater diversity of employers in the private sector, as well as maintain open lines of communication with the US Navy and federal officials. Furthermore, Oak Harbor should preserve the integrity of the base by preventing growth from encroaching too close to the base.
- **High unemployment rate:** Oak Harbor’s higher unemployment rates are probably due to the lack of diversity in its employment base, which is overly concentrated on low-paying retail, hotel, and restaurant jobs. Oak Harbor should work to attract a greater diversity of employers and businesses to the community in higher paying sectors.

Needs Assessment

Based on the SWOT analysis above, input from the business community, and expert analysis, the following economic development needs have been identified and are organized by major categories of economic development.

- **Economic Development Coordination.**
 - External coordination: Oak Harbor should coordinate more frequently with its economic development partners such as Island EDC and the Oak Harbor Chamber of Commerce. Coordinating will include open communication lines and eliminating overlap in economic development activities.
 - Internal coordination: Oak Harbor should consider developing a streamlined development review process and implementing it, including a “fast response” review team for the review of new business and job-generating uses. In addition, Oak Harbor

needs to maintain its economic development committee and business membership on boards and commissions.

- The City needs to secure funding for economic development staff and programs, including grant funding from the State.
- The City should explore creating a business impact section in its agenda bills.
- **Business Development.**
 - Based on the large percentage of small businesses in Oak Harbor, the City should get the word out to Oak Harbor businesses about the Island EDC entrepreneurial counseling and direct business counseling for new and expanding businesses. The City should periodically invite the EDC to speak to business owners in Oak Harbor about EDC's services. The City should also get the word out about Skagit Valley Colleges business classes and secure possible grant funding to send business owners to these classes.
 - The City should work with Island EDC to explore the possibility and financing for a business incubator at an appropriate location in Oak Harbor.
 - The City should explore creating a business resources section of its website with a library and reading materials on different aspects of running a business.
- **Development Incentives and Financing**
 - The City should commission a study to look at a range of development incentives and financing for job generating uses including, reducing/waiving/abating fees and taxes in appropriate instances. The City should track tax increment financing legislation at the state level and be poised to create a tax increment district if such legislation is approved.
 - The City should explore the possibility of providing in-kind engineering and planning services for small businesses and employers. In-kind services might include preparation of SEPA documents and basic site design under an appropriate legal arrangement.
 - The City should explore issuing industrial revenue development bonds for industrial development projects as do a handful of cities in the state including Anacortes and Bellingham.
 - The City should explore selling land to the private sector for a catalyst development in downtown or elsewhere. The City little league fields may be a prime candidate if a relocation site were identified.
 - The City should develop an impact fee deferral or reduction program for job generating uses.
 - The City should explore creating a revolving fund to provide low interest loans to businesses for store front improvements also know as a "storefront improvement program."
 - The City should correctly set its impact fee levels so that it can provide incentives to job generating uses while also maintain the integrity of the impact fee program.
 - The City should complete a cultural resources management plan so that all new developments do not have to complete archaeological surveys.
- **Business Attraction**
 - The City should look into targeted attraction efforts for growing business and industry sectors such as for (1) Arts, entertainment, and Recreation (2) Transportation and Warehousing. There could be potential to create a light manufacturing business incubator in conjunction with the high school vocational program and support from Oak Harbor businesses.
 - The City should create "Welcome Packages" for new businesses in retail, office, and industrial sectors apprising them of the steps required to open a business in Oak Harbor.

The City should consider updating its website to include a list of steps and contact numbers at the City to open a business.

- The City should create a demographic summary pamphlet to give to potential employers highlighting strategic advantages of locating in Oak Harbor.
- The City should investigate the parking supply in downtown. Parking is critical to attracting new businesses to downtown. Despite the fact that the Central Business District zoning does not require parking, investors in new developments require adequate parking for new businesses as a condition of financing. If Oak Harbor does not have enough parking in downtown, it should investigate financing and building a public garage which could dramatically help reduce costs for new development and businesses, thereby promoting new development in downtown.

- **Business Retention**

- The City should establish open communication lines with existing businesses to anticipate their expansion or relocation needs. To do so, the City should implement a business survey with questions about how the City can help existing businesses remain successful or avoid going out of business.
- The City should conduct periodic “breakfast with the Mayor” events, if budget allows, to keep communication going with existing businesses.
- The City should explore a “shop local” campaign and related programs to encourage local patronage of businesses in coordination with the Chamber of Commerce.
- The City should explore creating a historic district in downtown to preserve the character of that area, raise property values, and attract and retain new businesses. In addition, building code waivers could be explored for historic properties, including for ADA access which can be cost prohibitive to provide.
- The City needs to explore what it can do to increase tourism, including creating tourist attraction(s) and a regular schedule of events.

- **Workforce Education**

- Given trends in educational attainment levels, the City should maintain strong relationships with the Oak Harbor High School Vocational Program, Workforce Northwest, and Skagit Valley College and explore expanding training and education programs at these organizations. The City may be able to assist Skagit Valley College in expansion efforts as the community grows. Skagit Valley College’s marine technology building is sitting empty on Goldie Road and could be used as training/industry incubator.
- Businesses need to be connected with students from the high school vocational program. This is an untapped resource for businesses. Businesses could offer paid or free internships for high school students taking vocational classes.

- **Land Supply**

- The City should create a buildable lands study for residential, commercial, and industrial properties. There is anecdotal evidence that there few remaining large commercial parcels. Industrial land is ample, but there is a question as to whether it is buildable. Special emphasis should be placed on studying the capacity of infill parcels. The buildable lands study needs to have a strong link to the Capital Improvement Plan (CIP) to reduce the risk for investors in financing development.
- The City should explore rezoning parts of Pioneer Way to allow bed and breakfast establishments in proximity to the water and within walking distance of downtown.
- The City should explore rezoning parts or all of the Midway, Highway 20 and Barrington “triangle” to allow a greater intensity of residential and commercial uses.

- In compliance with the Comprehensive Plan, the City should explore redevelopment possibilities and incentives along Midway Boulevard.
- The City should explore the capacity and best uses for land located near its waterfront including existing and underutilized park lands.
- **Infrastructure**
 - The City needs to set impact fees at appropriate levels for future growth and regularly update these impact fees.
 - The City needs to establish a stronger link between its budget and the Capital Improvement Plan (CIP). Many communities make the first year of the CIP the capital budget. Currently, the City's CIP does not reflect true project costs. Additionally, projects are rarely completed in the timeframes shown in the CIP, increasing the uncertainty for developers as to when infrastructure will be provided and increasing the risk for investors in these developments.
 - The City should research the provision of city-financed wifi networks in key areas to reduce business costs.
 - The City should explore the feasibility and benefits of better utilizing Windjammer Park in accordance with the "Windjammer Plan" including the possibility of an amphitheater to host events and draw tourists to the area. If the amphitheater is determined to be feasible, then it may, in turn, help attract a waterfront hotel or events center.
- **Quality of Life**
 - The City should consider tracking and maintaining information on quality of life indicators which it can distribute to interested parties.

Appendix B: Focus Group Notes

Economic Development Focus Groups: Shared Themes

1. **Impact of Navy.** All participants noted the impact of the Navy on the local economy.
2. **Windjammer Park is an underutilized space.** Participants noted the need for more activities and events in Windjammer Park. One participant indicated that vendors, including for alcohol, should be allowed in the park. Park needs to have more amenities like bath houses, wading pools, splash park, functioning play equipment.
3. **City needs community center/recreational activities for youth afterschool and during summer.** Several participants noted that there is a lack of recreational/entertainment options for kids and families. A community center with indoor activities was desired. School district pointed out possible location of community center on school property where elementary school is now. Better community facilities will help attract family-wage workers.
4. **Business competition with commissary, Navy exchange, on base commercial contentious.** There was disagreement regarding the impact of Navy commercial facilities and competition with local businesses. Business owners seemed to think Navy facilities hurt private business. Navy officials indicated that downturn in private business lately was due to base downsizing. Navy officials noted that federal impact aid more than offsets for tax impact to community.
5. **Labor pool and educational training.** Navy and large business owner noted that the labor pool does not possess the right skills for technical jobs. Secondary educational programs do not meet aerospace needs or needs of tech businesses.
6. **Navy spouses/families are untapped labor pool.** Participants noted that the Navy spouses and families have education and training that qualifies them for jobs, but those jobs don't necessarily exist here in Oak Harbor.
7. **Tax abatements/fee waivers.** Several participants indicated that the City should offer tax abatements/fee waivers to encourage new businesses to locate in Oak Harbor or encourage businesses to upgrade design.
8. **Hours of operation.** Participants noted that the hours of operation of businesses in the City are a problem. Businesses need to stay open more consistently on weekends and evenings to attract locals and tourists alike. There was perceived reticence to change hours of operation.
9. **Rebuild the pier.** Participants recommended strengthening the connection of the marina/water with downtown. Rebuilding the city pier was suggested.
10. **More upscale restaurants needed.** A desire for more upscale restaurant choices, especially a waterfront restaurant was nearly universal.

**Economic Development Focus Group
Non-Profit and Public Sector
Notes
June 19, 2013**

The meeting began at 3:30 p.m. with the following in attendance: Shawn Harris (Island Transit), Lance Gibbon (Oak Harbor School District) and Calvin Hewitt (Habitat for Humanity). Staff present: Ethan Spoo, Economic Development Coordinator

Ethan Spoo began the focus group by reviewing some of the demographic information contained in the Oak Harbor Economic Profile and Needs Assessment Report.

Focus group discussed the demographic information as it relates to the Navy:

- The Navy's income level is low but they have access to health care, subsidized housing, Navy Exchange and Commissary privileges so it is difficult to compare Oak Harbor to other communities.
- The Navy provides a bowling alley, theater and paintball etc. so that siphons off part of the population from small businesses. We do have the opportunity to compete with the facilities that the Navy has, not head-to-head but, you have to offer something different or complementary with what they have.

How do you see the economic climate in Oak Harbor?

- The economy is recovering based on what Island Transit is seeing.
- Habitat for Humanity store has seen five month in a row of record sales. Possibly indicative of people needing affordable alternatives.
- Island County median income level dropped \$4,500 last year which means that family's ability to make a mortgage payment dropped \$90 a month. Building materials are going up but a family's ability to pay is going down. Rent is too high for low income.
- Job opportunities are no better than they were two to three years ago.
- Slight increase in students qualifying for free and reduces lunches in school (Federal Standard).
- The School District is hiring at a higher level now than in the past due to the recent local levy passage. The State budget will have more money for education.
- Low interest rates have made it more attractive for Navy families to buy homes instead of staying in base housing. Housing that is \$300,000 or less is selling, above \$300,000 is not.
- Island transit employs 30% to 40% Oak Harbor residents. Constant need for operators.
- When the economy tanked and gas prices went up ridership increased for Island Transit.
- Island Transit is an advantage for Oak Harbor because you can get around the Island without a car.
- Even during the economic downturn the School District has had difficulty filling substitute positions whether it is substitute janitors, teachers

Retaining and Growing Existing Business

- Not a lot of job opportunities for people in their 30's, 40's and 50's to stay in Oak Harbor. The plan needs to address this demographic.
- Oak Harbor needs a community center for kids and should include computers, classrooms and recreation such as a gym and basketball courts. Coupeville and Anacortes invested in a place where there are computers and classroom spaces.
- Need more support for recreational activities after school and after school activities whether it is supported by Parks and Recreation or another entity.
- Windjammer Park is underutilized.
- Oak Harbor is an easy place to live with kids, would choose Oak Harbor over Anacortes. If your child needs something in Anacortes you have to drive to Burlington or Oak Harbor to get it.
- Wrap Island Transit busses with photos of Deception Pass and Windjammer Park.
- The City and School District could partner and share the costs on a digital sign in front of the School District's main office on SR20 where community events could be advertised.
- Survey the community on what their needs are though a form survey or knock on some doors and get some personal contact.

Community Center Discussion

There was discussion about a joint activity with the School District and the City on the School District facilities on Midway Boulevard. In the next five years the School District could run a bond to build a new Oak Harbor Elementary where the soccer fields on Ft Nugent are and demolish the middle building but leave the old building with the gym and all the old transportation buildings would be gone. The gym and classrooms in the old Elementary School would make a good start to a community center. Midway Boulevard is a large street and provides great access and could be revitalized with the addition of community center complex in an area that already has the pool, senior center, ball fields and the skateboard park. If there is a compelling vision, the community could buy into the idea of doing something bold in the Midway area, which would also give businesses reason to invest on Midway Boulevard.

Is there anything that the City is doing to prevent businesses from starting?

- The political climate has to change. The bickering and arguing is not conducive to attracting new businesses. There should be stability and a common vision with everyone pulling in the same direction.
- Whatever comes out of this group can't be the agenda of a small group of people. There needs to be real broad based support and a compelling long term vision with a positive energized message.
- The alignment between the City and the Chamber of Commerce could be improved. It is not clear that both organizations are working on the same agendas and objectives. There doesn't seem to be a partnership.
- The permit process and working with the City is better than working with the County.

Meeting concluded at 5:00 p.m.

**Economic Development Focus Group
Small Business Sector
Notes
June 19, 2013**

The meeting began at 1:30 p.m. with small business owners: Jason Trit (Flyers Restaurant) and David Wilson (Woody's Car Wash). Chris Reissner was absent. Staff present: Ethan Spoo, Economic Development Coordinator.

Ethan Spoo began the focus group by reviewing some of the demographic information contained in the Oak Harbor Economic Profile and Needs Assessment Report.

Question: How do you see the business climate in Oak Harbor?

- David Wilson indicated that his gross income was 13% higher over last year and last year was 8% above the previous year. He believes the Navy is the driving force as more sailors come to Oak Harbor.
- Jason Trit indicated that starting in January he is up 20% and has had months of 40% increase over the year. He believes that his new sign has helped as well as the Navy expansion as well as contractors that are coming in and staying in Oak Harbor during a job which may last for months. He also said that the State's targeting our area for development and Island County Tourism has done good job promoting Whidbey Island in the Seattle and Vancouver, Canada market.

Question: What do you think about the broader economy of Oak Harbor?

- Jason Trit said people are telling him that their business is down and they are struggling. His analysis about why they are struggling is that the ones are succeeding work their businesses. If you are going to be a tourist destination you have to be open on Saturdays and Sundays. If businesses are not consistent with the hours of operation people won't go there because they might not be open.

Question: Is there anything that the City could do to educate business owners and encourage them to stay open and have consistent hours by getting the message out about free business classes through the Economic Development Council and the Chamber of Commerce?

- Business hours are a personal choice for business owners and there isn't much the City can do about that.
- Establish a theme e.g. Leavenworth and Winthrop, and Anacortes. They have strict business requirements from signage to style to comply with the adopted theme.
- Oak Harbor has a waterfront that is publicly owned and in Anacortes you can't get to the water unless you walk down to the dock. Oak Harbor has an underutilized waterfront. The dock should be rebuilt. Make it a convenience to stop with convenient services such as a nice restaurant.

- The Anacortes marina is more accessible to the downtown and stores than our marina is. A pier would make our downtown and stores are more accessible. Many boat owners have stated that they go to LaConner and Anacortes because they can park their boat and walk to where they need to go. Our marina is too detached and they have to take a cab.
- The City of Portland has the pink bikes that you can pick up and drop-off anywhere. Oak Harbor is an easy town to ride your bike around. You may lose a few bikes but not many if you paint them an outrageous color and tag them. Pick up and drop off stations could be a nautical theme. The bikes are locked up and you slide your ATM card and the bike pops out and when you park it at location "B" you get your credit back for it or it charges you a couple of dollars. We have the electric charge station downtown which is a great idea but there is no follow through.
- Formulate a target list of businesses to attract and have the City go after those businesses whether it is through the Chamber or someone else. There are no men's stores on the Island. There are niches that can be filled and if locals are not going to fill those niches then the City could seek out those businesses. Anacortes did it; Mount Vernon and Burlington do it. They sought out the business that they want in certain area.

If the City approached the business community and said we have to be more selective in terms of how the business looks. It could be seen as the City being over regulating.

- There has to be buy-in by the community.
- Currently the problem is the restriction on signage, the permitting process can be difficult and deters business expansion. Several years ago Mr. Trit said he was told he couldn't use a wood stone oven and there were several restaurants in a 50 mile radius that had them and he couldn't use one in Oak Harbor. He said things like this deter businesses from doing business here. The process is the problem and the City needs to be more involved in finding solutions.

How should the City add more regulations about how businesses should look/landscaping?

- The City doesn't enforce little things and lets things slide because they say they don't have the resources. If the City would be consistent with code enforcement at first people would be upset but eventually it would be the norm. The City picks and chooses what they enforce and it needs to be consistent for everyone.

Question: How should the City approach businesses about requiring buildings to be designed according to a theme?

- The City has to decide on a theme and it is not going to happen overnight. But you have to start applying a venue that is where it starts.
- Promote special events to draw people from out of town. Windjammer Park is our biggest asset. The City of Coeur d'Alene has a massive park like we do except they have bath houses, working wading pools and working swing sets, musicians and

vendors selling food in their park. You can sit in a café in their park and have a beer or a glass of wine.

- Make the Farmers Market a theme, relocate it and grow it. Having the farmers market next to the chamber doesn't benefit businesses.

San Luis Obispo promotes a Thursday night market where the stores and restaurants stay open. The restaurants that aren't on the avenue have a beer stand and there is entertainment. This is a big event downtown on certain nights in the summer. We have a similar venue downtown where you can close the street and have the farmers market there and draw people from up and down the Island. Mr. Wilson has broached the subject of moving the Farmer's Market downtown. The response that he got was that the market is where it is for a reason and people don't like change. If the City would help promote it and use the downtown as a venue the Farmers Market would grow and become a big event. The City of Sacramento called their event the Thursday night market. The event was from 6 p.m. to 10 p.m. and there was entertainment.

- Mr. Trit said he was on the Events Committee but quit because it wasn't going anywhere because they aren't willing to make changes e.g. moving the Farmers Market. The number one thing in Oak Harbor is people don't like change.
- Mr. Trit suggested having one night a week or a month to allow the car clubs to get together and cruise Oak Harbor. He has been trying to convince the Rotary to change the date of the Car Show because they have it on the same weekend two other events are going on, in La Conner there is a car show and in Coupeville there is an arts festival. Don't compete with other events.
- Have regulations for buildings design but in return the City could help with finding grant money or tax breaks. Businesses that are succeeding have put money into their spaces. The building looks nice so people shop there. If the space doesn't look nice are you going to go there?

Question: Is there anything that the City is doing to prevent businesses from going into business or run businesses out of business.

- Mr. Trit said for him it was difficult going into business and expanding his business, right now the issue of parking has become a roadblock as he tries to expand.
- Mr. Wilson said his biggest problem over the years has been vandalism from unsupervised children with nothing for them to do.
- Mr. Trit suggested attracting business that can provide entertainment for youth. The City has done a pretty good job they built a skate park but there is nothing for them in the evening.
- The lack of funds for maintenance or budget for enhancing Windjammer Park with a splash park is almost as important as bringing businesses downtown. If there were

vendors that had to pay for a permit or beer gardens that generate money which can be used as fundraisers in order to help generate money to put back into the Park.

- The Parks Board is meeting to decide on whether or not to forward a recommendation to the Council to allow alcohol in the park and there is opposition from the Impaired Driving Impact Panel of Island County (IDIPIC). This is another example of resistance to change but this is something that will help Oak Harbor move forward but every time we attempt to move forward a group steps up and says no.
- The political infighting hampers business opportunities. The Mayor and the Council tries to make everyone happy and it almost doesn't matter what is best for the City. Let's look to the future of Oak Harbor knowing that you will never please everybody.

Question: What would you tell a new business who is considering coming to Oak Harbor and are there things the City could do to attract new businesses?

- David Wilson said that compared to the City of Burlington, the City of Oak Harbor is pleasant to do business with but he has experienced huge dollar losses due to vandalism. The City needs to get people to stop in Oak Harbor.

Question: Is there a mix of services that the City offers that is attractive to businesses?

- The City should offer business recycling.
- David Wilson said his biggest bill is sanitary sewer and offering an incentive for installing a recycling system would cut his water utilization by 2/3 would be helpful.
- Jason Trit suggested promoting the quality of life in Oak Harbor as a good place to raise a family.

Question: What would you say about the future of Oak Harbor?

- David Wilson said the future is positive with what the Navy is bringing. Let's face it our economy is driven by the Navy. To be positive we have to make Oak Harbor a positive environment for families to be.
- Jason Trit said the playing field should be level for all businesses.

Meeting concluded at 2:30 p.m.

Economic Development Focus Group
Navy
Notes
July 9, 2013

The meeting began at 3:30 p.m. with the following in attendance: Jennifer Meyer (Community Liaison) and Scott Smith (Business Manager) and Mike Welding (Public Affairs Officer). Staff present: Ethan Spoo, Economic Development Coordinator.

Ethan Spoo began the focus group by providing background on the Economic Development Committee and reviewing some of the demographic information contained in the Oak Harbor Economic Profile and Needs Assessment Report.

Scott Smith commented that basic allowance for housing is not counted as income so it is possible that the average household income of \$50,000 does not include housing. The basic allowance for housing can be substantial upwards of \$15,000 to \$20,000 a year. Additionally there is basic allowance for subsistence which is about \$2,000 a year. People who live on base do not get the allowance. Approximately 1,500 single sailors live in the barracks and there are about 1,500 homes. The rest of the sailors live in non-Navy housing.

Island Transit

Scott Smith and Jennifer Meyer noted that the Navy has addressed the Island Transit Board with a solution to the security issue when busses enter and leave the Base. Island Transit has not been responsive to the idea of providing service to the Base. The State study showed that 88% of economic activity of the County is driven largely by payroll out of the Base. Island County Transit is funded by sales tax so arguably a big chunk of their revenue stream is funded directly or indirectly by the Base. If the mission of the Transit is to support all citizens of Island County as stated on their website and the Base is paying at least their fair share and we would pay more if we could get into town to spend money. The mini-mart at Ault Field is rated the top mini-mart for sales density because there are no other options within miles and there is no public transportation. The walk from the barracks is a long distance especially you are carrying things and the weather is bad.

Housing

- The Navy's housing survey that was done in 2008 showed that for bachelors living off base housing inventory for higher pay grade military personnel was limited (apartment/townhomes) although that is changing.

New Jobs/Businesses

- Maintenance work for the aircraft needs to be done on base.
- Maintenance center of gravity for the Growler is Lemoore, California.
- P-3 needs continual maintenance but the C-40 doesn't need a lot of maintenance.
- The P-3 squadron is 350 people and the P-8 squadron is 265.
- The Growler and the P-8 are both Boeing aircraft so there may be some opportunities but should wait for better data before talking to the Boeing support team.

Education:

- Skagit Valley College and on-base college enrollment numbers have risen since the Navy provides its sailors dollars for education and if active duty personnel want to advance they need an associate's degree.
- Availability of classes in aerospace technology (advanced engineering and science) is limited in Oak Harbor and you have to go off-island to Mt. Vernon.

Services/entertainment businesses:

- Need higher end dining opportunities
- An indoor fun center for families
- Single sailors – an under 21 club with arcade type entertainment & bands would be nice
- The bar life is problematic
- Spouses are an untapped labor pool, jobs are limited, home occupations such as in home childcare is an option

Existing businesses

- Animal Shelter, Fire, Police and Public Works have had a good partnership with the Navy.
- The Navy Marina is being eroded and the failure to figure out how to drive piles with all of the regulations has resulted in incremental reduction of the slips where eventually it may go away. Boat rentals for crabbing may or may not remain out of Ault Field. The City Marina may see more demand.
- Local businesses perceive a problem with competing with the Commissary and Exchange but the reduction of personnel may have had an impact on local businesses.
- There is a perception that the military is not paying its fair share but the flip side is that DOD impact aid far exceeds what this school district would receive if you were to pay property taxes on those 1,500 homes. The cooperation between the Navy and Oak Harbor on the Seaplane base wastewater treatment plant several years ago benefited both parties.

Looking ahead

- Do not see the value of the base going down.
- National and geopolitics play a big role on the number of military personnel. The thing that the City and County can control is airspace encroachment which is huge and the City has done very well on that.

Meeting concluded at 5:00 p.m.

**Economic Development Focus Group
Large Business
Notes
July 11, 2013**

The meeting began at 3:30 p.m. with the following in attendance: Todd Krantz (Whidbey Island Bank) and Abdul Sharif (Technical Services Inc.). Staff present: Ethan Spoo, Economic Development Coordinator.

Ethan Spoo began the focus group by reviewing some of the demographic information contained in the Oak Harbor Economic Profile and Needs Assessment Report.

How do you see the economic climate in Oak Harbor?

- Believe that residential construction will increase largely due to additional Navy personnel and contractors.
- Economy is driven by impact of the Navy.
- There are a lot of vacancies, not a lot of new or expanding businesses. Investors are waiting to see if the economy improves.
- The manufacturing industry is starting to come back from offshore since pay rates are starting to go up which affects the transportation cost of shipping goods back-and-forth.
- Oak Harbor is three to six months and as much as a year behind in some sectors as far as growth and the housing market.
- Manufacturing has to offer free shipping/deliveries or other incentives to cut costs to the customer to get customers to do business in Oak Harbor.
- Skagit Valley College lacks programs geared to manufacturing and service related.
- There is a labor pool issue on the Island. Mr. Sharif said that a former employer had a partnership with a technical school and a community college that offered electronic programs.

What would make you grow your business?

- TSI has plans for expansion but they have to decide if it is worth it because of City taxes. Snohomish County gave a 5-year tax free zone for manufacturing as an incentive for growth. Not paying taxes allowed businesses to spend money on things to grow the business in that zone.
- Banking is changing due to technology, in Oak Harbor people still like to go to the bank and talk to someone but Whidbey Island Bank is not looking at expanding branches in Oak Harbor.
- Being on an island is a transportation issue since it is an additional 40 minutes from the freeway when Burlington is only 5 minutes away. A bridge from Whidbey to Stanwood would have the biggest impact but unfortunately that is not feasible.
- Oak Harbor has to give businesses a reason to come here.
- Oak Harbor needs a greater variety of local businesses e.g. the street improvements downtown are great but there isn't anything to draw people there. Businesses and leaders of the community need to step up and do a lot and stop relying on the City, County and State.
- Hillsboro outside of Portland there is an area where they have a recreation area that has everything (soccer fields, baseball fields, tennis, pool, skate parks).

What is preventing business growth?

- The older business owners that have been here a long time like the status quo don't want the area to change. They are comfortable with what they have.
- As a society we are not encouraging entrepreneurial growth. Kids go to school and learn to work for someone else.
- The cost of starting a business has gone up. Waiving fees can help start-up businesses.
- A comparison of the banking industry in 1996 to now shows that there were 11,000 banks in the US in 1996 and now there are around 7,000 but there are 20% more employees. So it looks like it is not cost affective to start up a new business. The initial investment for permitting and licensing requirements can be prohibitive.

- Crossing the threshold of over 100 employees changes your tax bracket. The health care changes will be very bad for a small business. Even though the income levels are lower, business still have the same spending.

Is there was anything that the City is doing to prevent businesses from going into business?

- The permit process and working with the City is better than it was about 10 years ago.

Attracting New Businesses

- Attract recreational businesses and better restaurants to people a reason to stop in Oak Harbor. An Anthony's would be a good anchor business downtown and the stores should be open in the evening so people can browse after dinner and entertainment should be available downtown.
- Rebuild the pier.
- Better advertise Oak Harbor's assets, people don't know where things are and just drive through the City on their way somewhere else.

Meeting concluded at 5:00 p.m.

City of Oak Harbor City Council Agenda Bill

Bill No. 6.e.(1) and (2)
Date: December 3, 2013
Subject: Human Resources Reclassification -
HR Manager to HR Director /
Ordinance 1678


FROM: Larry Cort, City Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Scott Dudley, Mayor
 Doug Merriman, Finance Director
 Grant Weed, Interim City Attorney, as to form

PURPOSE

This agenda bill presents a proposal to reclassify the Human Resources Manager position to Human Resources Director, to establish a salary range appropriate to the position and to amend Chapter 2.34 OHMC to reflect this change.

SUMMARY STATEMENT

The Human Resources Department currently has an authorized staffing level consisting of two employees equaling 2.0 FTE – a Human Resources Manager and a Human Resources Administrative Assistant. After assessing the overall needs of the City with respect to directing, managing, supervising and administering the human resources function for Oak Harbor, the administration is a strong advocate for reclassifying the current Human Resources Manager to Human Resources Director, and modifying the job description and salary schedule accordingly. We believe these changes are necessary to attract a highly skilled human resources professional with an outstanding background in the public sector to work for the City of Oak Harbor.

The attached draft Job Description outlines a number of key job and performance requirements for the new position, along with essential experience and training expectations. Substantial (at least five years) of senior management-level experience within a local government or public sector environment is perhaps what distinguishes the Director-level position from that of Manager. More specifically, comprehensive knowledge of public sector collective bargaining, developing and managing progressive human resource programs, understanding and applying legal principles as they relate to public employment, managing risk, effectively communicating with employees, elected officials and citizens and a thorough understanding of public records requirements highlight several important attributes of an effective Human Resources Director. In addition, the successful candidate will also be a department head and an essential part of Oak Harbor's senior management team.

Most cities that Oak Harbor considers to be “comparables” in Washington's municipal hierarchy have already established a Human Resources Director position with qualifications and expectations to match. Based on research performed by the City's Human Resources Analyst, the administration is proposing the

City of Oak Harbor City Council Agenda Bill

following salary schedule be established for the Human Resources Director. The current scale for the Human Resources Manager is shown for comparison.

Position	Grade	Monthly Salary Range
HR Director	59	\$7,069 - \$8,694
HR Manager	54	\$6,098 - \$7,499

Finally, Chapter 2.34 OHMC is proposed to be amended to reflect the reclassification of this position. Draft Ordinance 1678 is attached and in effect would change all references to Human Resources Manager to Human Resources Director.

RECOMMENDED ACTION

1. Motion to reclassify Human Resources Manager (Grade 54) to Human Resources Director (Grade 59).
2. Motion to adopt Ordinance 1678.

ATTACHMENTS

1. Human Resources Director Job Description
2. Draft Ordinance 1678

**CITY OF OAK HARBOR
JOB DESCRIPTION**

Job Title: *Human Resources Director*
Department: *Human Resources*
Reports to: *City Administrator*
Status: *Exempt /Non-union*

Job Summary:

The Human Resources Director is a working manager position and is responsible for the overall direction, leadership, management, supervision and administration of the Human Resources Department. Advises the Mayor, City Council, City Administrator and Department Directors. Responsible for overseeing negotiations and administration of labor contracts. Investigates grievances and grounds for discipline. Provides expertise on compensation and benefits administration, safety and health, recruitment and employment, and employee training and development. Advises and assists staff with federal, state and local law compliance and HR policies and procedures. Fosters employee communication and effective working relationships.

Essential Job Functions:

1. Participate as a member of the City's management team providing strategic leadership and input on decisions having significant organization-wide impact. With the Mayor and City Administrator, recommend, develop and implement proposals for new/revised programs. Consult with legal counsel to ensure policies and programs comply with federal/state law.
2. Attend City Council meetings and workshops. Provide ongoing communications regarding Human Resource matters, and serve as a resource to the Mayor, Council, and City Administrator.
3. Review federal, state and local legislation to determine impact on personnel issues, policies and strategies. Keep management informed of personnel requirements as applicable.
4. Direct and supervise Human Resources staff; develop and evaluate performance. Monitor and advise the Accounting Technician – Payable/Payroll in benefit coordination and payroll auditing.
5. Establish and maintain effective and cooperative working relationships and teamwork with the executive team, department heads, supervisors, employees, public officials, business representatives and the public using good judgment, tact and courtesy.
6. In collaboration with City management, investigate and evaluate human relations and work related problems to determine effective remediation techniques and recommend employee disciplinary actions consistent with City policies, procedures and collective bargaining agreements.
7. Investigate discrimination complaints. Prepare the City's response to complaints filed with external agencies such as the Equal Employment Opportunity Commission.
8. Serve as contact administrator for the City's collective bargaining negotiations. Participate as a representative of the City administration. Serve as member of bargaining team. Assist in maintaining satisfactory labor-management relations, interpret collective bargaining agreements, assure consistency in enforcement, administer grievance procedures and assist/advise/research all operational levels on labor relations activities/matters.
9. Lead the development and implementation of strategic citywide succession and workforce planning initiatives.
10. Administer the City's recruiting and employment processes. Provide leadership, direction and support to City departments to attract, retain and develop quality employees in compliance with federal, state and local laws and City codes, regulations and policies.
11. Monitor the administration of the benefits programs. Manage the Accounting Technician – Payable/Payroll in benefit coordination [medical, dental, vision, life insurance, long-term disability, retirement (DCP, PERS, LEOFF), open enrollment, unemployment compensation, COBRA administration, vacation, sick leave, leaves of absence].
12. Manage Labor and Industries Workers' Compensation program. Maintain Workers' Compensation records/claims including, return-to-work programs and efforts. Prepare necessary reports including, the annual OSHA Report. Advise City departments of claim status as needed. Serve as the Retrospective Rating Program liaison.
13. Administer FMLA and advise staff on leave laws.
14. Provide guidance in the area of Safety and Risk Management.
15. Monitor the timely completion of performance reviews for all City departments. Review evaluations for consistency and effectiveness. Make recommendations for change/review. Assist managers, supervisors and leads with reviews if needed.
16. Oversee citywide training and staff development. Foster educational opportunities and identify training needs. Develop and conduct training programs and/or contract with outside providers for programs.

17. Maintain confidential personnel and medical files. Establish, create and maintain department records, forms and reports.
18. Develop human resources budget. Monitor and control human resource expenditures in accordance with City budget policies.
19. Serve as a member of the Safety Committee, Employee Advisory Committee and other groups or committees. May serve as Secretary/Chief Examiner to the Civil Service Commission.

Associated Job Functions:

1. Attend various workshops, continuing education meetings, seminars and conferences.
2. Perform other duties and responsibilities as assigned.

Performance Requirements (Knowledge, Skills and Abilities):

- Knowledge of public sector human resource management functions, including benefits administration, workers' compensation, safety, general liability, etc., including a knowledge of local, state and federal legislation, regulations and court decisions impacting personnel activities.
- Knowledge of job analysis relative to classification, compensation and organizational review.
- Knowledge of employee relations and labor negotiations.
- Knowledge of Industrial safety and workers' compensation administration.
- Knowledge of Civil Service laws. Interpret and apply Civil Service Rules and Regulations.
- Knowledge of the principals and practices of Risk Management.
- Strong project management, time management and leadership skills.
- Written skills and ability to compose complex documents and the ability to research, organize and compile data into meaningful reports. Prepare oral and written presentations and reports outlining findings and recommendations for policies, procedures, etc. Thorough knowledge of English, spelling, grammar, vocabulary and punctuation.
- Skills in maintaining effective and persuasive communication, both in person and in writing, with diverse audiences, including sometimes stressful situations. Recognize and respond to nonverbal communication (body language and eye contact).
- Ability to provide facilitation skills in sensitive, emotional and/or hostile situations. Be approachable and nonjudgmental when discussing employee concerns.
- Ability to quickly gain and maintain knowledge through journals, seminars and professional association membership.
- Skills in developing, updating, implementing, interpreting and monitoring human resources functions in a nondiscriminatory manner to reflect changes in economic, management and legislative programs.
- Ability to quickly acquire a thorough knowledge of Mayor, Council and department working relationships as well as the City's administrative procedures, mission and vision and to present policy and technical information to senior management and council.
- Ability to represent the City's human resources programs and assist in negotiations with a variety of people with differing interests.
- Ability to effectively manage and supervise the work activities of staff in a manner conducive to proficient performance and high morale.
- Ability to establish, implement and enforce safeguards regarding confidentiality and privacy of sensitive information.
- Ability to develop HR programs and policies based on new requirements.
- Ability to learn and readily apply new specialized data systems.
- Ability to conduct labor relations activities/research.
- Skills in using a personal computer and a broad variety of associated software and other standard office equipment.

Working Environment and Physical Demands:

Work is performed in an office, Council, or meeting room environment with frequent interruptions. Work requires reaching, twisting, turning, kneeling, bending, squatting, a normal range of hearing and visual acuity, eye/hand coordination and manipulation skills to operate a personal computer, telephone and other equipment, as well as the ability to sit for extended periods of time and access all areas of the facility including stairs. Stamina to sustain long workdays and some weekends as necessary. Attendance at weekend and evening meetings is sometimes required, with travel required to other City locations or out-of-town meetings and conferences.

Experience and Training Requirements:

- Bachelor's degree in human resources, industrial relations, psychology, business or public administration, organizational development or closely related field, **and**

- Eight years of professional human resources experience **with** a minimum of five years of senior management-level experience in a local government or other public sector agency.
- Experience working in a labor union environment, including negotiations and contract administration in a public sector environment.
- Experience developing and managing progressive programs in all areas of Human Resources in a public sector environment.
- Experience with employee medical benefit plan design and administration.
- Master's degree in an appropriate discipline is preferred.
- Certified Professional in Human Resources desirable.
- Excellent computer operation skills and experience with a variety of software programs including Microsoft Office applications.
- Valid Washington State driver's license or otherwise establish the ability to perform the job in an equally efficient manner without driving.
- Must pass background and drivers record checks.

A combination of education, training and experience that provides the required knowledge, skills and abilities to perform the essential job functions may be considered.

Established: Admin/HR 2013

FLSA: Exempt

Revised:

Salary: --

The statements contained herein reflect general details as necessary to describe the principal functions of this job, the level of knowledge and skill typically required, and the scope of responsibility, but should not be considered an all-inclusive listing of work requirements. Individuals may perform other duties as assigned including work in other functional areas to cover absences or relief, to equalize peak work periods or otherwise to balance the workload.

ORDINANCE NO. 1678

AN ORDINANCE OF THE CITY OF OAK HARBOR AMENDING CHAPTER 2.34 OF THE OAK HARBOR MUNICIPAL CODE ENTITLED "PERSONNEL" TO CHANGE HUMAN RESOURCES MANAGER TO HUMAN RESOURCES DIRECTOR

WHEREAS, the City's Human Resources Department is currently managed by the Human Resources Manager; and

WHEREAS, the title Human Resources Manager does not adequately encompass the range of duties expected for this position and is general inconsistent with the title used by other jurisdictions of similar size and complexity to Oak Harbor; and

WHEREAS, the City Council of the City of Oak Harbor wishes to reclassify the lead human resources position to Human Resources Director to more accurately describe the duties, responsibilities and expectations for this position;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF OAK HARBOR do ordain as follows:

Section One. Chapter 2.34 of the Oak Harbor Municipal Code, last amended by Ordinance 1654 in 2013, is hereby amended to read as follows:

**Chapter 2.34
PERSONNEL**

Sections:

- 2.34.010 Short title.
- 2.34.020 Purpose.
- 2.34.025 Civil service.
- 2.34.030 Collective bargaining.
- 2.34.040 Definitions.
- 2.34.050 Administration.
- 2.34.055 Management and mayoral support positions.
- 2.34.060 Human resources ~~manager~~ director – Appointment – Duties.
- 2.34.070 Recruitment and hiring.
- 2.34.080 Compensation.
- 2.34.085 Health insurance benefits.
- 2.34.090 Hours of work.
- 2.34.100 Leave.
- 2.34.105 Disciplinary action.
- 2.34.110 Grievances.
- 2.34.120 Personnel appeals board.
- 2.34.130 Employment discrimination.
- 2.34.140 Probationary period.
- 2.34.150 Resignation, layoff and reinstatement.

- 2.34.160 Code of ethics.
- 2.34.170 Construction.

2.34.010 Short title.

This chapter shall be known as the “personnel ordinance.” (Ord. 1627 § 1, 2012).

2.34.020 Purpose.

This chapter is enacted to establish city personnel policies and to delegate the administration of those policies to the mayor and his/her designee. No provision of this chapter shall be deemed to limit the power of the city council to amend, modify or repeal this chapter. (Ord. 1627 § 1, 2012).

2.34.025 Civil service.

The city council has determined not to create a city civil service system for all city employees. Pursuant to state law, the city has established a civil service commission for police and fire department employees (Chapter 2.32 OHMC). Where the rules or requirements of civil service for city police and civil service for city firefighters provided under state law or a collective bargaining agreement between the city and any police or fire bargaining unit address a matter also addressed by the personnel code or the personnel rules adopted pursuant to this chapter, the provisions of state law and/or the collective bargaining agreement in effect at the relevant time period shall apply.

(1) All full-time, paid employees of the police department, other than the chief and positions designated by the civil service commission pursuant to RCW 41.12.050, are covered by Civil Service for City Police (Chapter 41.12 RCW).

(2) All full-time, paid employees of the city fire department, other than the chief of such department, are covered by Civil Service for City Firefighters (Chapter 41.08 RCW) as provided by state law. (Ord. 1627 § 1, 2012).

2.34.030 Collective bargaining.

(1) It is the policy of the city of Oak Harbor to honor the collective bargaining obligations imposed upon the city under state law.

(2) The human resources ~~manager~~ director and the mayor’s designee shall represent the city in collective bargaining agreements and shall consult with the city council on bargaining strategy at appropriate stages in the collective bargaining process.

(3) Where a subject also covered by these rules is the subject of a collective bargaining agreement in effect at the relevant time period, then the terms of the collective bargaining agreement shall prevail as to the applicable represented employees. (Ord. 1627 § 1, 2012).

2.34.040 Definitions.

The following terms and phrases shall have the meanings ascribed to them herein:

(1) “Administrator” means the human resources ~~manager~~ director;

(2) “Covered employee” means an employee appointed to a position to which the rules of this chapter pertaining to disciplinary action and appeals apply. Such provisions of this chapter do not apply to the following positions:

- (a) Members of the city council;

- (b) The mayor;
 - (c) Employees holding management positions set out in OHMC 2.34.055;
 - (d) Members of appointive city boards, city commissions and city committees;
 - (e) Persons engaged under contract to provide any service to the city for a limited purpose or on a temporary or part-time basis;
 - (f) Volunteers;
 - (g) Persons hired from time to time to perform casual work including, but not limited to, those employed to perform seasonal work or to meet the immediate requirements of an emergency condition;
 - (h) Employees represented by a union or guild pursuant to certification of a bargaining unit by the Public Employment Relations Commission; and
 - (i) Employees subject to the city's civil service commission for police and fire department employees;
- (3) "Department head" means a person working for the city who has been designated by the mayor to be the head of a department;
- (4) "Disciplinary action" means an action imposing discipline on a covered employee, which shall include, but not be limited to, written reprimands, suspensions, demotions and disciplinary discharges/terminations from employment. Verbal warnings, counseling, written statements of performance expectations, including related notes, and performance appraisals shall not be considered disciplinary actions, and are not subject to the grievance process. Layoffs, resignations and reinstatements are also not considered discipline;
- (5) "Disciplinary appeal" means an appeal by a covered employee to the personnel appeals board after the employee has exhausted the grievance process;
- (6) "Employee policy manual" means all of those policies, guidelines and procedures adopted by the mayor pursuant to OHMC 2.34.050;
- (7) "Full-time" means a regular employee working in a regularly budgeted position allocated at least 32 hours per week;
- (8) "Grievance" means a complaint by a covered employee regarding disciplinary action taken against that employee or the application of any of the provisions of this chapter to that employee;
- (9) "Hourly" means any employee who is paid on an hourly basis;
- (10) "Part-time" means an employee working in a regularly budgeted position allocated work hours of less than 32 hours per week and whose hours may be regular or irregular;
- (11) "Probationary employee" means an employee who has not yet successfully completed his or her probationary period set pursuant to OHMC 2.34.140;
- (12) "Regular employee" means an employee who has successfully completed his or her probationary period and is retained in a fully budgeted position in the biennial budget;
- (13) "Temporary employee" means a person employed to meet a temporary or seasonal need of the city. An employee may not remain in this category more than 12 months without the written approval of the mayor. (Ord. 1627 § 1, 2012).

2.34.050 Administration.

The mayor shall have general authority to oversee administration of the personnel matters of the city. The city council recognizes that the management of the city and the

administration of personnel are administrative matters and not legislative functions. For that reason, and also because there are complex and constantly changing state and federal regulations affecting city employees, it would be unwise, inefficient and impractical to attempt to incorporate all details of personnel policies in an ordinance, resolution or motion of the city council. Thus, the city council expressly authorizes and directs the mayor to adopt such additional or clarifying personnel policies by administrative actions. Such policies shall be in accordance with this chapter and shall be for the purpose of carrying out the goals and policies of this chapter. Such personnel policies shall not create rights in employment, but instead shall implement the personnel policies provided for in this chapter and other applicable ordinances. The mayor may incorporate personnel policies into a handbook or other informational document for employee use.

(1) Nothing in any handbook, manual or other informational document shall, nor shall any oral promises, assurances or other statements by city employees, officers or agents, be binding upon the city in personnel matters.

(2) The city reserves the right to modify personnel policies at any time and the same shall not be construed as guaranteeing or promising contract or property rights in employment with the city. (Ord. 1627 § 1, 2012).

2.34.055 Management and mayoral support positions.

(1) Except as provided in subsection (6) of this section, employees hired to fill the following appointive offices shall be subject to the direction and supervision of the mayor, and are not covered by the grievance, disciplinary action and appeals provisions of this chapter. Persons employed in these appointive positions shall be "at will" employees of the city and may be terminated from the city's employment at the mayor's discretion.

- (a) City administrator;
- (b) Finance director;
- (c) City attorney and any assistant city attorneys;
- (d) Chief of police;
- (e) Fire chief;
- (f) Development services director;
- (g) Public works director;
- (h) Executive assistant to the mayor.

(2) Subject to the provisions of subsection (6) of this section, employees holding the above-listed positions shall be offered employment contracts which shall govern the terms and conditions of their employment, including the terms of service, compensation and any severance pay allowance. The mayor is authorized to enter into employment contracts with employees holding the above-described appointive offices; provided, however, that before any such contract or specific contract terms are offered, the content of the same shall first be approved by the city council.

(3) Employees holding the above-listed positions at the time of adoption of the ordinance codified in this chapter who do not already have employment contracts with the city or whose contracts have not been revised in the previous five years shall be offered employment contracts providing the terms of service and compensation as approved by the city council. Such contracts shall be prepared for city council review and approval no later than six months from the date of adoption of the ordinance codified in this chapter.

(4) Employees who decline to enter into contracts of employment offered to them pursuant to this section shall continue in their employment status existing at the time of adoption of the ordinance codified in this chapter or as set forth in subsection (6) of this section, and continuing until that employee's separation from city employment. An employee who does not enter into a contract of employment as provided herein shall not be entitled to any of the rights or benefits that may be otherwise conferred upon persons employed in the above-listed positions by contracts established pursuant to subsection (2) of this section.

(5) All other positions are "for cause" (as defined in the Oak Harbor Municipal Code) to focus greater attention on monitoring employee work activity results, the evaluation of employee performance to determine the level of achievement goals, and using performance information to make decisions, allocate resources and communicate whether or not objectives are met.

(6) It is the policy of the city of Oak Harbor to treat its employees fairly and provide equal opportunity in employment to all employees. The "at will" and "for cause" status of the positions of employment held by the current director of the city's public works divisions (director of public works upon enactment of OHMC 2.70.010 et seq.) is unclear at the time the ordinance codified in this chapter is being enacted. In order to minimize confusion and in order to minimize the risk of litigation related to the enactment of the ordinance codified in this chapter, the following exceptions to this chapter shall apply for so long as the current director of the city's public works divisions remains in the full-time employment of the city of Oak Harbor:

(a) The current director of the city's public works divisions shall become the director of the newly created department of public works. At such time as that newly created position of public works director is filled by the current director of the city's public works divisions, the public works director shall be a "for cause" employee and shall not be treated as an "at will" employee who may be terminated from employment without proper cause. With the exception of OHMC 2.70.020, all other sections and provisions of this chapter and newly enacted Chapter 2.70 OHMC shall apply to the public works director to the extent not inconsistent with this provision. This exceptional designation of "for cause" employment status shall terminate at such time as the current director of the city's public works divisions/public works director is no longer in the full-time employ of the city of Oak Harbor.

(b) The current director of the city's public works divisions may, but shall not be required to, enter into the employment contracts referred to in subsection (3) of this section; provided, however, that in the event that either elects to enter into such a contract, the provisions of subsection (6)(a) of this section shall be of no further force and effect. (Ord. 1654 § 1, 2013; Ord. 1627 § 1, 2012).

2.34.060 Human resources ~~manager~~ director – Appointment – Duties.

(1) The "~~manager~~ director" or the "human resources ~~manager~~ director" as those terms are used in this chapter shall mean the human resources ~~manager~~ director, who, under the direction of the city administrator, shall administer the provisions of this chapter and any personnel rules and regulations adopted pursuant to delegation under this chapter.

(2) The ~~manager~~ director shall advise and consult with city department heads and supervisors on all disciplinary, benefit, compensation, workplace and labor matters.

Department heads and supervisors shall provide the human resources ~~manager~~ director with a copy of all such actions taken concerning individual employees and bargaining units.

(3) The ~~manager~~ director shall be the custodian of all official employee records on behalf of the city, including medical records, and shall maintain confidentiality of those records to meet the requirements of state and federal law. (Ord. 1627 § 1, 2012).

2.34.070 Recruitment and hiring.

(1) It is the policy of the city of Oak Harbor that employees shall be selected on the basis of merit and fitness to perform the duties of the position for which the employee is hired. The city is an equal opportunity employer and shall not discriminate against any employee or applicant for employment on any grounds prohibited by state or federal law including race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability, or the use of a trained dog guide or service animal by a person with a disability; as provided by state or federal law.

(2) The mayor and/or mayor's designee and human resources ~~manager~~ director are directed to develop hiring and recruitment procedures and practices to implement this policy. (Ord. 1627 § 1, 2012).

2.34.080 Compensation.

(1) It is the policy of the city of Oak Harbor to pay adequate levels of compensation to city employees. Providing adequate compensation to city employees promotes productivity, reduces turnover, and improves the city's ability to attract and retain qualified personnel to carry out the functions of city government. Compensation levels should reflect the market for such personnel in the region.

(2) The human resources ~~manager~~ director is directed to develop a wage and salary schedule for all regular positions within city government. The human resources ~~manager~~ director shall prepare a current wage and salary schedule for presentation to the city council for consideration and adoption at the time of the adoption of the biennial budget. The wage and salary schedule, together with the current description of all regular positions within city employment to be known as "the classification plan," shall be adopted as part of the biennial salary ordinance.

(3) Where wages and salaries are established through collective bargaining agreements, compensation for employee-members of each collective bargaining unit shall be reflected in the wage and salary schedule in conformity with the applicable collective bargaining agreements. This chapter shall not impair any obligations of the city under present or future collective bargaining agreements.

(4) At the time of adoption of the wage and salary schedule, the city council shall decide whether to set a cost of living adjustment (COLA) for regular employees not subject to collective bargaining agreement. (Ord. 1627 § 1, 2012).

2.34.085 Health insurance benefits.

(1) It is the policy of the city of Oak Harbor to provide health insurance benefits to its employees at a level which is comparable to benefits provided by other local municipal governmental entities in the state of Washington. Health insurance benefits for city em-

ployees promote the health and well-being of city employees, reduce the use of sick leave, and promote employee retention.

(2) The level of benefits offered to city employees shall be established by the city council through the biennial salary ordinance. Part-time employees working less than 20 hours per week shall not be entitled to health care benefits unless otherwise provided in an employment contract. The human resources manager-director shall prepare the benefit plan for city council approval.

(3) Because an active wellness program has been shown to reduce employee use of sick leave, improve productivity and reduce the need for health care services, the city council authorizes the participation of the city of Oak Harbor in the wellness program offered by the city's health care administrator. (Ord. 1627 § 1, 2012).

2.34.090 Hours of work.

(1) For purposes of the Fair Labor Standards Act and the Washington Minimum Wage Act, the city of Oak Harbor declares the work period to be 40 hours, Monday through Sunday, for all regular employees, except police and fire department employees. The work period for police and fire employees shall be established in their respective collective bargaining agreements.

(2) The human resources manager-director and the finance director are directed to establish work hour recording and compensation procedures to comply with state and federal law. (Ord. 1627 § 1, 2012).

2.34.100 Leave.

(1) It is the policy of the city of Oak Harbor to comply with all state and federal leave laws. The human resources manager-director is directed to establish procedures and practices to ensure that the city complies with such laws and can demonstrate compliance.

(2) It is the city's policy to coordinate leave granted to city employees with leave requirements of state and federal law so that city-granted leave is counted towards fulfillment of any state and federal requirements. The human resources manager-director is directed to establish procedures and practices to coordinate city-granted leave with state and federal requirements; to minimize conflicts; and to maximize credit of city-granted leave towards state and federal requirements.

(3) Full-time city employees not subject to collective bargaining agreement shall earn vacation and sick leave per month of service. The rate of vacation and sick leave to be earned shall be set in the biennial salary ordinance.

(4) Employees are encouraged to use their vacation leave in the year it is earned. The mayor/designee and human resources manager-director shall establish rules for maximum accrual and use of both sick and vacation leave. (Ord. 1627 § 1, 2012).

2.34.105 Disciplinary action.

(1) It is the policy of the city of Oak Harbor to uphold high standards of customer service and professionalism in the performance of city functions and services. Employees are expected to follow the standards of conduct established for the city, their departments and their positions. The human resources manager-director is directed to establish

standards of conduct for city employment and to work with department directors to establish departmental and position-related standards of conduct.

(2) A covered employee is subject to disciplinary action when, in the opinion of the department head, disciplinary action is necessary for the good of the city or when an employee has violated any standards of conduct established by the city or the department director.

(3) The city may impose upon any covered employee any disciplinary action or form of discipline which the department head or, in the case of a management employee, the mayor finds appropriate given conduct of the employee. There shall be no requirement that any specific number or sequence of disciplinary actions be followed. However, the administrator shall establish procedures which provide for progressive discipline of covered employees for minor, correctable offenses. (Ord. 1627 § 1, 2012).

2.34.110 Grievances.

(1) It is the policy of the city to resolve covered employee grievances promptly. To that end, the human resources ~~manager~~director shall promulgate a grievance procedure to serve as a check on initial disciplinary decision-making. This procedure shall be published and made available to all employees. The procedure shall be internal to the city and shall include an internal appeal to the city administrator. Failure to follow the procedures for a grievance, including the time limits set out in it, shall constitute a waiver of the grievance process and a failure to exhaust administrative remedies.

(2) It is the policy of the city to provide a post-deprivation remedy in the event that a covered employee is dissatisfied with the final decision of the city after the grievance process has been exhausted. This remedy shall be an appeal to the personnel appeals board from the final decision of the city.

(3) An employee who wishes to appeal the final decision of the city after exhaustion of the city's internal grievance process must file a written appeal with the city administrator or designee no later than 15 days from the date of the city's written final decision. Such written appeal shall contain:

(a) The name and current address of the employee filing the appeal;

(b) A brief description of the action being appealed with a copy of the final decision of the city, the department in which the employee works or worked, the date of the final written decision and the grounds for the appeal;

(c) The remedy sought;

(d) A telephone number at which the employee may be reached during the pendency of the appeal, which number the employee shall keep current throughout the appeal and whose messaging capabilities shall be sufficient for the city to leave any notices in the employee's absence.

(4) The written appeal shall be signed and dated by the employee. Failure to substantially comply with these requirements shall result in dismissal of the appeal. (Ord. 1627 § 1, 2012).

2.34.120 Personnel appeals board.

(1) There shall be a personnel appeals board consisting of three members appointed by the mayor and approved by the city council. Members shall serve four-year terms and may be re-appointed by the mayor and approved by the city council for additional term(s).

Members of the personnel advisory board at the time of the adoption of the ordinance codified in this section shall continue to serve on the newly created personnel appeals board through the expiration of their terms of office. No officer, official, or employee of the city or any of their immediate family members may serve on the board. "Immediate family member" as used in this section means the parents, spouse, siblings, children, or dependent relatives of the officer, official, or employee, whether or not living in the household of the officer, official, or employee. Members of the personnel appeals board shall live or work in the city of Oak Harbor at the time of appointment. Board members shall be appointed on the basis of knowledge of personnel practices and/or labor relations.

(2) The board shall hear disciplinary appeals by covered employees who have exhausted the internal grievance procedure. The board shall have authority to conduct hearings, administer oaths, direct the appearance of witnesses and adopt procedures for that purpose. The board may adopt rules governing procedures for hearing disciplinary grievances. In the absence of conflicting rules adopted by the board, the following provisions of the Administrative Procedures Act shall apply: RCW 34.05.434, 34.05.437, 34.05.440, 34.05.449, 34.05.452, 34.05.455, 34.05.458, 34.05.461, 34.05.467, 34.05.473, and 34.05.476. The proceedings shall be recorded and the decision of the board shall be in writing.

(3) The mayor shall appoint a secretary for the personnel appeals board.

(4) The board shall meet as needed.

(5) The board shall represent the public interest.

(6) The board shall issue a written decision upon every appeal. Appeal from the decision of the board shall be to the Island County superior court and must be brought within 30 days of issuance of the board's written decision. (Ord. 1627 § 1, 2012).

2.34.130 Employment discrimination.

(1) The city of Oak Harbor shall not discriminate against any employee on the basis of being a member of any class protected under state or federal law nor shall the city retaliate against any employee for asserting any rights to be protected from discrimination as prohibited by state or federal law. Allegations of sexual or racial harassment are employment discrimination claims. Employee complaints of prohibited employment discrimination shall be subject to an employment discrimination grievance process. The human resources manager-director shall develop and publish the procedures for the employment discrimination grievance process and post those procedures for ready employee access.

(2) Employment discrimination complaints shall be expedited for prompt and fair resolution and shall be confidential to the extent practicable, consistent with public disclosure laws and due process. (Ord. 1627 § 1, 2012).

2.34.140 Probationary period.

(1) All new employees shall be appointed subject to a probationary period. The length of the probationary period shall be established at the time of appointment but shall be for a period no shorter than six months nor longer than two years; provided, in any case the department head with the approval of the city administrator may extend the trial period for a period not to exceed an additional six months if the department head finds it is necessary to fully evaluate the employee's suitability for the position. Determination that a

new employee has failed to satisfactorily complete the probationary period is in the sole discretion of the appointing authority.

(2) A regular city employee promoted to another regular position shall serve a probationary period as part of a promotion decision, until the probationary period has been satisfactorily completed; the promoted employee shall be subject to return to his/her prior position if, in the sole discretion of the appointing authority, the promoted employee fails to satisfactorily complete his/her probationary period.

(3) The adoption of the ordinance codified in this chapter shall not change the trial status of current trial employees and they each shall remain on trial status without loss of service time accrued toward regular employee status. (Ord. 1627 § 1, 2012).

2.34.150 Resignation, layoff and reinstatement.

The personnel policies shall provide for layoff and reinstatement of employees conforming to the following:

(1) Resignations. An employee may resign by filing his reasons with the department head. An employee resigning in good standing may be reinstated to any position in the same class or other class for which he was qualified, if there is need for his services, within one year after his date of resignation.

(2) Layoffs may occur as a result of lack of work, lack of funds, material change in duties or organization, the interests of economy or efficiency, or other causes as determined to be for the good of the city service by the mayor.

(3) The order of layoffs among positions within departments shall be first casual workers, then employees serving a trial period, and then all other employees. Exceptions to this sequence may be made to retain persons with qualifications significant to a particular department.

(4) Within each of the three categories identified in subsection (3) of this section, the order in which employees in a department will be laid off shall be determined by the city, in its sole discretion, based on employee job knowledge, skill and other qualifications; attendance, safety, performance and disciplinary records; the existing and anticipated needs of the department; and the good of the city service. When two employees are equally qualified under such factors, the employee with the most time served since the current date of hire shall be retained.

(5) The names of persons laid off shall be maintained on a reinstatement list. Personnel policies and procedures shall provide for reinstating employees from a reinstatement list. An employee's name may be maintained on the reinstatement list for up to one year following the employee's layoff.

(6) As an alternative to layoff, the mayor may demote an employee or authorize part-time employment. Layoffs and substitutions, therefore, are not disciplinary matters. (Ord. 1627 § 1, 2012).

2.34.160 Code of ethics.

(1) Highest standards of professionalism and customer service are expected of city of Oak Harbor employees. The human resources ~~manager-director~~ is directed to incorporate a code of ethics in public service in the standards of conduct that reflect these values.

(2) The code of ethics shall describe and prohibit nepotism, conflicts of interest, and official misconduct by city employees. (Ord. 1627 § 1, 2012).

2.34.170 Construction.

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected. This provision shall not be codified. (Ord. 1627 § 1, 2012).

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

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

PASSED by the City Council this 3rd day of December 2013.

CITY OF OAK HARBOR

SCOTT DUDLEY, MAYOR

Attest:

Valerie J. Loffler, City Clerk

Approved as to Form:

Grant K. Weed, Interim City Attorney

Published: 12/07/13

**City of Oak Harbor
City Council Agenda Bill**

Bill No. 7.a.
Date: 12/3/2013
Subject: Shoreline Master Program
Program Final Adoption

FROM: Steve Powers *SP*
Development Services Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

[Signature] Scott Dudley, Mayor
[Signature] Larry Cort, City Administrator
[Signature] Doug Merriman, Finance Director
[Signature] Grant Weed, Interim City Attorney, as to form

PURPOSE

This agenda bill presents the updated Shoreline Master Program (SMP) to the City Council for final adoption.

FISCAL IMPACT DESCRIPTION

Funds Required: \$ 0

Appropriation Source: N/A

BACKGROUND

The City was required to locally approve an update to its SMP in compliance with the Shoreline Management Act (RCW 90.58) by December 1, 2012. The City met that deadline when the City Council approved Resolution 12-30 on November 20, 2012, approving the SMP. Prior to that point, staff had worked with the public, Shoreline Advisory Committee, and Planning Commission over the course of three years to update the SMP to meet state law.

After the November 20, 2012 local approval of the SMP, staff sent the SMP document to the State Department of Ecology ("Ecology") for review. Ecology then conducted their own public comment process and internal review of the document which resulted in comments the City was required to respond to. The City addressed comments from Ecology and the public by revising the SMP as discussed further below. The City must now adopt the SMP by ordinance (see Attachment 1), and will send the document to Ecology for final approval.

DISCUSSION

Summary of Changes to the SMP Since November, 2012

Ecology forwarded public comments they received on the document to the City on April 15, 2013.

City of Oak Harbor City Council Agenda Bill

Ecology received public comments from the Department of Archaeology and Historic Preservation (DAHP) and one resident of Dillard’s Addition. A copy of the public comments received by Ecology and the City’s response is included in Attachment 2. In addition, as a result of Ecology’s internal review, the agency is recommending that piers, docks, and floats for multifamily or commercial uses along Bayshore and East Pioneer Way be permitted outright, rather than approved through a conditional use permit.

Description of DAHP Requested Changes

DAHP requested that the City use the latest archaeology model language for SMPs in the “Archaeological and Historic Resources” section (Chapter 3, Section B.3) of the SMP. At the time of local approval in November, 2012, the City was using DAHP’s most recent model language which DAHP approved at that time. During the Ecology review, DAHP developed new model language and requested that the City incorporate the newer language in its SMP. City staff reviewed the new model language and negotiated changes to it that DAHP agreed to. The language agreed to by DAHP and the City is included in Chapter 3, Section B.3 of the SMP. (Attachment 1).

Description of Comment from Dillard’s Addition Resident

Ecology received a comment from Mr. Daniel Dillard, a resident of Dillard’s Addition. Mr. Dillard commented on the function of the tidegate at the terminus of the canal system in Freund Marsh. It is Mr. Dillard’s opinion that the tidegate does not function properly and lets saltwater into the East Ditch immediately to the West of the Dillard’s Addition subdivision and that a “proper check valve” should be installed. Staff discussed on several occasions and also met with Mr. Dillard and residents of the Dillard’s Addition on October 22, 2013 to explain the function and maintenance of the tidegate. It is staff’s opinion that the tidegate functions as designed and is maintained regularly.

Because the East Ditch contains saltwater, it meets the definition of a “tidal water” by the State. Land within 200 feet of the ditch falls within shoreline jurisdiction. Because of its status as a tidal water, Ecology is requiring that the City adopt standards protecting the ecological functions of the East Ditch. Staff worked with Dillard’s Addition residents and the Department of Ecology to craft regulations for the East Ditch that meet the state shoreline master program guidelines while providing a maximum degree of flexibility for property owners. The table below shows the standards for the East Ditch regulated shoreline as compared with the R1 “Single-family residential” zoning restrictions already in place for those properties.

Standard	R1 Zone	East Ditch Regulated Shoreline
Rear setback (from property line)	20 feet	20 feet
Allowed uses within setback	Sheds, hot tubs, decks, patios, gardens, garages, accessory dwelling units.	Sheds, hot tubs, decks, patios, gardens
Prohibited uses within setbacks	Primary structure	Car and RV covers, garages, accessory dwelling units.
Impervious surface limit (entire lot)	35%	40%
Impervious surface limit (setback only)	None	30%

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Piers, Docks, and Floats for Multifamily Uses Along SE Bayshore and East Pioneer Way

In September, 2012, Planning Commission received public comment from Mr. Ron Hancock, a property owner along east Pioneer Way. Mr. Hancock commented that he would like to see piers as a permitted use for single-family residences along this stretch of the shoreline. At that time, the Draft Shoreline Master Program required that single-family piers undergo a conditional use permit process with review by the City's hearing examiner in a public hearing. If single-family piers were permitted uses, review would be simpler and would occur administratively by staff.

Based on Mr. Hancock's comments Planning Commission recommended that single-family piers be permitted uses and staff revised the Draft SMP accordingly. City Council approved the Draft SMP in November, 2012 with single-family piers as permitted uses with staff review.

In their review of the locally-approved document, Ecology initially recommended that single-family piers be reverted back to conditional uses to account for the environmental impacts new overwater coverage and dredging for these structures would have. However, after further discussion with City staff and internal review, Ecology now recommends that both single-family and multifamily piers be permitted uses. Thus, the City's request to have single-family piers be permitted uses based on Mr. Hancock's comments has been approved by Ecology.

RECOMMENDED ACTION

Approve Ordinance 1675 adopting the Shoreline Master Program and implementing code.

ATTACHMENTS

- Attachment 1: Ordinance 1675 Adopting the Shoreline Master Program
- Attachment 2: Draft Shoreline Master Program
http://www.oakharbor.org/get_document.cfm?document=2499
- Attachment 3: Comments received during the Department of Ecology comment period and City of Oak Harbor responses.

ORDINANCE NO. 1675

AN ORDINANCE OF THE CITY OF OAK HARBOR ADOPTING THE SHORELINE MASTER PROGRAM UPDATE IN COMPLIANCE WITH THE SHORELINE MANAGEMENT ACT (RCW 90.58) AND THE STATE SHORELINE MANAGEMENT ACT GUIDELINES (WAC 173-26).

WHEREAS, the Shoreline Management Act of 1971, codified as Chapter 90.58 (“SMA”), requires all cities and counties with “shorelines of the state” to prepare and adopt a Shoreline Master Program that is based on state laws and rules, but tailored to the specific jurisdiction, and;

WHEREAS, in February 1972, the City of Oak Harbor adopted its SMA-based Shoreline Master Program (“SMP”), and;

WHEREAS, in 1995, the City of Oak Harbor updated its Shoreline Master Program and no updates have since been completed, and;

WHEREAS, effective January 17, 2004, the regulations implementing the SMA promulgated under Chapter 173-26 WAC (“the SMA guidelines”) were substantially revised and the City’s current program requires a comprehensive master program update in order to achieve the procedural and substantive requirements of the SMA guidelines, and;

WHEREAS, the “Shoreline Advisory Committee” met on eight separate occasions to review and discuss drafts of the Shoreline Master Program during the period July, 2011 through March, 2012, and;

WHEREAS, on July 20, 2011 stakeholders were invited to attend a Shoreline Visioning Meeting to review the findings of the Shoreline Inventory and Characterization Report and identify future planning concerns for Oak Harbor’s shorelines and;

WHEREAS, on April 11, 2012 shoreline property owners were invited to attend a Shoreline Property Owner’s Meeting and;

WHEREAS, on September 7, 2012 the City’s SEPA responsible official issued a Determination of Nonsignificance (“DNS”) pursuant to WAC 197-11-600(4)(a) and the DNS was not appealed and;

WHEREAS, the Planning Commission met on four separate occasions to discuss the Shoreline Master Program and recommended approval of it to the City Council on September 25, 2012 and;

WHEREAS, the Governmental Services Standing Committee met to discuss the Shoreline Master Program on 12 separate occasions and;

WHEREAS, the Public Works and Utilities Standing Committee met to discuss the Shoreline Master Program on four separate occasions and;

WHEREAS, Oak Harbor City Council held a public hearing on November 7, 2012 which was continued to November 20, 2012 to consider the draft SMP and;

WHEREAS, the City Council concluded the public hearing on November 20, 2012 and;

WHEREAS, the State Department of Ecology conducted a 30-day public comment period on the City of Oak Harbor draft Shoreline Master Program and forwarded comments to the City of Oak Harbor on April 15, 2013 which the City has responded to in full, and;

WHEREAS, the State Department of Ecology provided a conditional approval of the City's draft Shoreline Master Program subject to meeting those conditions on October 1, 2013 and to which the City has responded in full; and

WHEREAS, the City Council conducted a public hearing on December 3, 2013 to consider final adoption of the Shoreline Master Program.

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

Section One.

**Chapter 19.56
SHORELINE MANAGEMENT**

Sections:

- 19.56.010 ~~Purpose Administration of the city of Oak Harbor shoreline master program.~~
- 19.56.020 ~~Conditions for Issuance of Shoreline Permits Policy.~~
- 19.56.030 Administration.
- 19.56.040 Map.
- 19.56.070 Penalties.

19.56.010 ~~Purpose Administration of the city of Oak Harbor shoreline master program.~~

- (1) ~~It is the purpose of this chapter to protect the City of Oak Harbor's shorelines and the rights of property owners through administration of the City's Shoreline Master Program.~~
- (1) ~~No development shall occur within the shorelines of the city of Oak Harbor unless the same conforms to the "Oak Harbor shoreline master program" adopted by reference, a copy of which is on file with the city clerk's office and which shall be made available for public inspection.~~
- (2) ~~Administration of the shoreline master program shall be as set out in Sections 10, 11 and 12 of the shoreline master program.~~

19.56.020 ~~Conditions for Issuance of Shoreline Permits Policy.~~

- (1) From the effective date of the ordinance codified in this chapter ~~until such time as an applicable master program has become effective~~, a permit shall be granted only when the proposed development is consistent with:

- (a) The applicable shoreline master program adopted by reference, a copy of which is on file with the city clerk's office and which shall be made available for public inspection, and;
- (b) The policy of Section 2 of the Shoreline Management Act of 1971;
- ~~(c) So far as can be ascertained, the master program being developed for the city of Oak Harbor.~~
- ~~(2) After adoption or approval, as appropriate, by the Department of Ecology of an applicable master program, a permit shall be granted only when the proposed development is consistent with:~~
 - ~~(a) The applicable master program; and~~
 - ~~(b) The policy of Section 2 of the Shoreline Management Act of 1971.~~
- ~~(3) With respect to timber situated within 200 feet abutting landward within the city of Oak Harbor, a permit shall be granted only for selective commercial timber cutting, so that no more than 30 percent of the merchantable trees may be harvested in any 10-year period of time; provided, that other timber harvesting methods may be permitted to those limited instances where the topography, soil conditions or silviculture practices necessary for regeneration render selective logging ecologically detrimental; provided further, that clear cutting of timber which is solely incidental to the preparation of land for other uses authorized by this chapter may be permitted.~~
- ~~(4) Surface drilling for oil and gas is prohibited in the waters of Puget Sound north to the Canadian boundary and the Strait of Juan de Fuca seaward from the ordinary high water mark on all lands within 1,000 feet landward from said mark.~~
- (5) A permit shall be denied if the proposed development is not consistent with the above enumerated policies.

19.56.030 Administration.

The Director of the Development Services Department planning agency is the Shoreline Administrator and vested with the duty of administering the rules and regulations relating to the shoreline development permits and may prepare and require the use of such forms as are essential to its administration.

19.56.040 Map.

Shorelines of the state located within Oak Harbor ~~may~~ are be designated on an official "Shoreline Environment Designations shoreline map to be kept in the Development Services Department office of the planning agency.

19.56.070 Penalties.

The city attorney shall bring such injunctive, declaratory, or other actions available under the Shoreline Management Act as are necessary to ensure that no uses are made of the shorelines of the state located within Oak Harbor in conflict with the provisions and programs of this chapter, ~~in accordance with Sections 21, 22, and 23 of the Shoreline Management Act of 1971.~~

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

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

PASSED by the City Council this 3rd day of December 2013.

CITY OF OAK HARBOR

SCOTT DUDLEY, MAYOR

Attest:

Approved as to Form:

Valerie J. Loffler, City Clerk

Grant K. Weed, Interim City Attorney

Published: _____



City of Oak Harbor
Grant No. G1100126

Shoreline Master Program
PLANNING COMMISSION REVIEW DRAFT
November ~~2019~~, 20123

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This report was funded in part through a grant from the Washington Department of Ecology.



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Attachments

- [AttachmentExhibit](#) 1: Figure 1 – Shoreline Environment Designations
- [AttachmentExhibit](#) 2: Ordinances 835 and 1472, OHMC Chapter 17.20 “Flood Damage Prevention.”
- [AttachmentExhibit](#) 3: Ordinance 1440, OHMC Title 20 “Environment.”

Chapter 1: INTRODUCTION

A. Purpose of the Shoreline Management Act

Washington's **Shoreline Management Act** (Act) was adopted by the public in a 1972 referendum "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." The primary purpose of the Act is to provide for the management and protection of the state's shoreline resources by planning for reasonable and appropriate uses. In order to protect the public interest in preserving these shorelines, the Act establishes a coordinated planning program between the state and local jurisdictions to address the types and effects of development occurring along the state's shorelines. The Act has three broad policies:

1. Encourage water-dependent uses: "uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the states' shorelines..."
2. Protect shoreline natural resources, including "...the land and its vegetation and wildlife, and the waters of the state and their aquatic life..."
3. Promote public access: "the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally."

This Act recognizes that "shorelines are among the most valuable and fragile" of the state's resources. The Act, and the City of Oak Harbor, recognize and protect private property rights along the shoreline, while aiming to preserve the quality of this unique resource for all state residents.

B. Purpose of the Shoreline Master Program

The purpose of this Master Program is:

1. To carry out the responsibilities imposed on the City of Oak Harbor by the Washington State Shoreline Management Act (RCW 90.58).
2. To promote the public health, safety, and general welfare, by providing a guide and regulation for the future development of the shoreline resources of the City of Oak Harbor in a manner that reflects local conditions.
3. To further, by adoption, the policies of RCW 90.58, and the policies of this Master Program.
4. To comply with the Shoreline Master Program Guidelines (WAC Chapter 173-26), including standards to ensure that development under the Shoreline Master Program will not result in a net loss of ecological functions.

C. Shoreline Jurisdiction

1. SMA Jurisdiction Definition

As defined by the Shoreline Management Act of 1971, shorelines include certain waters of the state plus their associated “shorelands.” At a minimum, the waterbodies designated as shorelines of the state are marine waters, streams whose mean annual flow is 20 cubic feet per second (cfs) or greater, and lakes whose area is greater than 20 acres. Shoreline jurisdiction includes these waters, together with the lands underlying them and all lands extending landward 200 feet in all directions, as measured on a horizontal plane from the ordinary high water mark, as well as all associated wetlands.

The extent of the shoreline jurisdiction shall be determined for specific cases based on the actual location of the ordinary high water mark (OHWM), floodway, and the presence and delineated boundary of associated wetlands as may be determined on a site by site basis based on adopted definitions and technical criteria.

2. Applicable Area in Oak Harbor

The marine shoreline within the City of Oak Harbor is approximately 13 miles long, and the City’s shoreline jurisdiction includes all shorelands within 200 feet of the ordinary high water mark of Oak Harbor and Crescent Harbor within the City limits, as well as all associated wetlands that are hydraulically connected to these two waterbodies, including, but not necessarily limited to, Freund Marsh, Crescent Marsh and the Maylor Point wetland complex. There are no streams, rivers, or lakes within the City’s shoreline jurisdiction that qualify for regulation under the Shoreline Management Act.

3. Official Map of Shoreline Jurisdiction

The shoreline jurisdiction map for the City of Oak Harbor is included as Figure 1. Each shoreline environment designation is described in Chapter 2, including the extent of designated areas. While the Shoreline Environment Designation map is a tool to present the extent of the shoreline jurisdiction and the location of specific environments to the public, the definition of the City’s shoreline jurisdiction, as described in Section 1.C.1 and 1.C.2 above, and in RCW 90.58 shall control in the event of a conflict.

D. Applicability

1. General Applicability

The Shoreline Master Program (SMP) shall apply to all land and waters under the jurisdiction of the City of Oak Harbor as identified in Section 1.C.2 above. If the provisions of the SMP conflict with other applicable local ordinances, policies and regulations, the requirement that most supports the provisions of the Shoreline Management Act as stated in RCW 90.58.020 shall apply, as determined by the Shoreline Administrator.

2. Applicability to Federal Agencies

Direct federal agency actions and projects occurring in areas covered by the Oak Harbor SMP shall comply with WAC 173-27-060. Direct federal agency activities affecting the uses or resources subject to the act must be consistent to the maximum extent practicable with the enforceable provisions of the act, regulations adopted pursuant to the SMA and the Oak Harbor SMP. The SMP, including the permit system, shall apply to all nonfederal developments and uses undertaken on federal lands.

3. Applicability to All Persons and Development

This SMP shall apply to all uses, activities and development by persons or parties on lands subject to the SMP as identified in Section 1.C.2. Please see Section 1.E below for more information on when a permit is required. Regardless of whether a use, activity or development is exempt, all proposals must comply with the policies and regulations contained in the SMP.

E. Shoreline Master Program Basics

1. How is the SMP Used?

The Oak Harbor Shoreline Master Program is a planning document that outlines goals and policies for the shoreline of the city and establishes regulations for development occurring in that area.

In order to preserve and enhance the shoreline of Oak Harbor, all development proposals relating to the shoreline area should be evaluated in terms of the City's Shoreline Master Program, and the City Shoreline Administrator should be consulted. Some developments may be exempt from obtaining a Shoreline Substantial Development Permit (SSDP) as detailed in Section 6.F.2 and RCW 90.58.030(3)(e), while others will require an SSDP, and/or may require a conditional use permit application or variance application.

2. When is a Permit Required?

Chapter Six provides a definition for a Shoreline Substantial Development (SSD) for which a Shoreline Substantial Development Permit (SSDP) is required. Section 6.F provides more information on the SSDP process. A development or activity is exempt if it meets the criteria listed in WAC 173-27-040 and the exemption criteria listed in Section 6.F.2; approval of a Shoreline Exemption from the City's Shoreline Administrator is still necessary before construction of an exempt development can begin. Some development may require a Shoreline Conditional Use Permit, if listed as such in the Use Tables contained in Section 4.B of this SMP; or a Shoreline Variance. Conditional Use Permits and Variances are discussed in more detail in Sections 6.H and 6.G, respectively. Review under the State Environmental Policy Act (SEPA), as well as other federal, state and local laws may also be required. Please note that routine maintenance of upland structures and landscapes does not require a shoreline permit or City approval, provided it complies with the requirements of the SMP.

3. Shoreline Permits and the Review Process

The City's Shoreline Administrator can help determine if a project is classified as a shoreline substantial development and identify which regulations in the SMP may apply to the proposed project. The Shoreline Administrator can also provide information on the permit application process and how the

SMP process relates to other local development permits required by the Oak Harbor Municipal Code, the State Environmental Policy Act (SEPA) review process and federal and state permits.

4. Relationship to Other Plans and Regulations

The permitting process for a shoreline development or use does not exempt an applicant from complying with any other federal, state or local statutes or regulations which may also be applicable to such development or use. These may include, but are not limited to, Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife (WDFW), Section 404 Permit by the Army Corps of Engineers (ACOE) and Section 401 Permit by the Washington Department of Ecology (DOE). Proposals must also comply with the regulations developed by the City to implement its plans, such as the planning (Title 18) and zoning codes (Title 19 of the Oak Harbor Municipal Code), as well as regulations relating to building construction and safety (Title 17). In Oak Harbor, other plans and policy documents that must be considered include the Oak Harbor Comprehensive Plan and the adopted Surface Water Design Manual.

At the time of a permit application or of an initial inquiry, the City's Shoreline Administrator should inform the applicant of those regulations and statutes which may be applicable to the best of the shoreline administrator's knowledge; PROVIDED, that the final responsibility for complying with all statutes and regulations shall rest with the applicant.

5. Need for Consistency

The Shoreline Management Act requires that policies for lands adjacent to the shorelines be consistent with the Shoreline Management Act, implementing rules, and the local shoreline master program. Conversely, local comprehensive plans provide the underlying framework within which master program provisions should fit. The Growth Management Act requires that shoreline master program policies be incorporated as an element of the comprehensive plan, and that all elements be internally consistent. In addition, under the Growth Management Act, all development regulations must be consistent with the comprehensive plan.

The Shoreline Guidelines identify three criteria for use in evaluating the consistency between master program environment designation provisions and the corresponding comprehensive plan elements and development regulations. In order for shoreline designation provisions, local comprehensive plan land use designations, and development regulations to be internally consistent, all three of the conditions below should be met:

a. Provisions Not Precluding One Another

Comprehensive plan provisions and shoreline environment designation provisions should not preclude one another. To meet this criterion, the provisions of both the comprehensive plan and the master program must be able to be met. Further, when considered together and applied to any one piece of property, the master program use policies and regulations and the local zoning or other use regulations should not conflict in a manner that all viable uses of the property are precluded.

b. Use Compatibility

Land use policies and regulations should protect preferred shoreline uses from being impacted by incompatible uses. The intent is to prevent existing or potential future water-oriented uses, especially water-dependent uses, from being restricted on shoreline areas because of impacts to nearby non-water-oriented uses. To be consistent, master programs, comprehensive plans, and development regulations should prevent new uses that are not compatible with preferred uses from locating where they may restrict preferred uses or development.

c. Sufficient Infrastructure Required

Infrastructure and services provided in the comprehensive plan should be sufficient to support allowed shoreline uses. Shoreline uses should not be allowed where the comprehensive plan does not provide sufficient roads, utilities, and other services to support them. Infrastructure plans must also be mutually consistent with shoreline designations. Where they do exist, utility services routed through shoreline areas shall not be a sole justification for more intense development.

F. Organization of the this Shoreline Master Program

This Master Program is divided into seven Chapters:

Chapter 1: ***Introduction*** provides general background information on the state Shoreline Management Act; the development of the Shoreline Master Program in Oak Harbor; and a general discussion of when and how a shoreline master program is used.

Chapter 2: ***Shoreline Environments***, defines and maps the shoreline jurisdiction in the City of Oak Harbor and defines and maps the environment designations of all the shorelines of the state in the City's jurisdiction. Policies and regulations specific to the seven designated shoreline environments (Maritime, Residential, Residential Bluff Conservancy, Conservancy, Urban Mixed Use, Urban Public Facility, and Aquatic) are detailed in this chapter.

Chapter 3: ***General Provisions***, sets forth the general policies and regulations that apply to uses, developments, and activities in *all* shoreline areas of Oak Harbor.

Chapter 4: ***Shoreline Use Policies and Regulations***, sets forth policies and regulations governing specific categories of uses and activities typically found in shoreline areas. Specific setback regulations, reduction incentives and dimensional and density standards for each of the Shoreline Environments are also detailed in this chapter.

Chapter 5: ***Shoreline Modification Provisions*** provides policies and regulations for those activities that modify the physical configuration or qualities of the land-water interface.

Chapter 6: ***Administration***, provides the system by which the Oak Harbor Shoreline Master Program will be administered, and provides specific information on the application process and criteria used in evaluating requests for shoreline substantial development permits, conditional use permits, and variances.

Chapter 7: *Definitions*, defines terms found in this document.

G. Title

This document shall be known and may be cited as the City of Oak Harbor Shoreline Master Program. This document may refer to itself as "The Master Program."

H. Oak Harbor's SMP: A Brief History

After the state adoption of the Shoreline Management Act in 1972, Island County adopted a shoreline master program as required by the Act. The City of Oak Harbor was part of the County's Shoreline Master Program and operated under that program until 1995. Concurrent with the adoption of the Oak Harbor Comprehensive Plan in 1995, the City developed and adopted its own Shoreline Master Program. For the first time, the City administered its own shoreline master program which emphasized local goals and policies for future development. According to community discussions from the 1995 plan, the key planning objectives considered in preparing the plan were: (1) support downtown waterfront redevelopment goals, (2) provide policy support for regulation of shoreline critical areas, (3) allow for continued development of the shoreline while protecting existing uses and (4) guide public use and development of the shoreline, emphasizing public access. While changes to the master program document were made, the bulk of the master program continued to resemble the original Island County document adopted in 1974. After submitting the draft master program to the Department of Ecology for review, a final draft of the master program was adopted in 1998 following further changes requested by the Department and additional local conversations.

In 2003, the state legislature established funding, timelines, and guidelines requiring all cities and counties to update their SMP. Beginning in 2010 and extending into 2013, the City of Oak Harbor conducted a comprehensive SMP update with the assistance of a grant administered by the Washington Department of Ecology. The SMP update contained in this document has been prepared consistent with the SMA and its implementing guidelines.

Consistent with state guidelines (WAC 173-26-201), Comprehensive Process to Prepare or Amend Shoreline Master Programs) a first step in the comprehensive Master Program update process is development of a shoreline inventory and characterization. The inventory and characterization documents current shoreline conditions and provides a basis for updating the City's Master Program goals, policies, and regulations. The characterization identifies existing conditions, evaluates existing functions and values of shoreline resources, and explores opportunities for conservation and restoration of ecological functions.

During the development of the SMP update, the City worked with the Shoreline Advisory Committee for seven months. Special thanks go to Committee members Helen Chatfield-Weeks, Rick Almberg, Keith Fakkema, Jill Johnson, Mahmoud Abdel-Monem, and Jennifer Meyer.

Chapter 2: ENVIRONMENT DESIGNATION PROVISIONS

A. Introduction

1. Shoreline Environment Designations

The basic intent of a shoreline environment designation is to preserve and enhance shoreline ecological functions and to encourage development that will enhance the present or desired future character of the shoreline as described in the Comprehensive Plan, other adopted plans and this SMP. To accomplish this, shoreline segments are given an environment designation based on existing development patterns, biological capabilities and limitations, and community objectives.

This Master Program establishes seven shoreline environments for the City of Oak Harbor. These shoreline environments shall include the shorelines of the City of Oak Harbor, including shorelands, surface waters, and bedlands. These environments are derived from and build on policy direction contained in the Oak Harbor Shoreline Inventory and Characterization Report, the Oak Harbor Comprehensive Plan, the Shoreline Management Act and the Shoreline Master Program Guidelines. The seven Oak Harbor shoreline environment designations are:

- Maritime,
- Urban Mixed Use,
- Residential,
- Residential - Bluff Conservancy,
- Urban Public Facility,
- Conservancy, and
- Aquatic.

These shoreline environments are shown in the Shoreline Management Environment Designations Map, included as Figure 1, and described in detail in the text below. Any undesignated shorelines are automatically assigned a Conservancy environment designation. The map is a general depiction of the extent of the City's shoreline jurisdiction and the relative locations of shoreline environment designations. In the event of a conflict between the designation map and the text of this Master Program, the environment descriptions provided in this chapter shall control.

B. Environments

1. Maritime Environment

a. Purpose

The purpose of the Maritime environment is to provide for high-intensity water-oriented commercial, transportation, and industrial uses and development while protecting existing ecological

functions. A secondary purpose is to restore ecological functions in a manner that is compatible with intensive water-oriented uses and development, in areas that have been previously degraded.

b. Designation Criteria

Areas designated Maritime are those areas within the Oak Harbor shoreline jurisdiction that currently support high-intensity uses and development related to commerce, transportation or navigation; or are suitable and planned for high-intensity water-oriented uses. Existing uses in the Maritime environment include marinas, yacht club, boat launch ramps, parking lots, boat repair, boat storage yards and a wide range of Navy uses.

c. Designated Areas

Areas designated Maritime include the following areas as shown in Figure 1:

- The Marina Lease Area (including the Oak Harbor Yacht Club and Oak Harbor Marina) and adjoining Naval Air Station Whidbey Island (NASWI) property extending approximately 400 feet south
- Crescent Harbor Marina – Those areas adjacent to Crescent Harbor between the radar station and the northern extent of the former seaplane base tarmac.

d. Management Policies

1. First priority should be given to water-dependent uses and development. Second priority should be given to water-related and water-enjoyment uses and development. Non-water-oriented uses should not be allowed except as part of mixed-use developments. Non-water-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is not direct access to the shoreline.
2. Provisions allowing for a mix of water-dependent and non-water-dependent uses in the vicinity of the Oak Harbor Marina should be established to foster economic development and support the vision of the Oak Harbor Marina Redevelopment Program. Standards should be applied to assure no additional degradation of shoreline conditions and no net loss of ecological functions.
3. Full utilization of the high-intensity waterfront areas should be achieved before further expansion of this environment is allowed. Reasonable long-range projections of future growth in the vicinity of the Oak Harbor Marina and the Whidbey Island Naval Exchange should guide any future expansions of the Maritime environment. However, priority should be given to encouraging the relocation of nonwater-oriented uses when analyzing full utilization of Maritime areas and before considering expansion of such areas.
4. The City should implement the Marina Redevelopment Program in compliance with the provisions of this master program.

5. The City should explore redevelopment possibilities for the Seaplane Base, in coordination with the Navy, for economic development purposes.
6. Policies and regulations should assure no net loss of shoreline ecological functions as a result of new development. New development should include environmental cleanup in accordance with any relevant state and federal law and enhancement of shoreline ecological functions wherever practicable.
7. Where safety and feasibility allow, waterfront development in the Maritime environment should provide visual and physical public access to the shoreline.
8. Aesthetic objectives should be implemented by means such as height limits, setbacks, natural vegetative buffers, screening requirements, sign regulations and other development standards.

2. Urban Mixed Use Environment

a. Purpose

The purpose of the Urban Mixed Use environment designation is to provide for a variety of water-oriented commercial, residential, and private recreational uses in areas where the shoreline has already been developed at urban intensities while protecting existing ecological functions.

b. Designation Criteria

The Urban Mixed Use environment designation is applied to shoreline properties adjacent to Oak Harbor designated on the City's future Land Use Map as Central Business District, Residential Office and High Density Residential. These areas are suited for a range of commercial and residential uses, but are generally less suited for intensive water-dependent and water-related uses requiring commercial moorage structures, passenger or cargo terminals, launching ramps for motorized vessels and similar over-water and in-water structures.

c. Designated Areas

The Urban Mixed Use environment designation applies to all properties east of Windjammer Park and west of the Oak Harbor Marina, with the exception of Flintstone Park. Please see Figure 1.

d. Management Policies

1. Development should be located, sited, designed and maintained to protect and enhance the shoreline environment and to be compatible with adjacent public and private uses of the shoreline, including Windjammer Park and Flintstone Park. Please see Chapter 3, Section B.8.c for regulations pertaining to Vegetation Conservation. Please see Chapter 4, Section C for Development Standards, including setbacks.
2. First priority should be given to water-dependent uses that are consistent with the designation criteria. Second priority should be given to water-oriented uses, including residential development and passive recreation, such as the Waterfront Trail.

3. Non-water-oriented commercial uses should be allowed on sites without direct access to the shoreline, such as properties on the north side of SE Bayshore Drive and SE Pioneer Way.
4. Non-water oriented commercial uses should also be allowed where navigation is severely limited, such as properties south of SE Bayshore Drive, between Windjammer Park and Flintstone Park, if proposed as part of mixed-use developments with a residential component. The proposal must include a significant public benefit with respect to the Shoreline Management Act's objectives, such as providing public access and ecological restoration.
5. Moorage structures for multifamily or commercial uses are discouraged in this environment because conditions are generally not suitable, but when allowed through a conditional use permit, joint-use piers or public piers should be required. Provided, however, that private piers and docks for single-family residences are permitted uses in this environment and are subject to the policies and regulations in Chapter 5, Section C.4.
6. Multi-family and multi-lot residential developments should provide joint use facilities for the recreational needs of their residents. Where such development is located near the Waterfront Trail, pedestrian connections should be provided to the trail to the greatest extent feasible.
7. Public access should be provided pursuant to Chapter 3, Section 6. Public access priorities for this area include the Waterfront Trail, visual access and connections to the Waterfront Trail.
8. Property owners should be encouraged to preserve and enhance native shoreline vegetation and use environmentally friendly landscaping practices, through non-regulatory incentives, information, outreach and other assistance. Please see Chapter 3, Section B.8 for regulations pertaining to Vegetation Conservation.
9. Policies and regulations should assure no net loss of shoreline ecological functions as a result of new development. New development should include environmental cleanup in accordance with any relevant state and federal law and enhancement of shoreline ecological functions wherever practicable.

3. Residential Environment

a. Purpose

The Residential environment designation is designed to provide for residential uses where the necessary facilities for development can be provided. An additional purpose is to provide appropriate recreational uses.

b. Designation criteria

The Residential environment designation is assigned to shoreline areas that are predominantly single-family residential development or are planned and platted for residential development and are free from significant environmental constraints and hazards.

c. Designated Areas

Residential areas include those parcels adjacent to Oak Harbor that are currently zoned residential and lie east of Freund Marsh, and west of Windjammer Park, as shown in Figure 1.

1. Sub Designation, Freund Marsh Residential: Residential area located adjacent to the East Ditch of Freund Marsh.

d. Management Policies

1. Residential activities and recreational uses are preferred over other land and resource consumptive development or uses.
2. Development should be located, sited, designed and maintained to protect and enhance the shoreline environment and to be compatible with adjacent public and private uses of the shoreline, including Windjammer Park and Freund Marsh open space. Please see Chapter 3, Section B.8.c for regulations pertaining to Vegetation Conservation. Please see Chapter 4, Section C for Development Standards, including setbacks.
3. Ecological functions and remaining natural features should be protected and conserved. Mitigation shall be provided for all development to ensure no net loss.
4. Multi-lot residential and recreational developments should provide joint use facilities for community recreational needs and provide public access to the shoreline where feasible.
5. Development should not negatively impact visual or physical public access to the shoreline, including access to tidelands and waters of the state below the ordinary high water mark (beach walk access). Please see Chapter 3, Section 6 for public access requirements.
6. Property owners should be encouraged to preserve and enhance native shoreline vegetation and use environmentally friendly landscaping practices, through non-regulatory incentives, information, outreach and other assistance.

4. Residential - Bluff Conservancy Environment

a. Purpose

The primary purpose of the Residential - Bluff Conservancy Environment is to accommodate existing and future residential development on more suitable portions of lots that contain geologically hazardous slopes, while preserving the ecological functions of natural bluff areas and shorelines. Voluntary restoration and enhancement of modified and degraded shoreline areas is a secondary purpose of the designation.

b. Designation Criteria

The Residential - Bluff Conservancy environment designation is applied to shoreline properties that are currently zoned for single-family residential development and are located in areas characterized by the presence of geologically hazardous shoreline bluffs.

c. Designated Areas

The Residential - Bluff Conservancy environment designation applies to those parcels currently zoned for residential development and located south of Freund Marsh, commonly known as the Scenic Heights neighborhood as shown in Figure 1.

d. Management Policies

1. Residential uses located and designed in a manner that does not accelerate bluff erosion and slope failure are the preferred uses for upland portions of the Residential - Bluff Conservancy environment. Within slope buffer, bluff and beach areas, passive recreation, public access, open space and voluntary shoreline enhancement and restoration activities are preferred uses.
2. Upland development should be located, sited, designed and maintained to protect and enhance the shoreline environment; specifically, development should be sited to avoid the potential for slope erosion and failure over the useable life of the structure, and designed to prevent bluff erosion, including adequate provisions for stormwater.
3. Upland development should be located, sited, and designed to avoid clearing of vegetation or other alterations of steep slopes and buffer areas. Pruning of vegetation in accordance with accepted arboricultural standards to maintain and enhance views should be allowed. Trees should not be topped. Enhancement of shoreline bluff areas with native vegetation to prevent shoreline erosion should be encouraged. Please see Chapter 3, Section B.8.c for regulations pertaining to Vegetation Conservation. Please see Chapter 4, Section C for Development Standards, including setbacks.
4. Shoreline access structures, such as trails, walkways, and stairs, should be located, designed, and maintained to minimize alteration of shoreline bluffs and clearing of vegetation. Where feasible, shoreline access from multiple properties should be coordinated and consolidated to reduce the number of access structures.
5. Hard structural shoreline armoring in the Residential - Bluff Conservancy environment should be discouraged in favor of soft stabilization techniques, such as bioengineering, beach nourishment, and vegetative stabilization. Property owners should be encouraged to coordinate shoreline stabilization solutions across multiple properties.
6. Private property owners should be encouraged to preserve and enhance native shoreline vegetation and use environmentally friendly landscaping practices, through incentives, information and other assistance.
7. Development should not negatively impact visual or physical public access to the shoreline, including access to tidelands and waters of the state below the ordinary high water mark (e.g. beach walk access). Please see Chapter 3, Section 6 for public access requirements.
8. The City should coordinate with residents who live in the residential bluff conservancy environment and other properties within the related subbasin to identify bluff erosion and stormwater runoff issues, as well as potential future improvements, and funding sources for

identified problems. Funding sources may include a combination of private, public, and non-profit monies.

5. Urban Public Facility Environment

a. Purpose

The purpose of the Urban Public Facility environment designation is to provide for water-oriented public recreational facilities and public access to the shoreline for residents and visitors, in areas that are not encumbered by wetlands or other severe site limitations. A secondary purpose is to provide necessary water-oriented public facilities, such as wastewater treatment plants and stormwater outfalls. Restoration of degraded shoreline areas is also a secondary purpose of this environment designation.

b. Designation Criteria

The Urban Public Facility environment designation is applied to shoreline areas zoned for parks and public facilities and currently occupied by a publicly-owned park or facility, utility infrastructure and buildings and appurtenances related to community uses and visitor services.

c. Designated Areas

The Urban Public Facility environment designation applies to Windjammer Park and Flintstone Park, as shown in Figure 1.

d. Management Policies

1. Water-dependent, water-related, and water-enjoyment uses that are fully accessible to the general public should be given first priority. Limited non-water-oriented accessory commercial uses may be appropriate if they support a water-oriented public access or recreational use.
2. Public recreation and public access uses should be preferred uses in the Urban Public Facility environment, provided that such development does not result in a net loss of shoreline ecological function.
3. Incorporation of shoreline enhancement and restoration efforts as part of recreational and public access development should be encouraged.
4. Development should, to the greatest extent feasible, preserve native shoreline vegetation. Where vegetation is cleared for development, replacement plantings should consist of native species.
5. New and expanded public utility facilities, such as wastewater treatment plants and stormwater outfalls, should be allowed, provided public access is maintained and enhanced, even if some areas of the utility facility may not be accessible to the public due to safety or other concerns.

6. Conservancy Environment

a. Purpose

The purpose of the Conservancy environment designation is to protect and restore the ecological functions of open space and other sensitive lands, provide primarily passive water-oriented recreation and public access in a manner that protects ecological function, and allow a variety of other uses that preserve or enhance ecological function and recreational opportunities. On-going current Navy uses on lands contained within NASWI, including, but not limited to, training and residential uses, are consistent with the purpose of this environment.

b. Designation Criteria

Areas designated Conservancy are those areas generally unsuitable for intensive water-dependent uses such as moorage, but which may be appropriate for recreation uses such as swimming, fishing, non-motorized boating, and trails, and where one or more of the following characteristics apply:

1. They are suitable for water-related or water-enjoyment uses, but not for water-dependent uses involving structural modification of the shoreline,
2. They are open space or other sensitive areas that should not be more intensively developed,
3. They have potential for ecological restoration,
4. They retain important ecological functions, even though partially developed, or
5. They have the potential for limited development that is compatible with ecological restoration.

c. Designated Areas

Conservancy areas include those generally depicted in Figure 1:

- Parcels in designated wetland areas associated with Freund Marsh;
- Those areas within the City limits, within shoreline jurisdiction that are located on Naval Air Station Whidbey (NASWI), including:
 - Maylor Point adjacent to Oak Harbor and located generally south of the Oak Harbor Marina and south of Maritime environment on NASWI; and
 - Shorelines lying north and east of the Maritime environment (e.g. areas north and east of the Whidbey Island Naval Exchange), including Crescent Harbor, Crescent Marsh, and Polnell Point.

Please note that wetland boundaries that in part define the extent of this environment are approximate. The actual delineated boundary of a wetland shall determine the extent of shoreline jurisdiction and thus the extent of this environment in the vicinity of Freund Marsh.

d. Management Policies

1. Uses that preserve the natural character of the area or promote preservation of open space or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be encouraged if the use is otherwise compatible with the purpose of the environment and the setting.
2. Water-related recreation uses, such as swimming beaches, fishing areas, and waterfront trails, shall be the highest priority, provided they can be located, designed, constructed, operated, and mitigated in a manner that ensures no net loss of ecological function. Moorage facilities, such as piers, docks, buoys, and floats, should be discouraged.
3. Public access and public recreation objectives should be implemented whenever feasible and whenever significant ecological impacts can be mitigated.
4. Water-oriented recreation uses, such as viewing trails, benches and shelters, should be emphasized and non-water-oriented uses should be minimized and allowed only as an accessory use; for example picnic areas, shoreline trails and small playground areas would be acceptable, but tennis courts and developed sports fields would not.
5. Standards should be established for shoreline stabilization, vegetation conservation, water quality, and shoreline modifications to ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.
6. New and expanded public utility facilities, such as wastewater treatment plants and stormwater outfalls, should be allowed, provided that, in addition to ensuring no net loss of ecological function, public access is maintained and enhanced, even if some areas of the utility facility may not be accessible to the public due to safety or other concerns.
7. The City, with appropriate partners and when adequate funding is available, should commission a study of the Maylor Point wetland complex that examines the existing fill in this area, the impact of shoreline processes on this fill, including erosion and deposition in Oak Harbor, and potential restoration alternatives.

7. Aquatic Environment

a. Purpose

The purpose of the Aquatic environment designation is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high water mark.

b. Designation Criteria

The Aquatic environment designation is assigned to areas waterward of the ordinary high water mark, extending to the in-water jurisdictional boundary.

c. Designated Areas

The Aquatic Environment is assigned to all areas within the shoreline jurisdiction waterward of the ordinary high water mark, including Oak Harbor, waters adjacent to Maylor Point, Crescent Harbor, and waters adjacent to Polnell Point, as generally shown in Figure 1.

d. Management Policies

1. Allow new over-water structures, development, or uses only for water-dependent uses, public access, or ecological restoration.
2. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.
3. To reduce the impacts of shoreline development and increase effective use of water resources, shared use and public use of over-water facilities should be encouraged.
4. All developments, uses, and structures on or over waters or their beds should be located and designed to minimize interference with surface navigation, to mitigate impacts to public views and physical public access, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
5. Uses and development that adversely impact the ecological functions of critical saltwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201(2)(e) as necessary to assure no net loss of ecological functions.
6. Long-term moorage of vessels in the Aquatic environment should be discouraged outside marinas.
7. Shoreline uses and modifications should be designed and managed consistent with mitigation sequencing to meet no net loss.

Chapter 3: **GENERAL PROVISIONS**

A. Introduction

The following policies and regulations apply to all uses, developments, and activities in the shoreline area of the City of Oak Harbor. The intent of these provisions is to be inclusive, making them applicable to all environments, as well as particular shoreline uses and activities. Topics include the following:

- Universally Applicable Policies and Regulations
- Economic Development
- Archaeological and Historic Resources
- Critical Areas
- Environmental Impacts and Mitigation
- Public Access
- Shorelines of Statewide Significance
- Vegetation Conservation
- Critical Saltwater Habitat
- Water Quality, Stormwater, and Non-Point Pollution

The regulations of this chapter are in addition to other adopted ordinances and rules. Where conflicts exist between regulations, the requirement that most supports the provisions of the Shoreline Management Act as stated in RCW 90.58.020 shall apply, as determined by the Shoreline Administrator. These interlocking development regulations are intended to make shoreline development responsive to specific design needs and opportunities along the City's shorelines, protect the public's interest in the shorelines' recreational and aesthetic values and assure, at a minimum, no net loss of ecological functions necessary to sustain shoreline natural resources.

These provisions address the elements of a SMP as required by RCW 90.58.100(2) and implement the governing principles of the Shoreline Master Program Guidelines as established in WAC 173-26-186.

B. Policies and Regulations

1. Universally Applicable Policies and Regulations

a. Applicability

1. The following provisions describe how this SMP is to be applied and the requirements for all shoreline uses and modifications in all shoreline environment designations.

b. Policies

1. The City should keep records of all project review actions within shoreline jurisdiction, including shoreline permits and letters of exemption.
2. The City should involve affected federal, state, and tribal governments in the review process of shoreline applications.
3. The City should periodically review the shoreline master program and shoreline conditions, at a minimum on a eight-year schedule in accordance with RCW 90.58.080, to determine whether or not other actions are necessary to ensure no net loss of ecological functions, protect and enhance visual quality, and enhance residential and recreational uses and development on the City's shoreline. The update should focus on physical development, environmental impacts, changes in the natural environment, new scientific information and federal and state regulatory changes since the last periodic update was completed.
4. The "policies" listed in this SMP are intended to provide broad guidance and direction for the "regulations" applied by the City. The policies, taken together, constitute the Shoreline Element of the Oak Harbor Comprehensive Plan.

c. Regulations

1. All proposed shoreline uses and development, including those that do not require a shoreline permit, must conform to the Shoreline Management Act, Chapter 90.58 RCW, and to the policies and regulations of this SMP.
2. If provisions within this SMP conflict, or where there is a conflict with other City policies and regulations, the provisions most directly implementing the objectives of the Shoreline Management Act, as determined by the Shoreline Administrator, shall apply unless specifically stated otherwise.
3. Shoreline uses, modifications, and conditions listed as "prohibited" shall not be eligible for consideration as a Shoreline Variance or Shoreline Conditional Use Permit. See Chapter 4 for Shoreline Use regulations and Chapter 6 for Exemptions, Variances, Conditional Uses, and Nonconforming Use Provisions.

2. Economic Development

a. Applicability

Because of its location on Whidbey Island, the economy of Oak Harbor has always been closely tied to the water. Economic development along Oak Harbor's shorelines can provide a balanced and diversified economy for the city's long-term well-being while enhancing the shoreline's physical and social qualities. The following policies apply to all economic development activities proposed within the shoreline jurisdiction.

b. Policies

1. Commercial and industrial development should be constructed in a manner that minimizes adverse effects on the upland and aquatic environments and results in no net loss of ecological function, consistent with the provisions of this Master Program.
2. The City recognizes the inherent link between the shoreline environment and the economy. A high quality shoreline environment will help attract water-dependent, water-related, and water-oriented industries, tourism, and jobs.
3. The City should study the feasibility of attracting job-generating commercial and industrial uses to its shorelines. Such study shall analyze the potential to attract a broad range of water-oriented employers, especially “green” employers whose development and operations harmonize with the policies and regulations of this master program.
4. Encourage water-dependent, water-related, or water-enjoyment commercial and industrial development in appropriate shoreline environments outside of single family residential areas.
5. Proposed economic development along the shoreline should be consistent with the City’s Comprehensive Plan and other adopted land use and community plans, including the Waterfront Redevelopment, Branding, and Marketing Program.
6. Development of recreational uses along the shoreline, such as those found at Windjammer Park, that can provide an economic asset for the City and enhance public enjoyment of shorelines should be encouraged.
7. The City recognizes the benefits of the marina as a recreational and economic asset and supports its continued operation and upgrade in accordance with the Marina Redevelopment Program.

3. Archaeological and Historic Resources

a. Applicability

The following provisions apply to archaeological and historic resources that are either recorded at the state historic preservation office and/or by local jurisdictions or have been inadvertently uncovered. Archaeological sites located both in and outside shoreline jurisdiction are subject to Chapter 27.44 RCW (Indian graves and records) and chapter 27.53 RCW (Archaeological sites and records) and development or uses that may impact such sites shall comply with chapter 25-48 WAC as well as the provisions of this chapter.

b. Policies

1. ~~The City Sites~~ should ~~be~~ protected sites in collaboration with appropriate tribal, state, federal and local governments. ~~Cooperation among~~ Encourage public ~~agencies~~ and private parties ~~is to be encouraged to cooperate~~ in the identification, protection and management of cultural resources.

2. When and/or where appropriate, make access to such sites available to parties of interest; ~~provided that a~~ Access to such sites must be designed and managed in a manner that gives maximum protection to the resource.
3. ~~Provide o~~ Opportunities for education related to archaeological, historical and cultural features should be provided when and/or where appropriate and incorporated into public and private management efforts, programs and development.
4. The City ~~should~~ shall work with tribal, state, federal and local governments and special districts as appropriate to maintain an inventory of all known significant local historic, cultural and archaeological sites while adhering to applicable state and federal laws protecting such information from public disclosure. As appropriate, such sites should be ~~protected~~, preserved and/or restored for study, education and/or public enjoyment to the maximum possible extent.
5. ~~Site development plans should incorporate p~~ Provisions for historic, cultural and archaeological site preservation, restoration and education should be incorporated with open space or recreation areas in site development plans whenever compatible and possible.
6. Cooperation among involved private and public parties is encouraged to achieve this Program's Archaeological, Historical, and Cultural Element Goals and Objectives.
7. ~~Private and public owners of historic sites are~~ should be encouraged to provide public access and educational opportunities at levels ~~in a manner~~ consistent with long-term protection of both historic values and shoreline ecological functions. ~~Site specific conditions may require public site access to be restricted at times, but educational means should be provided whenever possible.~~
8. Any proposed site development and/or associated site demolition work should be planned and carried out so as to avoid impacts to the resource. Impacts to neighboring properties and other shore uses should be limited to temporary or reasonable levels.
- 5.9. Owners of property containing identified historic, cultural or archaeological sites are encouraged to make development plans known well in advance of application, so that appropriate agencies such as affected Tribes, as well as the Washington State Department of Archaeology and Historic Preservation, and others may have ample time to assess the site and make arrangements to preserve historical, cultural and archaeological values as applicable.
- 6.10. ~~Private and public owners of historic sites should be encouraged to provide public access and educational opportunities in a manner consistent with long term protection of both historic values and shoreline ecological functions.~~
7. ~~Site development should be planned and carried out so as to prevent impacts to historic, cultural, and archeological resources. Impacts to neighboring properties and other shore uses should be limited to temporary or reasonable levels.~~

~~8.11.~~ If development or demolition is proposed adjacent to an identified historic, cultural or archaeological site, then the proposed development should be designed and operated so as to be compatible with continued protection of the historic, cultural or archaeological site.

~~The cultural resource provisions of this Program are consistent with RCW 27.44, RCW 27.53 and WAC 25-48-060. In accordance with state law, all applicants are subject to these requirements.~~

c. Regulations

1. Known ~~Archaeological,~~ Historic, ~~and~~ Cultural or Archaeological Resources Sites
 - a. Upon receipt of application for a shoreline or demolition permit on sites where archaeological, historic, and cultural resources are known to be present or request for a statement of exemption for development on properties within 500 feet of a site known to contain an historic, cultural or archaeological resource(s), the City shall require a cultural resource site assessment; provided that, the provisions of this section may be waived if the Shoreline Administrator determines that the proposed development activities do not include any ground disturbing activities and will not impact a known historic, cultural or archaeological site. The site assessment shall be conducted by a professional archaeologist or historic preservation professional, as applicable, to determine the presence of significant historic or archaeological resources. ~~At the time the site assessment is performed, b~~ Buildings or structures over 40 years in age shall be inventoried in a DAHP Historic Property Inventory Database entry and archaeological site shall be recorded on DAHP Archaeological Site Inventory Forms. The fee for the services of the professional archaeologist or historic preservation ~~ist professional~~ shall be paid by the ~~applicant, landowner or responsible party. The applicant shall submit a minimum of five (5) copies of the site assessment to the Shoreline Administrator for distribution to the applicable parties for review.~~
 - b. ~~Cultural Resource Management Plan.~~ If the cultural resource site assessment identifies the presence of ~~significant archaeological, or~~ historic, cultural ~~resources, or~~ ~~archaeological resources,~~ a Cultural Resource Management Plan ~~(CRMP) recommendations~~ shall be prepared by a professional archaeologist or historic preservation professional, as ~~part of the survey/assessment, applicable.~~ The fee for the services of the professional archaeologist or historic preservation professional shall be paid by the ~~applicant, landowner or responsible party.~~ In the preparation of such plans, the professional archaeologist or historic preservation professional shall solicit comments from the Washington State Department of Archaeology and Historic Preservation, and affected Tribes. Comments received shall be incorporated into the conclusions and recommended conditions of the ~~CRMP survey/assessment~~ to the maximum extent practicable. ~~The applicant shall submit a minimum of five (5) copies of the CRMP to the Shoreline Administrator for distribution to the applicable parties for review.~~

1. A CRMP Cultural Resources survey/assessment shall contain the following minimum elements:
 - i. The purpose of the project; A site plan for proposed on-site development, including indication of any existing buildings or structures on-site as well as any that are proposed for removal; depth and location of all ground disturbing activities including, but not limited to, utilities, paved areas, clearing and grading landscaping or new landscape features (i.e. fencing, walls, etc.); An examination of project on-site design alternatives; and an explanation of why the proposed activity requires a location on, or access across and/or through, an historic or archaeological resource; and
~~A site plan for proposed on site development, including indication of any existing buildings or structures on site as well as any that are proposed for removal;~~
 - ~~i.ii. Depth and location of all ground disturbing activities including, but not limited to, utilities, paved areas, clearing and grading landscaping or new landscape features (i.e. fencing, walls, etc.);~~
 - ~~ii. An examination of project on site design alternatives;~~
 - ~~iii. An explanation of why the proposed activity requires a location on, or access across and/or through, a significant historic or archaeological resource;~~
 - iii. A description of the historic/archaeological resources present, including any building or structure over 40 years of age affected by the proposal; and from the date the site assessment was conducted;
 - iv. An assessment analysis of the significance of the historic/archaeological resource and an analysis of the potential adverse impacts as a result of the activity;
 - v. An analysis of how these impacts will be/have been avoided; or
 - vi. ~~Where avoidance is not possible, how these impacts have been or will be mitigated/minimized;~~
 - vii. A recommendation of appropriate mitigation measures; if the resources cannot be avoided. Some mitigation measures may require a permit from DAHP. In the case of archaeological resources, mitigation measures which may include, but are not limited to, the following:
 1. Recording the site with the State Department of Archaeology and Historic Preservation, or listing the site in the National Register of Historic Places, Washington Heritage Register, as applicable, or any locally developed historic registry formally adopted by the Oak Harbor City Council;
 2. Adaptive re-use of buildings or structures according to the U.S. Secretary of the Interior's Standards for Rehabilitation.

3. Preservation in place;
 - ~~Re-internment in the case of grave sites;~~
4. Covering an archaeological site with a nonstructural surface to discourage pilferage (e.g., maintained grass or pavement);
5. Excavation and recovery of archaeological resources;
6. Inventorying prior to covering of archaeological resources with structures or development; and
7. Archaeological Monitoring of construction excavation.

~~viii. An outline of actions to be taken by the property owner, developer, archaeologist, or historic preservation professional, as applicable, in the event that an inadvertent discovery of historic, cultural or archaeological sites or artifacts occurs during site development, which includes the following:~~

- ~~1.—A statement that work on that portion of the development site shall be stopped immediately and the find reported as soon as possible to the Shoreline Administrator and other appropriate governments and agencies.~~
- ~~2.—Contact information for applicable parties, agencies and governments including the Shoreline Administrator, the Washington State Department of Archaeology and Historic Preservation, affected Tribes, professional archaeologist or historic preservation professional; and in the event of inadvertent discovery of human remains, additional contact information for the Oak Harbor Police Department, Island County Medical Examiner, State Physical Anthropologist, and/or appropriate Tribal Repatriation Office. The address for the State Physical Anthropologist is: P.O. Box 48343, Olympia, WA 98504.~~
- ~~3.—Proposed measures to stabilize, contain, or otherwise protect the area of inadvertent discovery until a site investigation and/or site assessment is conducted.~~

~~ix. Where provision of public access for the purpose of public education related to a private or publicly owned building or structure of historic significance is desired by the property owner, a public access management plan shall be developed in consultation with the Washington State Department of Archaeology and Historic Preservation and/or other agencies, as appropriate, and affected Tribes to address the following:~~

- ~~1.—The type and/or level of public access that is consistent with the long term protection of both historic resource values and shoreline ecological functions and processes;~~
- ~~2.—An access management plan is developed in accordance with site and resource-specific conditions in consultation with the Washington State~~

~~Department of Archaeology and Historic Preservation, affected Tribes, and/or other agencies, as appropriate, to address the following:~~

- ~~• hours of operation;~~
- ~~• interpretive and/or directional signage;~~
- ~~• lighting;~~
- ~~• pedestrian access, and/or~~
- ~~• traffic and parking.~~

~~x.viii. For archaeological and cultural resource sites, the Washington State Department of Archaeology and Historic Preservation, and/or other agencies, as appropriate, and relevant Tribes shall be in agreement prior to providing public access to the site. An access and resource management plan shall be developed in consultation with the Washington State Department of Archaeology and Historic Preservation, and affected Tribes.~~

- ~~2. The recommendations and conclusions of the CRMP shall be used to assist the Shoreline Administrator in making final administrative decisions concerning the presence and extent of historic/archaeological resources and appropriate mitigating measures.~~ The Shoreline Administrator shall consult with the Washington State Department of Archaeology and Historic Preservation, and affected Tribes prior to approval and acceptance of the survey/assessment. ~~CRMP and any associated shoreline development permits.~~
 - ~~3. Based upon consultation with DAHP and the affected Tribe(s),~~ The Shoreline Administrator may reject or request revision of the conclusions reached in a ~~CRMP~~ survey/assessment when the Shoreline Administrator can demonstrate that the assessment is inaccurate or does not fully address the historic/archaeological resource management concerns involved.
- c. Within 15 days of receipt of a complete development permit application in an area of known historic/archaeological resources, the City shall notify and request a recommendation from appropriate agencies such as the Washington State Department of Archaeology and Historic Preservation; and affected Tribes. Recommendations of such agencies and other affected persons shall be duly considered and adhered to whenever possible and reasonable. Notification shall include the following information:
1. The date of application, the date of notice of completion for the application, and the date of the notice of application;
 2. The date, time, place, and type of the hearing, if applicable, scheduled at the date of notice of the application;
 3. A site map including the street address, tax parcel number, township, range, and section of the proposed project area;

4. A description of the proposed project action and a list of the project permits included in the application, and, if applicable, a list of any studies requested by the City;
5. The identification of other permits not included in the application to the extent known by the City;
6. The identification of existing environmental documents that evaluate the proposed project and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;
7. Any other information determined appropriate by the City;

~~A statement indicating those development regulations that will be used for project mitigation or a determination of consistency if they have been identified at the time of notice;~~

8. A statement of the limits of the comment period, the right of each agency to comment on the application within a fifteen (15) day time period, receive notice of and participate in any hearings, request a copy of the decision once made, and to appeal a decision when allowed by law. In addition, the statement shall indicate that any agency wishing to receive personal notice of any hearings must notify the Shoreline Administrator within 15 days of the date of the notice of application.

- d. In granting shoreline permits or statements of exemption for such development, the City may attach conditions to ~~provide sufficient time and/or conditions for~~ require consultation with the Washington State Department of Archaeology and Historic Preservation, and ~~relevant affected~~ Tribes, and to assure that historic/archaeological resources are properly protected, or for appropriate agencies to contact property owners regarding purchase or other long term arrangements. Provision for the protection and preservation of historic/archaeological sites, structures or areas, shall be incorporated to the maximum extent practicable. ~~Permit or other requirements administered by the Washington State Department of Archaeology and Historic Preservation pursuant to RCW 27.44 and RCW 27.53 may apply in addition.~~

2. Inadvertent Discovery

- a. Whenever historic, cultural or archaeological sites or artifacts ~~of potential significance~~ are discovered in the process of development on shorelines, work on that portion of the development site shall be stopped immediately, ~~the site secured, stabilized, or otherwise protected~~ and the find reported as soon as possible to the Shoreline Administrator.
- b. The Shoreline Administrator shall then notify the Washington State Department of Archaeology and Historic Preservation, affected Tribes, and other appropriate agencies and shall require that an immediate site assessment be conducted by a professional archaeologist or historic preservation professional, as applicable, pursuant to Chapter 3, Section B.3.c.1 ~~(a), b.(1)~~ to ~~determine the significance of the discovery and~~ the extent of damage to the resource. The site assessment shall be distributed to the Washington

State Department of Archaeology and Historic Preservation; and the affected Tribes for a 15-day review period. ~~or, in the case of inadvertent discovery of human remains, a 30-day review period to determine the significance of the discovery. If the site has been determined not to be significant by the above listed agencies or governments, or if~~ the above listed agencies or governments have failed to respond within the applicable review period following receipt of the site assessment, such stopped work may resume.

~~Upon receipt of a positive determination of a site's significance, the Shoreline Administrator may invoke the provisions of Chapter 3, Section B.3.c.1.b above for a Cultural Resource Management Plan, if such action is reasonable and necessary to implement related SMP objectives.~~

- c. If human remains are encountered, all activity must cease and the area must be protected and the find reported to local law enforcement and the County coroner or medical examiner.

~~The requirements of SMP 23.90.07.B.1 do not apply where an applicant/project proponent has obtained an approved Archeological Excavation and Removal permit from the Washington State Department of Archaeology and Historic Preservation pursuant to WAC 25-48-060, provided that the applicant must adhere to the requirements of said approved permit.~~

3. Public Access

- a. If a private or publicly owned building or structure of historic significance is identified, public access shall be encouraged as appropriate for purposes of public education; provided that:

- (1) The type and/or level of public access is consistent with the long term protection of both historic resource values and shoreline ecological functions; and

- (2) An access management plan is developed in accordance with site and resource-specific conditions in consultation with the Washington State Department of Archaeology and Historic Preservation, affected Tribes and/or other agencies, as appropriate, to address the following:

- (a) Hours of operation;

- (b) Entrance fees and/or permits;

- (c) Interpretive and/or directional signage;

- (d) lighting;

- (e) pedestrian and handicap access; and/or

- (f) traffic and parking

- b. For archaeological and cultural resource sites, the Washington State Department of Archaeology and Historic Preservation, affected Tribes and/or other agencies, as appropriate, shall be in agreement prior to providing public access to a site. An access

and resource management plan shall be developed in consultation with the Washington State Department of Archaeology and Historic Preservation and affected Tribes.

3.4.

4. Critical Areas and Flood Hazard Areas

a. Applicability

1. Critical areas located within the City of Oak Harbor’s shoreline jurisdiction are regulated by the Critical Areas Regulations, Ordinance No. 1440 § 1-6, 2005 and codified under Title 20 of the Oak Harbor Municipal Code, which are herein incorporated into this SMP, except as specifically modified or exempted in this Section.
2. Flood hazard areas located within the City of Oak Harbor’s shoreline jurisdiction are regulated by Flood Damage Prevention Regulations, Ordinances Nos. 835 (1989) and 1462 (2006) and codified under Chapter 17.20 of the Oak Harbor Municipal Code, which are herein incorporated into this SMP, except as specifically modified or exempted in this Section.
3. Where the Critical Areas Regulations or Flood Damage Prevention Regulations conflict with other parts of the SMP, the requirement that most supports the provisions of the SMA as stated in RCW 90.58.020 shall apply, as determined by the Shoreline Administrator.
4. Provisions of the Critical Areas Regulations that are not consistent with the Shoreline Management Act, Chapter 90.58 RCW, and supporting Washington Administrative Code chapters shall not apply in shoreline jurisdiction, as follows:
 - a. The provisions of the Critical Areas Regulations shall not modify the extent of the shoreline jurisdiction as described in Chapter 1.C of this SMP. For regulations addressing critical area buffers that are outside of Shoreline Jurisdiction, see Oak Harbor Municipal Code, Title 20.
 - b. Provisions in OHMC 20.12.040 relating to exemptions from the Critical Areas Regulations shall not relieve the applicant from obtaining a Shoreline Substantial Development Permit or other permit approval required under this SMP, or from meeting the specific requirements identified in other sections of this SMP, including requirements for no net loss.
 - c. Provisions relating to “reasonable use,” specifically those contained in OHMC 20.12.060, shall not apply within the shoreline jurisdiction.
 - d. Provisions relating to variance procedures under the Critical Areas Regulations, specifically OHMC 20.12.120, shall not apply within the shoreline jurisdiction. Shoreline Variance procedures and criteria have been established in this SMP, Chapter 6.G, and in WAC 173-27-170.4.

- e. The provisions of OHMC 20.28.040 relating to modifications and alterations on steep or unstable slopes shall not apply within the shoreline jurisdiction.
 - f. Provisions in OHMC 20.25.040(1) relating to buffer widths for marine shorelines identified as fish and wildlife habitat conservation areas shall not apply within the shoreline jurisdiction.
 - g. Provisions for riparian buffer reductions contained in OHMC 20.25.040(3) shall apply within the shoreline jurisdiction, except that buffer reductions associated with shoreline restoration may not be added to buffer reductions associated with other incentives, such as Lower Impact Land Uses (OHMC 20.25.040(2)). Within the shoreline jurisdiction, incentive-based buffer reductions shall not exceed a total of 25%. Provisions for buffer averaging contained in OHMC 20.25.040(4) shall apply within the shoreline jurisdiction, except that no buffer shall be reduced to less than the required setback for the environment designation as listed in Chapter 4, Table 2 of this document, or as otherwise allowed under averaging provisions in footnotes 4 and 5 of Table 2.
 - h. Provisions in OHMC 20.24.010(1) relating to identification and rating of wetlands shall not apply within the shoreline jurisdiction. Identification of wetlands and delineation of their boundaries pursuant to this Chapter shall be done in accordance with the 1987 Corps of Engineers Wetlands Delineation Manual, as supplemented by ~~the Arid West Final Regional Supplement (September 2008) and~~ the Western Mountains, Valleys, and Coast ~~Interim~~Final Regional Supplement (May 2010) as appropriate and as may be revised in the future or as replaced by succeeding documents. All areas within the shoreline jurisdiction meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Chapter.
 - i. Within the shoreline jurisdiction, the definitions contained within this Master Program shall supersede and be used in lieu of the definitions contained with OHMC 20.02.020.
5. Provisions of the Flood Damage Prevention Regulations shall be modified as follows:
- a. New or enlarged structural flood hazard reduction measures shall be allowed only by conditional use permit when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development, that nonstructural measures are not feasible, impacts to ecological functions and priority species and habitats can be successfully mitigated so as to ensure no net loss and vegetation conservation standards consistent with Chapter 3, Section 8 are implemented to the maximum feasible extent.
 - b. New or enlarged structural flood hazard reduction measures shall be consistent with an adopted comprehensive flood hazard management plan that evaluates cumulative impacts to the watershed system.
 - c. Existing structural flood hazard facilities that are damaged or have deteriorated may be repaired and replaced to their previous extent, provided all areas disturbed by

construction are revegetated with native species and such action complies with all other standards of this SMP.

- d. Where feasible, new or enlarged structural flood hazard reduction measures shall be placed landward of associated wetlands and vegetation conservation areas, except for projects that increase ecological functions, such as wetland restoration.
- e. New or enlarged structural flood hazard reduction measures, such as dikes or levees, that are built on public property or receive public funding shall dedicate and improve public access pathways unless such public access improvement would not be consistent with the public access regulations in Chapter 5, Section B.6.
- f. The removal of gravel or other excavation for flood management purposes shall be consistent with a City adopted flood hazard reduction plan and shall only be allowed after a biological and geomorphological study shows that extraction has a long-term benefit to flood hazard reduction and does not result in a net loss of ecological function.
- g. All structural flood hazard protection measures shall be consistent with mitigation sequencing and shall result in no net loss of ecological function.

b. Policies

1. In addressing issues related to critical areas, use scientific and technical information, as described in WAC 173-26-201(2)(a).
2. Critical areas within the City's shoreline jurisdiction should be managed and protected to ensure no net loss of ecological functions. When feasible, restore degraded ecological functions and ecosystem-wide processes.
3. Promote human uses and values that are compatible with other objectives of the Shoreline Management Act, such as public access, water-dependent uses, and aesthetic values, provided they do not significantly adversely impact ecological functions.

5. Environmental Impacts and Mitigation

a. Applicability

The Shoreline Management Act is concerned with the environmental impacts that both a use and activity may have on the fragile shorelines of the state. This section applies to all development, use or activities within shoreline jurisdiction that are subject to the SMP.

b. Policies

1. Protect shoreline processes and ecological functions through regulatory and non-regulatory means that may include regulation of development within the shoreline jurisdiction, incentives to encourage ecologically sound design, specific enhancements, conservation easements, and acquisition of key properties. .

2. Preserve the scenic aesthetic quality of shoreline areas and vistas to the greatest extent feasible.
3. Adverse impacts on the natural environment should be minimized during all phases of development (e.g. design, construction, operation, and management).
4. Shoreline developments that propose to enhance environmentally sensitive areas, other natural characteristics, resources of the shoreline, and provide public access and recreational opportunities to the shoreline are consistent with the fundamental goals of this Master Program, and should be encouraged.

c. Regulations

1. All shoreline uses and developments shall be located, designed, constructed and mitigated to result in no net loss of ecological functions necessary to sustain shoreline natural processes.
2. All shoreline uses and activities shall be located and designed to prevent or minimize the need for shoreline protection structures and stabilization (bulkheading, riprap, etc.), fills, groins, jetties, or substantial site regrades.
3. Where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority:
 - a. Avoiding the impact altogether by not taking a certain action or parts of an action;
 - b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
 - c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 - d. Reducing or eliminating the impact over time by preservation and maintenance operations;
 - e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
 - f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.
4. Compliance with Clean Water Act Section 311 is required. Solid waste, liquid waste, and untreated effluent shall not be allowed to enter any bodies of water or to be discharged onto the land. Only biodegradable cleaners shall be used to wash boats at the City marina.
5. The direct release of hazardous materials or petroleum products is prohibited.
6. All shoreline uses and activities shall utilize best management practices (BMPs) to minimize any increase in surface runoff and to control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected during both construction and operation. BMPs are identified in the City's adopted stormwater manual.

7. All shoreline developments shall be located, constructed and operated so as not to be a hazard to public health and safety.
8. Land clearing, grading, filling and alteration of natural drainage features and land forms shall be limited to the minimum necessary for development. When required by the Shoreline Administrator, surface drainage systems or substantial earth modifications shall be designed by a civil engineer registered to practice in the State of Washington. The Shoreline Administrator may also require additional studies prepared by a qualified soils specialist. These designs shall seek to prevent maintenance problems, avoid adverse impacts to adjacent properties or shoreline features, and result in no net loss of shoreline ecological functions.
9. Identified significant short term, long term, or cumulative adverse environmental impacts lacking appropriate mitigation that is likely to achieve no net loss of ecological functions necessary to sustain shoreline processes shall be sufficient reason for permit denial.
10. New development and uses within the shoreline environment shall be designed to have minimal negative effects on existing hydrologic connections between wetlands and the marine nearshore environment or associated fresh water bodies. Development that would disrupt such existing hydrologic connections shall be required to provide mitigation according to the sequence specified in this section.

6. Public Access

a. Applicability

Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Extensive shoreline access is provided in the City of Oak Harbor on publicly owned lands, roads and trails. Existing public access to shorelines within the shoreline jurisdiction includes Windjammer Park, Freund Marsh, Flintstone Park, Oak Harbor Marina, Bayshore Drive, SE Pioneer Way and the Waterfront Trail. Public access to Navy property on Maylor Point and in Crescent Harbor (i.e. the Seaplane Base) can be allowed subject to the discretion of NAS Whidbey leadership. Access to the Seaplane Base can be suspended or revoked at any time.

b. Policies

1. Provide and enhance shoreline access to Oak Harbor and Crescent Harbor through continued use and improvement of existing sites and infrastructure, installation and maintenance of identifiable signage for public access points, and purchase or retention of access easements.
2. Physical or visual public access to shorelines should be incorporated in all new developments when the shoreline administrator makes a finding that development would either generate a demand for one or more forms of access or would impair existing legal physical or visual public access opportunities or rights.

3. Public access priorities in Oak Harbor include enhancements and extensions of the Waterfront Trail from Scenic Heights to Maylor Point, improvements to existing parks, continued access and access improvements to open space areas on Navy lands, and enhanced public access associated with future public (e.g. Marina) or private development in the Maritime shoreline environment.
4. Developments, uses, and activities in the shoreline jurisdiction should be designed to avoid blocking or disrupting public visual and physical access to the water and the shoreline. New development should minimize conflicts with existing or planned public access projects and provide appropriate mitigation if impacts cannot be avoided.
5. Shoreline views from public property should be protected. Existing views and view corridors should be inventoried, including views of Oak Harbor, Crescent Harbor, Mt. Rainier, Mt. Baker, the Olympic Mountain range and Saratoga Passage.
6. Private views of the shoreline, although considered during the review process, are not expressly protected. Property owners concerned with the protection of views from private property are encouraged to obtain view easements, purchase intervening property and/or seek other similar private means of minimizing view obstruction.
7. Impacts to public access from new development should be mitigated through provision of on-site physical and visual public access, unless such access would create safety or security hazards, would negatively impact shoreline ecological function, or the shoreline administrator determines that alternative off-site access or improvements would better serve the public interest.
8. The level of public access should be commensurate with the degree of uniqueness or fragility of the shoreline.
9. Ensure that upland facilities associated with shoreline public access sites, such as parking and play areas, as well as the development of in-water and nearshore structures for public access, such as docks and swimming areas, are located and designed in ways that result in no net loss of ecological function.
10. Access should be provided for a range of users including pedestrians, bicyclists and boaters to the greatest extent feasible. Such access should conform to applicable provisions of the Americans with Disabilities Act.
11. Public access provisions should be required for all new public shoreline development and uses, unless such access is shown to be incompatible due to reasons of safety, security or impact to the shoreline.
12. Public access required on private property should be consistent with all relevant constitutional and legal limitations on public use of private property, including nexus and proportionality principles.
13. Integrate shoreline public access with existing and planned regional trails or routes, such as the Waterfront Trail, to provide improved non-motorized access and community connections.

14. Ensure public access and recreational uses (including upland auxiliary facilities) do not adversely affect the ecological integrity and character of the shoreline, threaten fragile shoreline ecosystem, or impair or detract from the public's visual or physical access to the water.
15. Physical access for swimming and non-motorized boating, passive recreation (such as interpretive trails) and habitat enhancement should be important planning and management objectives for shoreline public access sites. These include, but are not limited to, improvements to the swimming lagoon at Windjammer Park, interpretive trails in Freund Marsh and improvements for non-motorized boaters at both Windjammer Park and Flintstone Park.

c. Regulations

1. Except as provided in Regulations 2 through 4 below, public access shall be required to the extent allowed by law for all shoreline substantial developments and conditional uses when any of the following conditions are present:
 - a. The project is publicly funded or occurs on public lands, provided that such access would not result in a net loss of ecological function;
 - b. The proposed development would create or increase demand for public access to the shoreline;
 - c. The project adversely impacts existing public access by creating a physical or visual obstruction (as determined by a view study in regulations 21 – 24 of this section) or discourages use of existing access;
 - d. The development interferes with public use of waters of the state; or
 - ~~e. The proposed use is not water-dependent and is not a preferred use under the SMA. Preferred uses include single-family residences, ports, shoreline recreational uses, water-dependent industrial and commercial developments and other developments, such as marinas, that provide public access opportunities.~~
2. Public access shall not be required for single-family residential development of four (4) or fewer lots. Single-family residential development of five (5) units or more shall provide public access according to the standards of this section.
3. Additional public access shall not be required where public access is already provided by an existing public facility on or adjacent to the site, such as the Waterfront Trail, and the Shoreline Administrator makes a finding that the proposed development would not negatively impact existing visual or physical public access or create a demand for shoreline public access that could not be accommodated by the existing public access system and existing public recreational facilities in the immediate vicinity.
4. Public access shall not be required on-site where one or more of the following conditions apply:

- a. Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means;
 - b. Inherent security requirements of the proposed development or use cannot be satisfied through the application of alternative design features or other solutions;
 - c. The cost of providing the access, easement, or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development or other constitutional or legal limitations preclude public access.
 - d. Unacceptable environmental harm will result from the public access which cannot be mitigated; or
 - e. Significant undue and unavoidable conflict between the proposed access and adjacent uses would occur and cannot be mitigated.
5. To meet any of the conditions under Regulation 4 above, the applicant must first demonstrate and the Shoreline Administrator must determine that all reasonable alternatives have been exhausted, including but not limited to:
 - a. Regulating access by such means as limiting hours of use to daylight hours.
 - b. Designing separation of uses and activities, with such means as fences, terracing, hedges, and landscaping.
 - c. Providing access that is physically separated from the proposal, such as a nearby street end, an offsite viewpoint, or a trail system.
 - d. Sharing the cost of providing and maintaining public access between public and private entities.
 6. Projects that meet the criteria of Regulation 4 above shall either contribute toward off-site public access facilities or improvements or, if approved by the shoreline administrator and agreed to by the applicant, contribute a proportional fee to the local public access fund (payment in lieu).
 7. All new private development along the shoreline shall accommodate the Waterfront Trail and dedicate a minimum 12-foot public access and recreational use easement that is located landward of the OHWM, subject to the requirements and limitations in Regulation 1 above.
 8. Where an existing easement granting public access for the Waterfront Trail is located on a site where new development is proposed, the Shoreline Administrator may determine that such easement is adequate to accommodate the Waterfront Trail, notwithstanding the requirements of Regulation 7 above.
 9. If the City determines that public access is required pursuant to Regulation 1 above, the City shall impose permit conditions requiring the provision of public access that is roughly proportional to the impacts caused by the proposed use or development. The City shall demonstrate in its permit decision document that any such public access has a nexus with the impacts of the proposed development and is consistent with the rough proportionality standard.

10. Public access sites shall be connected directly to the nearest public street or non-motorized trail through a parcel boundary, tract, or easement, wherever feasible.
11. Public access sites shall be made barrier free for the physically disabled where feasible and conform to all provisions of the Americans with Disabilities Act.
12. Required public access sites shall be fully developed and available for public use at the time of occupancy or use of the development or activity.
13. Public access easements shall be recorded through a conveyance recorded with the auditor or on the face of a plat as applicable, or short plat as a condition running in perpetuity with the land. Recording with the Island County Auditor's Office shall occur at the time of permit approval (RCW 58.17.110; relating to subdivision approval).
14. The standard state approved logo and other approved signs that indicate the public's right of access and hour of access shall be constructed, installed, and maintained by the applicant in conspicuous locations at public access sites.
15. Future actions by the applicant or other parties shall not diminish the usefulness or value of the public access site.
16. Physical public access shall be designed to prevent significant impacts to sensitive natural systems, and shall be constructed and maintained in a manner that does not result in a net loss of shoreline ecological function.
17. The City shall require the use of environmentally friendly materials and technology in such things as building materials, paved surfaces, porous pavement, etc., to the extent feasible when developing public access to the shoreline.
18. Minimum width of public access easement shall be at least 12 feet, unless the shoreline administrator determines that undue hardship to the proponent would result. In such cases easement width may be reduced to the minimum necessary to relieve the hardship.
19. Where public access is to be provided by a trail, the following requirements shall apply:
 - a. The trail shall be no greater than 10 feet in total improved width, which may include 1 foot gravel shoulders. Not including landscaping; no more than 8 feet of improved surface is preferable in most cases.
 - b. Pervious pavement or boardwalk should be used for public access within the shoreline management area unless the Shoreline Administrator determines that such use is not in the public interest because of safety, durability or functionality concerns.
 - c. Where feasible, the trail shall be placed at least 25 feet from the Ordinary High Water Mark (OHWM), except where the trail connects with an existing trail located closer to the OHWM, there is no other feasible location for the trail, or where the design incorporates overlooks or other access features that do not result in a loss of ecological function, as approved by the Shoreline Administrator.
 - d. Landscaping should be native, salt tolerant and site appropriate.

- e. Other specific conditions described in a trail or parks plan or other City approval.
20. Development, uses, and activities shall be located, designed and operated to minimize obstruction or degradation of shoreline views from public parks, roads and walkways. In providing visual access to the shoreline, natural vegetation shall not be excessively removed either by clearing or by topping.
 21. The Shoreline Administrator may require the applicant to prepare a view study when the City determines based on available information that views from public property may be significantly impacted by proposed shoreline development. A view study shall not be required for single family home development.
 22. Given that nearly all development projects will increase the extent to which structures and other potential view obstructions occupy a given site, the significance of view impacts and required mitigation shall be determined by the Shoreline Administrator based on a view study and other available information that addresses the following factors:
 - a. The nature, significance and extent or expanse of existing public shoreline view across the property, including the number and location of points from which such views exist, the content and quality of the view available from such viewpoints and the extent to which views might be impacted by new development on other property, both shoreline and non-shoreline in the immediate area of both the project site and viewpoints.
 - b. The nature, significance and extent of public shoreline view loss or gain that would likely result from the proposed development, including the number and extent of viewpoints impacted, whether views within an officially recognized view corridor would be impacted, whether views would be enhanced or created by the new project and whether there would be a net gain or loss of public shoreline views.
 - c. The extent to which public shoreline views are already being preserved or enhanced by the applicant's development proposal.
 - d. The extent to which the application of view preservation requirements and limitation on the subject proposal would reduce the value of the subject property.
 - e. The extent to which development or facilities on other properties in the immediate area have already degraded or preserved public shoreline views.
 23. When a proposed development would completely obstruct or significantly reduce the aesthetic quality of public views as determined by the Shoreline Administrator based on the factors in Regulation 22 above, mitigation shall be required to address view impacts.
 - a. The City may require administrative modifications to standard setbacks, impervious surface limits, clustering of proposed structures, and modifications to landscaping and building massing when the Shoreline Administrator determines that such modifications are necessary to maintain public views of the shoreline.
 - b. The City shall work with the applicant to minimize the economic impacts of view mitigation. While upper story setbacks and other changes to building placement and

massing may be required to provide view corridors, in no case shall the applicant be required to reduce the maximum building height.

- c. The City shall require specific public access improvements, such as public viewing decks, as mitigation in lieu of more significant modifications to site and building design when the Shoreline Administrator determines that such modifications would be an unreasonable financial burden on the applicant. All structures shall be limited to 35 feet in height to protect shoreline views.

24. The Shoreline Administrator may require recorded easements when necessary to ensure public view corridors or other public access improvements associated with this subsection are maintained in perpetuity.

7. Shorelines of Statewide Significance

a. Applicability

The Shoreline Management Act of 1971 designated certain shoreline areas as shorelines of statewide significance. Those areas lying waterward of the line of extreme low tide in Oak Harbor Bay and Crescent Harbor are recognized as a shoreline of statewide significance. Such shorelines are considered major resources from which all people of the state derive benefits, thus preference is given to uses which place special emphasis on the priority of uses established in RCW 90.58.020 and the statewide interest.

b. Policies

In implementing the objectives for shorelines of statewide significance (RCW 90.58.020), the City will base decisions related to the preparation, administration and enforcement of this SMP on the following policies in order of priority, 1 being the highest and 6 being the lowest.

1. Recognize and protect the state-wide interest over local interest.
 - a. Make all information associated with this SMP and proposed amendments publicly available, and solicit comments and opinions from groups and individuals representing state-wide interests when developing and amending the SMP.
 - b. Solicit comments and opinions from individuals with expertise in scientific fields relevant to shoreline management when developing or amending the Shoreline Master Program.
2. Preserve the natural character of the shoreline.
 - a. Designate and administer shoreline environments and use regulations to protect and restore the shoreline ecology and character.
 - b. Protect and restore diversity of vegetation and habitat resources, as well as wetland and riparian areas, associated with the shoreline.

- c. Concentrate future high-intensity uses and development into areas where such uses already exist, rather than allow high-intensity uses and development to spread to less intensely developed areas.
- 3. Support actions that result in long-term benefits over short-term benefits.
 - a. Restrict or prohibit uses and development that would irreversibly damage shoreline resources.
- 4. Protect the resources and ecology of the shoreline.
 - a. Minimize development activity that will interfere with the natural functioning of the shoreline ecosystem, including stability, drainage, and water quality.
 - b. All shoreline uses and development should be located, designed, constructed and managed to avoid disturbance of and minimize adverse impacts to wildlife resources, including spawning, nesting, rearing and habitat areas and migratory routes.
 - c. Preserve environmentally sensitive wetlands for use as open space or buffers and implement restoration of presently degraded wetland areas.
- 5. Increase public access to publicly owned areas of the shorelines.
 - a. Implement a comprehensive wayfinding signage program that directs the public to publicly owned shoreline areas.
 - b. Work with the U.S. Navy to preserve and enhance public access on federal property along Maylor Point and Crescent Bay.
- 6. Increase recreational opportunities for the public in the shoreline.
 - a. Plan for and encourage development of facilities for recreational use of the shoreline.

8. Vegetation Conservation

a. Applicability

- 1. The following provisions apply to any activity, development, or use that result in the removal of or impact to shoreline vegetation, whether or not that activity requires a shoreline permit. Such activities include clearing, grading, grubbing, and trimming of vegetation. These provisions also apply to vegetation protection and enhancement activities.
- 2. Important functions of shoreline vegetation include, but are not limited to:
 - a. Regulating microclimate in riparian and nearshore areas.
 - b. Providing organic inputs necessary for aquatic life, including providing food in the form of various insects and other benthic macroinvertebrates, such as insects, worms and crayfish.
 - c. Stabilizing banks, minimizing erosion and sedimentation, and reducing the occurrence/severity of landslides.

- d. Reducing fine sediment input into the aquatic environment by minimizing erosion, aiding infiltration, and retaining runoff.
 - e. Improving water quality through filtration and vegetative uptake of nutrients and pollutants.
 - f. Providing a source of large woody debris to moderate flows, help stabilize shorelines and increase habitat diversity for salmonids and other species.
 - g. Providing habitat elements for riparian-associated species, including downed wood, snags, migratory corridors, food, and cover.
3. See Chapter 7 for definitions of “significant vegetation removal,” “ecological functions,” “clearing,” “grading,” and “restore.”

b. Policies

- 1. Conserve native vegetation. Where new developments and/or uses or redevelopments are proposed, native shoreline vegetation should be conserved to maintain shoreline ecological functions and/or processes. Vegetation conservation and restoration should be used to mitigate the direct, indirect and/or cumulative impacts of shoreline development, wherever feasible.
- 2. Noxious and invasive weeds. Encourage management and control of noxious and invasive weeds. Control of such species should be done in a manner that retains onsite native vegetation, provides for erosion control, and protects water quality. Use of non-toxic or natural controls is preferred.
- 3. Restrict clearing and grading within the shoreline environment to minimum necessary to accommodate development. In particular, trees and other vegetation on slopes and bluffs should be preserved; maintenance of shoreline views should be accomplished through pruning, rather than removal.
- 4. Provide incentives for the retention and planting of native vegetation, and discourage extensive lawns due to their limited value for bank stability, limited water retention capacity, and negative effects from chemical and fertilizer applications. Incentives could include additional flexibility with building setbacks, a simplified permit approval with recommended planting plans and/or city participation in a pilot-project that promotes shoreline enhancement.
- 5. Existing landscaping and structures. Allow for the maintenance of existing ornamental landscaping and structures, including those that do not currently conform to vegetation conservation standards contained in this subsection or the setbacks contained in Chapter 5, Section C.

c. Regulations

- 1. Minimize clearing, grading and fill. Vegetation clearing, grading and fill within shoreline jurisdiction shall be limited to the minimum necessary to accommodate approved shoreline

development and shall comply with mitigation sequencing as outlined in Section 3.B.4, Environmental Impacts.

2. Vegetation retention, maintenance and replacement. Shoreline developments shall comply with the Landscape and Screening standards in OHMC Chapter 19.46. (Ordinance No. 1615 § 1, 2011), the additional standards contained within this subsection, and any other regulations specific to vegetation management that may be contained in other chapters of this SMP. In addition, removal, topping, and damage to oak trees is also regulated under OHMC 20.16 –Tree Protection.
3. The Shoreline Administrator may waive or modify vegetation conservation standards for water-dependent industrial and commercial uses in the Maritime environment when a landscape plan is submitted that demonstrates no net loss of ecological function.
4. Shoreline landscaping plan. A shoreline landscaping plan shall be required for development proposals that exceed the thresholds identified in Chapter 6, Section J, Nonconforming Development. In addition, all activities that include clearing of native vegetation or surface grading within shoreline setbacks shall include a landscaping plan for review and approval by the City. The planting of native species, modification of existing nonconforming development that does not include expansion, the removal of hazard trees, or the removal of fewer than three trees in a three year period from Setback Zone 2 shall not require a landscaping plan.
 - a. The plan must demonstrate compliance with mitigation sequencing as outlined in Section 3.B.4, all standards contained in this subsection, and all relevant SMP standards.
 - b. When required, landscaping plans shall be prepared by a qualified professional and shall include a written report identifying specific objectives of the compensation proposed, measurable specific criteria for evaluating success, a detailed description of the mitigation proposed, a monitoring program, a listing of corrective measures to be taken in the event that performance standards are not being met, and financial guarantees (e.g. performance bonds) to ensure full implementation of the mitigation plan (OHMC 20.12.100).
 - c. The plan shall be designed to stabilize soil surfaces, filter run-off, provide native vegetation for ecological functions, and ensure no net loss of ecological function. Landscaping plans shall describe actions that will ensure no net loss of ecological functions to the maximum extent practicable at the site scale. All new plantings installed in shoreline setbacks must be native species, except as otherwise provided in this Section.
 - d. Mitigation measures shall be maintained over the life of the use and/or development.
 - e. Shoreline landscaping plans may be combined with any landscape plan required under OHMC 19.46 or this SMP.

5. The native vegetation area standards contained in OHMC 19.46.140 shall apply to any proposal that exceeds the thresholds for nonconforming development identified in Chapter 6, Section J. Areas within the Shoreline Setback may be counted towards the native vegetation retention area required under OHMC 19.46.140.
6. Setback Zone 1 - Vegetation Management Zone (VMZ) established. The first thirty (30) feet of shoreline setback area landward of the OHWM shall be established as a VMZ, except in the Conservancy environment where the VMZ shall include the entire required setback area, and in the Residential Bluff Conservancy environment, where the VMZ shall include the entire shoreline setback and all steep or unstable slopes and required slope setbacks. Vegetation preservation shall be the highest priority within the VMZ, and the purpose of this zone shall be to protect and enhance shoreline ecological function and slope stability associated with native vegetation.
 - a. Where replacement planting is required as mitigation for removal or disturbance of upland vegetation to meet no net loss, replacement plants shall be located within the VMZ to the greatest extent feasible.
 - b. Existing lawns and other non-native landscaping and improvements are allowed in the VMZ and may be maintained without a permit, provided existing native vegetation is to be preserved and new non-native vegetation is not permitted.
 - c. Establishment of the VMZ shall not be construed as a requirement to obstruct visual access to the shoreline through planting of sight-obscuring trees. Normal pruning and maintenance of trees within the vegetation management zone to preserve views shall be allowed, except that topping of trees shall not be allowed. Mitigation plantings in the VMZ may accommodate the preservation of shoreline views.
 - d. Pervious paths no more than 6 feet wide, and oriented generally perpendicular to the OHWM, are allowed in the VMZ.
 - e. Improvements necessary for the City's Waterfront Trail are allowed, provided the proposal complies with mitigation sequencing and no net loss. Zone 2 shall be the preferred location, and pervious materials shall be used where feasible.
7. Setback Zone 2. The following vegetation conservation and development standards apply to those remaining portions of the setback outside of the VMZ.
 - a. Existing lawns and other existing non-native ornamental vegetation are allowed, provided healthy native vegetation shall be preserved, except as provided below.
 - b. Impervious surface coverage shall be limited as shown in Section 4.C, Table 2. The following water-oriented improvements shall be allowed in Zone 2, subject to the impervious surface limits and the requirements of Subsection d below.
 - i. Pervious patios and free draining, uncovered decks that are less than 42 inches above finished grade.

- ii. Pervious paths no more than 6 feet wide, oriented generally perpendicular to the OHWM.
 - iii. Gazebos, boathouses and other accessory structures less than 12 feet in height that are directly related to water-oriented activities.
 - iv. Hot tubs, spas, pools and similar structures.
 - c. Improvements necessary for the City's Waterfront Trail, provided the proposal complies with mitigation sequencing and no net loss. Pervious materials shall be used where feasible.
 - d. New non-native ornamental landscaping may be planted and existing ornamental landscaping may be expanded, subject to compliance with Regulation 5 above.
8. Minimum native vegetation in setback. At least 60% of Zone 2 and 80% of Zone 1 shall be planted or maintained in native vegetation, including ground covers, shrubs and trees, where appropriate. This standard will be applied for all proposals that exceed the thresholds for non-conforming development identified in Chapter 6, Section J, and when new development is proposed in Zone 2 that would disturb native vegetation under Subsection 3 and 4 above. The City may modify these prescriptive requirements based on a landscaping plan prepared by a qualified professional that results in equal or greater ecological function.
9. Tree Removal in Shoreline Setback. For any trees removed within the shoreline setback, after implementation of standard mitigation sequencing, the following tree replacement strategies shall be implemented:
- a. Significant trees removed shall be replaced at a 3:1 ratio within Setback Zone 1 and 2:1 within Setback Zone 2. Other (nonsignificant) trees shall be replaced at a 1:1 ratio.
 - b. Replacement trees shall be a minimum of 2.5 inches in diameter at breast height for deciduous trees and a minimum of 6 feet tall from grade for conifers.
 - c. All retained and replacement trees shall be maintained in a healthy condition. Trees found to be diseased, dying or dead within 1 year of planting shall be replaced. Trees planted as part of mitigation shall be replaced at a 1:1 ratio. Retained trees that die or become diseased shall be replaced at the ratio identified above.
 - d. All trees removed from the shoreline setback must be replaced in the shoreline setback, and only by native species.
 - e. The City may modify these requirements based on a landscaping plan prepared by a qualified professional that results in equal or greater ecological function.
10. Tree Pruning and Hazard Tree Removal. Selective pruning of trees for safety or view protection is allowed in shoreline jurisdiction if consistent with the provisions of OHMC 19.46 – Landscaping and Screening. Non-hazard trees located in steep slope and bluff areas shall be retained, and pruning shall not include topping, pollarding or stripping; no more than 40% of the crown shall be removed. Where trees pose a significant safety hazard as indicated in a written report by a certified arborist or other qualified professional, they may

be removed from shoreline jurisdiction if the hazard cannot be alleviated by a technique that maintains some habitat function, such as more aggressive pruning or conversion of the tree into a wildlife snag that does not pose a hazard.

11. Unauthorized vegetation removal. Vegetation removal conducted without the appropriate review and approvals anywhere within shoreline jurisdiction also requires the submittal and approval of a shoreline landscaping plan as outlined in Regulation 4 above. The landscaping plan must utilize only native vegetation, and should be designed to compensate for temporal loss of function and address the specific functions adversely impacted by the unauthorized vegetation removal.
12. Non-native vegetation. With the exception of hand removal or spot-spraying of invasive or noxious weeds, the determination of whether non-native vegetation removal may be allowed in shoreline jurisdiction must be evaluated in conformance with Section 3.B.4, Environmental Impacts and any relevant requirements of OHMC 19.46. Such removal of noxious weeds and/or invasive species shall be incorporated in landscaping plans, as necessary, to prevent erosion and facilitate establishment of a stable community of native plants. Non-native vegetation removal outside of shoreline setbacks does not require mitigation, except as otherwise noted in this Section.
13. Aquatic vegetation control, including both mechanical and chemical, shall only occur when native plant communities and associated habitats are threatened or where an existing water-dependent use is threatened. Aquatic vegetation control shall occur in compliance with all other applicable laws and standards, including Washington Department of Fish and Wildlife and/or Washington Department of Ecology requirements.
14. Dumping of yard waste, including debris from tree pruning, invasive plant removal, and regular yard maintenance, within the shoreline setback area or on steep slopes designated under OHMC 20.28.010, shall be prohibited.

14.15. Freund Marsh East Ditch Buffer: A five to eight foot existing vegetated buffer adjacent to the East Ditch. This buffer is under City ownership and will remain vegetated and undeveloped. An existing contiguous fence separates the buffer from the residential properties.

9. Critical Saltwater Habitat

a. Applicability

Kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sand lance; subsistence, commercial and recreational shellfish beds; mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association are classified as critical saltwater habitat under WAC 173-26-221(2)(iii) – Shoreline Master Program Guidelines. The Washington Department of Fish and Wildlife has identified kelp beds, eelgrass beds, and sand lance and surf smelt spawning habitat within the City of Oak Harbor’s shoreline jurisdiction.

b. Policies

1. Critical salt water habits should be protected in recognition of their importance to the marine ecosystem of the City of Oak Harbor and the State of Washington. SEPA analysis of project alternatives should be conducted for any project proposed within mapped Critical Saltwater Habitat. In compliance with WAC 173-26-211(5), space should be reserved for critical saltwater habitats including existing shellfish protection districts and critical habitats.
2. Water-dependent uses, including recreational facilities, marinas, and essential public facilities may be permitted in Critical Saltwater Habitat, provided the application demonstrates compliance with required mitigation sequencing and on-site or off-site mitigation is provided that results in no net loss of ecological function.
3. The composition of beach and bottom substrate should be protected from alteration by development and uses. Projects proposed within the shoreline jurisdiction in areas where Critical Saltwater Habitat exists should avoid altering beach and bottom substrate except for restoration projects or installation of pilings associated with uses approved under this SMP.

c. Regulations

1. Water-dependent development and uses, including marinas, docks, piers, mooring areas, and shoreline modifications, shall not intrude into or be built over Critical Saltwater Habitat unless it can be demonstrated that the project meets all of the following criteria:
 - a. An overriding public need for the structure, development, or use can be clearly demonstrated, and an alternative location that would avoid the critical habitat is not feasible or would result in unreasonable and disproportionate cost.
 - b. The project is consistent with the statewide interest in preservation of sensitive resources and species recovery.
 - c. It can be demonstrated that the project, including required mitigation, will result in no net loss of ecological function associated with critical saltwater habitat.
2. Sand, gravel, and other fill materials shall not be placed or removed from Critical Saltwater Habitat, except when part of an approved habitat restoration or beach nourishment project.
3. New outfall structures, including stormwater and sewer outfall pipes, shall not be located in Critical Saltwater Habitat where the discharge from such structures may adversely affect saltwater habitat or species, unless the applicant demonstrates all of the following:
 - a. No feasible alternative location for the outfall exists;
 - b. The outfall can be placed below the surface of the beach or below the bed of the water body;
 - c. The outfall will discharge waterward of the intertidal zone (ie, below the extreme low tide line); and
 - d. Any vegetated area disturbed will be revegetated with native species.

10. Water Quality, Stormwater, and Non-Point Source Pollution

a. Applicability

The following section applies to all development and uses in shoreline jurisdiction that affect water quality and storm water quantity. Maintaining high water quality standards and restoring degraded systems has been mandated in RCW 90.58. The City maintains a stormwater management program in compliance with their Phase II National Pollutant Discharge Elimination System (NPDES) permit. The Phase II Permit contains a series of requirements for the City intended to improve water quality through efforts in the following areas:

- Public Education and Outreach
- Public Involvement and Participation
- Elimination of Illicit Discharge
- Control of Runoff from New Development, Redevelopment, and Construction Sites
- Pollution Prevention and Operations Maintenance for Municipal Operations

The Phase II permit also requires the City to assess the effectiveness of its implementation measures and report its findings to the Department of Ecology.

b. Policies

1. All shoreline uses and activities should be located, designed, constructed and maintained to mitigate adverse impacts to water quality, water quantity, or hydrology.
2. The City should require reasonable setbacks, buffers, and storm water facilities, and encourage low-impact development techniques and materials to achieve the objective of minimizing impervious surfaces and lessening negative impacts on water quality.
3. Stormwater impacts should be addressed through the application of the most recent edition of the Adopted Surface Water Design Manual and all applicable City stormwater regulations.
4. The City should provide general information to the public about the impacts of land and human activities on water quality, and encourage homeowners and property managers to use non-chemical weed and pest control solutions and natural fertilizers.

c. Regulations

1. All shoreline development, both during and after construction, shall minimize impacts related to surface runoff through control, treatment and release of surface water runoff such that there is no net loss of receiving water quality in the shoreline environment.
2. Shoreline development and uses shall adhere to all required setbacks, buffers and standards for stormwater facilities.
3. All shoreline development shall comply with the applicable requirements of the City's adopted Surface Water Design Manual and all applicable City stormwater regulations.

4. All shoreline development shall implement applicable Low Impact Development techniques to the maximum extent practicable, pursuant to the standards contained in the adopted Surface Water Design Manual and the current NPDES permit. .
5. The City should discourage on-site sewage systems (OSS), commonly referred to as septic systems, and connection to the City sewer system should be encouraged.¹

¹ The City is currently developing a policy approach to discontinue septic use which would influence policy language in this document.

Chapter 4: SHORELINE USE PROVISIONS

A. Applicability

The provisions in this section apply to specific uses and types of development that typically occur in shoreline areas. Provisions in other sections of this SMP also apply to the uses and types of development identified in this chapter. Shoreline uses are allowed only if permitted by the underlying zoning. A use that occurs on both uplands and overwater must meet the requirements of both the upland and aquatic environment designation. Refer to specific use policies and regulations in Section D below.

B. Shoreline Use Table

TABLE 1 – Shoreline Use Table

KEY P = Permitted Use C = May be permitted as a conditional use X = Prohibited, not eligible for a variance or CUP N/A = Not applicable	Maritime	Urban Mixed Use	Residential	Residential Bluff Conservancy	Urban Public Facility	Conservancy	Aquatic
SHORELINE USES							
Agriculture							
Primary (e.g. farm or livestock operation)	X	X	X	X	X	X	X
Accessory (e.g. garden or pea patch in park)	P	P	P	P	P	P	X
Aquaculture¹	C	X	X	X	X	X	C
Boating Facilities							
Marinas (public or private)	P	X ²	X	X	X/C ³	X	See adjacent Upland Environment
Private joint-use piers	P	C	X	X	X	X	
Private exclusive use piers	X	P	X	X	X	X	
Public piers	P	C	X	X	X/P ⁴	X	
Boat launch	P	X	X	X	P	C	
Commercial⁵							

¹ Non-commercial aquaculture by a public agency or tribal government for recovery of a native population is preferred and should be allowed in all environments.

² Expansion of the existing marina is allowed into Aquatic areas waterward of this designation, but all upland facilities must be located in the Maritime or Urban Public Facility designation. No other marina development shall be allowed.

³ Marinas are not permitted at Windjammer Park, but are a conditional use at Flintstone Park.

⁴ Public piers are permitted in Flintstone Park, but are not permitted in other areas within this designation.

⁵ Home occupations are allowed as an accessory use to residential development pursuant to the requirements of Oak Harbor Municipal Code, Chapter 19.36. Accessory commercial uses such as concession stands are allowed in the

KEY							
P = Permitted Use							
C = May be permitted as a conditional use							
X = Prohibited, not eligible for a variance or CUP							
N/A = Not applicable							
SHORELINE USES	Maritime	Urban Mixed Use	Residential	Residential Bluff Conservancy	Urban Public Facility	Conservancy	Aquatic
Water-dependent	P	P	X	X	C	X	C
Water-related, water-enjoyment	P	P	X	X	C	X	X
Non-water-oriented	C	C	X	X	C	X	X
Forest Practices	X	X	X	X	X	X	N/A
Industry/Manufacturing	P	X	X	X	X	X	C
Mining/Mineral Extraction	X	X	X	X	X	X	X
Parking							
Parking (As a Primary Use)	X	X	X	X	X	X	X
Parking (As an Accessory Use)	P	P	P	P	P	C	X
Recreational Facilities							
Water-oriented ⁶	P	P	P	P	P	P	P
RV Park	X	X	X	X	P	X	X
Non-water-oriented (As a Primary Use)	X	X	X	X	X	X	X
Non-water-oriented (As an Accessory Use)	P	P	P	P	P	C	X
Residential Development							
Single family	X	P	P	P	X	X	X
Multi-family	X	P	X	X	X	X	X
Transportation Facilities							
New roads related to permitted shoreline activities	P	P	P	C	P	C	X
Expansion of existing circulation systems and driveways	P	P	P	C	P	C	X ⁷
Ferry Terminals	P	X	X	X	C	X	P
Trails	P	P	P	P	P	P	C ⁸
Utilities (Primary)							
Solid Waste Disposal or Transfer Sites (excluding storage of recyclable materials)	X	X	X	X	X	X	X

Maritime and Urban Public Facility Zone as a permitted use, but are limited to water-oriented commercial uses in the Aquatic environment, e.g. boat rental, fueling, boat sales, etc.

⁶ For purposes of this use table, water-oriented recreational uses shall not include Boating Facilities (including Marinas) or RV Parks, which are regulated separately.

⁷ New or expanded bridges intended for vehicular use are allowed pursuant to a shoreline conditional use in the Aquatic environment.

⁸ Pedestrian bridges shall be permitted outright subject to the standards in the SMP. Overwater walkways that run generally parallel to the OHWM shall require a CUP.

KEY P = Permitted Use C = May be permitted as a conditional use X = Prohibited, not eligible for a variance or CUP N/A = Not applicable SHORELINE USES	Maritime	Urban Mixed Use	Residential	Residential Bluff Conservancy	Urban Public Facility	Conservancy	Aquatic
	Waste Water Treatment Plant	C	C	X	X	C	C
Transmission Lines and Other Primary Facilities	C	C	C	C	C	C	C
Utilities (Accessory to Permitted Development)	P	P	P	P	P	C	C
Other Uses and Activities							
Restoration activities	P	P	P	P	P	P	P

⁹ Water-dependent appurtenances to a wastewater treatment plant, such as outfall pipes, are allowed subject to a conditional use permit.

C. Shoreline Development Standards

TABLE 2 – Summary of Shoreline Development Standards

DEVELOPMENT STANDARD	Maritime	Urban Mixed Use	Shoreline Residential (Freund Marsh Residential sub Environment) ^{12, 13}	Shoreline Residential Bluff Conservancy	Urban Public Facility	Conservancy	Aquatic
Maximum Height¹	35 feet, 55 feet for water-dependent structures	35 feet (CBD-1 and CBD-2), 55 feet (CBD)	35 feet	35 feet	35 feet	25 feet	N/A
Shoreline Setback^{2, 9, 11}	50 feet ³	50 feet ⁴	50 feet ⁵ / 20 feet ¹⁴	50 feet ⁶	75 feet	100 feet	N/A
Maximum Total Impervious Surface Coverage (Standard Applies to Entire Lot or Portion Thereof in Shoreline Jurisdiction)	80%	80%	40%	30%	40%/80% ⁷	10%	N/A
Maximum Impervious Surface Coverage - Setback Zone 1 (VMZ)⁸	20% ³	0%	0%	0%	0%	0%	N/A
Maximum Impervious Surface Coverage - Setback Zone 2⁸	40% ³	20%	20%	0% ⁹	20%	0% ⁹	N/A
Minimum Lot Frontage and Width	N/A	N/A	60 feet	60 feet	N/A	N/A ¹⁰	N/A
Minimum Lot Size	N/A	N/A	7,200 SF	7,200 SF	N/A	N/A ¹⁰	N/A

1. Height limits apply to all structures, except as noted. Development shall also be subject to the height limits established by the underlying zoning; in the event of a conflict between the standards contained in this SMP and in the underlying zone, the more restrictive shall apply. The height limit shall not apply to television antennas, chimneys, flagpoles, public utilities, and similar appurtenances. A height of more than thirty-five feet (35) can only be achieved in those environments where specifically permitted and if the applicant prepares a view corridor study consistent with the requirements of Chapter 3, Section B.6.c, Regulations 20-24. The view study must demonstrate that the proposal will minimize and mitigate impacts to views to the maximum extent feasible.

2. Water-dependent structures associated with a ecological restoration or interpretation, water-dependent uses and public access (i.e. ramps, piers, shoreline stabilization, bridges, viewing platforms, stairs, loading facilities

and similar structures) are not required to meet the minimum setback. However, where such development can be approved within the minimum setback, the placement of structures shall be limited to the minimum necessary for the successful operation of the use. In no case shall occupied structures not associated with a water-dependent activity be allowed within the minimum setback. Additionally, for development along marine shorelines designated as fish and wildlife habitat conservation areas under OHMC 20.25, the Shoreline Administrator may require a special study to evaluate potential impacts. If supported by such a study, the Shoreline Administrator may increase the Shoreline Setback to protect sensitive environmental resources, though the total setback shall not exceed 100 feet.

3. In the Maritime environment, water-dependent transportation, industrial, commercial and recreational development and uses may be allowed within the defined setback area. However, where such development can be approved within the minimum setback, the placement of structures and hard surfaces shall be limited to the minimum necessary for the successful operation of the use. In no case shall parking, primary buildings or general storage be allowed within the minimum setback.

4. New residential structures in the Urban Mixed Use environment shall adhere to this setback requirement unless existing development within 100 feet of both side property lines has a lesser average setback. In such cases, the minimum setback required shall be the average established by drawing a line between the closest point of the existing structures to the OHWM on either side of the subject property. However, in no case shall the minimum setback be reduced to less than 40 feet. At least 12 feet of the setback shall be dedicated to public access and recreational use (i.e. the Waterfront Trail).

5. New structures in the Shoreline Residential environment shall adhere to this setback requirement unless existing development within 100 feet of both side property lines has a lesser average setback. In such cases, the minimum setback required shall be the average established by drawing a line between the closest point of the existing structures to the Ordinary High Water Mark on either side of the subject property. However, in no case shall the minimum setback be reduced to less than 35 feet. This is intended to allow the minimum 30 foot Vegetation Management Zone and a 5 foot area for maintaining the structure, entrances, etc.

6. All new or expanded development in the Shoreline Residential Bluff Conservancy environment proposed within 100 feet of a designated steep slope or bluff shall be required to submit a critical areas report as part of development permit application, pursuant to Ordinance 1440 § 5, 2005, including a geotechnical analysis by a qualified professional. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by the geotechnical analysis. Please see additional geotechnical report requirements in Chapter 5, Section C.1.c and critical area report requirements in OHMC 20.28. In no case shall primary structures be located closer than 25 feet from the top of steep slope areas and bluffs. If application of the 50-foot standard shoreline setback would allow the construction of a structure within 25 feet of a steep slope area or top of bluff or within the setback recommended by geotechnical analysis, the more restrictive standard shall apply.

7. The 40% impervious surface coverage standard shall apply to Windjammer Park. The 80% impervious surface coverage standard shall apply to Flintstone Park.

8. Where impervious surfaces that exceed the limits noted are deemed necessary by the Shoreline Administrator to accommodate public access, a water-dependent use, a public utility or public transportation facility, such development shall be allowed in the setback (Zone 1 and Zone 2) provided it is the minimum necessary to accommodate the proposed use. Wherever practicable, pervious pavements and other low impact development techniques shall be used and mitigation consistent with Section 3.B.5.c shall be required. Vegetation clearing, planting and revegetation shall be governed by the provisions of Section 3.B.8 – Shoreline Vegetation Conservation. Specifically, landscaping and allowed development within setback areas shall conform to the standards in Section 3.B.8.c.4 and 5.

9. Setback areas within all shoreline environment designations are subject to the vegetation conservation requirements of Section 3.B.8.c, specifically regulations 6 and 7, which establish standards for Setback Zone 1 (Vegetation Management Zone) and Setback Zone 2. Within the Conservancy and Shoreline Residential Bluff Conservancy environments, both Setback Zones 1 and 2 are regulated as part of the VMZ.

10. No further subdivision is allowed in the Urban Conservancy environment.

11. Setbacks shall be measured from the ordinary high water mark (OHWM).

[12. See residential regulations numbers 10 and 11 for Freund marsh East Ditch 20-foot setback, and setback allowances and limitations.](#)

[13. See vegetation conservation regulation number 15 for Freund Marsh East Ditch buffer description.](#)

[14. Freund Marsh East Ditch setback is measured from the property line nearest the Marsh of properties within this designation.](#)

D. Shoreline Use Policies and Regulations

1. General Use Policies and Regulations

a. Applicability

The provisions in this section apply to all uses and development types permitted within the shoreline jurisdiction.

b. Policies

1. When determining allowable uses and resolving use conflicts within the City's shoreline jurisdiction, apply the following preferences and priorities in the order listed below:
 - a. Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.
 - b. Reserve shoreline areas for water-dependent and associated water-related uses.
 - c. Reserve shoreline areas for other water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives.
 - d. Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.
 - e. Limit non-water-oriented uses to those locations where the above described uses are inappropriate or where non-water-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act, including opportunities for ecological enhancements and public access improvements.
2. All development and redevelopment activities within the City's shoreline jurisdiction should be designed to ensure public safety, enhance public access, protect existing shoreline and water views and achieve no net loss of shoreline ecological functions.
3. Require practicable Low Impact Development (LID) practices and encourage "Green Building" practices, such as those promulgated under the Leadership in Energy and Environmental Design (LEED) and Green Built programs, for new development within the shoreline jurisdiction.
4. Proposed shoreline uses should not infringe upon the rights of others or upon the rights of private ownership.

5. Encourage shoreline uses which enhance their specific areas or employ innovative features for purposes consistent with this program.
6. Encourage restoration of shoreline areas that have been degraded or diminished in ecological value and function as a result of past activities or catastrophic events.
7. Forestry and mining uses and activities are prohibited from the shoreline jurisdiction.

2. Agriculture

a. Applicability

Agriculture includes, but is not limited to, the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, or seed; finfish in upland hatcheries, or livestock, that has long-term commercial significance.

b. Policies

1. Agriculture as a primary use should be prohibited in all shoreline environments.
2. Agriculture should be allowed as an accessory use in a manner that is compatible with the protection of shoreline ecological function.

c. Regulations

1. Agricultural development as a primary use shall be prohibited in all shoreline environments.
2. The raising of livestock and poultry shall occur outside of the established shoreline jurisdiction.
3. Any water discharge from agricultural activities into SMP water bodies shall be prohibited.
4. New agricultural activities shall not occur within the shoreline setback identified in Chapter 4, Section C, Table 2.

3. Aquaculture

a. Applicability

Aquaculture is the culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state-managed wildstock geoduck fishery. Aquaculture encompasses a wide variety of activities including hatching, seeding, planting, cultivating, feeding, raising, and harvesting of aquatic plants and animals. For the purposes of this Program, aquaculture does not include the harvest of wild geoduck associated with the state managed wild geoduck fishery. These activities may have widely differing impacts on the aquatic and shoreline environment. Aquaculture can be carried out in subtidal, intertidal, upland, and fresh water areas.

b. Policies

1. Non-commercial aquaculture by a public agency or tribal government for recovery of a native population is preferred and should be allowed in all environments.
2. Limit all other aquaculture uses and development to the Maritime and Aquatic environments as a conditional use.
3. Ensure aquaculture uses and developments are located, designed, and operated in a manner that is compatible with existing uses and compatible with all standards in this SMP, including mitigation sequencing and no net loss.
4. Aquaculture facilities should be designed and located such that they do not spread disease to native aquatic life, establish nonnative species which cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline.
5. The City should actively seek substantive comment on any shoreline permit application for aquaculture from all appropriate Federal, State and local agencies; affected tribes; and the general public regarding potential adverse impacts. Comments from residents and property owners directly affected by a proposal should be considered and evaluated, especially in regard to use compatibility and aesthetics.

c. Regulations

1. Shellfish seeding/culturing shall be a permitted use in all environments when conducted for native population recovery in accordance with a government or Tribal approved plan. All other aquaculture developments and activities, including fish pens and commercial shellfish seeding/culturing, shall require a conditional use permit and are limited to the Maritime and Aquatic environments.
2. Aquaculture facilities shall be located and designed to avoid:
 - a. Loss of ecological functions,
 - b. Impacts to eelgrass and macroalgae,
 - c. Significant conflict with navigation and water-dependent uses,
 - d. The spreading of disease,
 - e. Introduction of non-native species, and
 - f. Impacts to shoreline aesthetic qualities.
3. All unavoidable impacts remaining after application of mitigation sequencing must be mitigated to achieve no net loss.
4. Aquaculture that involves little or no substrate modification shall be given preference over those that involve substantial modification. The applicant shall demonstrate that the degree of proposed substrate modification is the minimum necessary for feasible operation of the use.

5. New aquatic species that are not previously cultivated in Washington State shall not be introduced into City waters without prior written approval of the Washington State Department of Fish and Wildlife and the Washington Department of Health.
6. No processing of any aquaculture product, except for the sorting or culling of the cultured organisms and the washing or removal of surface materials after harvest, shall occur in or over the water unless specifically approved by permit. All other processing facilities shall be located on land.
7. Aquaculture wastes shall be disposed of in a manner that will ensure strict compliance with all applicable governmental waste disposal standards, including but not limited to the Federal Clean Water Act, Section 401, and the Washington State Water Pollution Control Act (RCW 90.48). No garbage, wastes or debris shall be allowed to accumulate at the site of any aquaculture operation.
8. Fish net pens and rafts shall only be allowed in the Maritime environment and Aquatic areas directly offshore from the Maritime environment, subject to the following additional regulations:
 - a. All net pens and rafts shall meet all federal and state permitting requirements.
 - b. Fish net pens shall occupy no more than 2 surface acres of water area, excluding booming and anchoring requirements. Anchors that minimize disturbance to substrate, such as helical anchors, shall be employed where feasible. Such operations shall not use chemicals or antibiotics.
9. All new commercial geoduck aquaculture requires a conditional use permit. Project applications and permits must comply with WAC 173-26-241(3)(b)(ii).

4. Boating Facilities and Marinas

a. Applicability

Boating facilities, including community piers, marinas, and public or community boat launches, are important features of the City of Oak Harbor's shorelines. All boating facilities shall be subject to the policies and regulations of this Section. These policies and regulations do not apply to private moorage facilities serving four or fewer single family residences, but apply to all other facilities. Please also see Section 5.C.4 – Piers, Docks, Floats, and Mooring Buoys for additional requirements. In the event of a discrepancy between the requirements of this Section and Section 5.C.4 or any state or federal law as applied to Boating Facilities and Marinas, the more restrictive or prescriptive standards shall apply.

Marinas are facilities that provide wet moorage and/or dry storage and services for pleasure craft and some types of commercial craft. Marinas are located over intertidal and subtidal areas and may extend landward from the OHWM, or a marina may be an upland based facility with water access via travel lift, hoist or marine railway. They can be of open construction (floating

breakwater, buoys, piers and floats) or solid (rigid breakwater or fill). Marinas are sometimes associated with other uses such as fueling and public launching facilities, boat rental, repair services, equipment sales and parking.

Activity generated by marinas varies with their size and range of services offered. Marinas generate boat and vehicular traffic and related noise. Construction and operation of marinas affect water quality and fish and shellfish habitats by introducing pollutants (fuel, oil, heavy metals, human wastes, erosion and siltation). Circulation and sand movement may be impeded and affect beaches or alter aquatic habitats. Marinas with several associated uses may require additional land area and larger parking areas. Activities including but not limited to dredging, landfill, bulkheads, utilities, roads and commercial development associated with marina development are subject to the policies and regulations for those categories.

b. Policies

1. Boating facilities should be located and designed to ensure no net loss of ecological functions or other significant adverse impacts, and should, where feasible, enhance degraded and/or scarce shoreline features.
2. Boating facilities should not unduly obstruct navigable waters and should consider adverse effects to recreational opportunities such as fishing, pleasure boating, swimming, beach walking, picnicking and shoreline viewing.
3. Boating facilities that minimize the amount of shoreline modification, in-water structure, and overwater cover are preferred.
4. Marinas should be designed to accommodate public access features, including facilities such as walkways, viewpoints, restrooms, and fishing piers.
5. Accessory uses at boating facilities should be limited to water-oriented uses, uses that provide physical and/or visual shoreline access for substantial numbers of the general public, or uses directly supportive of recreational boating activities. Non-water-dependent accessory uses should be located outside of shoreline jurisdiction or outside of the shoreline setback whenever possible.
6. Boating facilities should be located, designed, constructed and operated so that other appropriate water-dependent uses are not adversely affected and to avoid adverse proximity impacts such as noise, light and glare; aesthetic impacts to adjacent land uses; and impacts to public visual access to the shoreline.
7. New boating facilities should be located only at sites where suitable environmental conditions, shoreline configuration, access, and neighboring uses are present.
8. Boating facilities should protect public health, safety, and welfare.
9. Live-aboards should be permitted in marinas only when adequate measures are in place to protect water quality.

c. Regulations

1. Location Standards.

- a. New boating facilities shall minimize dredging and make use of the natural site configuration to the greatest extent feasible to avoid impacts to shoreline ecological functions.
- b. Boating facilities shall be located and designed with the minimum necessary shoreline stabilization to adequately protect facilities, users, and watercraft from floods or destructive storms.
- c. Boating facilities shall be located only where adequate utility services are available, or where they can be provided concurrent with the development.
- d. Boat launches shall be sited so that they do not significantly damage fish, shellfish, water quality, wildlife habitats, or existing hydraulic processes and shall not occur in areas with native emergent vegetation. Removal of native upland vegetation shall be minimized to the greatest extent feasible.
- e. Marinas should not be located in embayments with poor water circulation, which can be susceptible to localized water quality degradation.

2. Facility Design.

- a. All boating facilities shall be designed to avoid and minimize impacts. All unavoidable impacts must be mitigated such that no net loss of shoreline ecological functions is achieved.
- b. The use of wood products treated with creosote, pentachlorophenol, or any other toxic substance in construction of overwater or in-water structures shall be prohibited.
- c. Boating facilities should be located and designed to minimize impacts to sensitive shoreline resources by considering the following:
 - i. Expansion of existing marinas are preferred over establishment of new marinas;
 - ii. Marinas and public launch ramps are preferred over development of individual docks and piers for private, non-commercial vessels; and
 - iii. Use of boat launch ramps and dry storage are preferred over sheltered, year-round wet storage of water craft.
- d. The maximum number of moorages allowed at a marina shall be determined based on the following factors:
 - i. Suitability of environmental conditions, including presence of submerged aquatic vegetation, proximity of associated upland wetlands, presence of critical saltwater habitat, water depth and circulation, sediment inputs and accumulation, and wave action.
 - ii. Compatibility with adjacent upland land uses.

- iii. The ability to accommodate necessary support facilities, such as vehicle and trailer parking.
 - iv. A demand analysis, submitted by the applicant, demonstrating anticipated need for the requested number of moorages and anticipated impacts to parking.
 - v. An environmental analysis of the potential adverse effects on ecological function resulting from construction of new docks, piers and moorage slips. If covered moorages are proposed, the analysis shall evaluate potential effects of water shading on local aquatic habitat.
- e. All boating facilities, including marinas, shall be designed to be consistent with federal and state regulations, including design criteria established by the Washington State Department of Fish and Wildlife, the U.S. Army Corps of Engineers, and the Washington State Department of Health. Marinas shall be equipped to contain and clean up petroleum products and other hazardous substance spills.
 - f. Where landfill waterward of the OHWM is permitted, it shall only be for the necessary water-dependent portions of the facility and shall conform in particular to the policies and regulations of Section 5.C.3 – Fill. Landfill for the creation of new parking areas or accessory uses within the required setback area shall be prohibited.
 - g. Best management practices shall be applied to prevent pollution from boat construction, repair, and maintenance activities at marinas.
 - h. All boating facilities shall be limited to the minimum size necessary to accommodate the anticipated demand. Specifically, the amount of overwater cover, the size and number of in-water structures, the waterward length of the facility, and the extent of any necessary associated shoreline stabilization or modification shall be minimized.
 - i. Applications for construction of a boat launch shall demonstrate that the proposed length of the boat launch is the minimum necessary to safely launch the intended craft.
 - j. Overwater components of all boating facilities, except marinas, shall allow transmission of light through the deck surface resulting in open area equal to 24% or greater of the total surface area where feasible.
 - k. Boat launches for non-motorized boats shall be constructed of gravel or other similar natural material.
 - l. Boat ramp design shall be adequate for the applicable site-specific conditions, but shall minimize and mitigate impacts consistent with this Section. Preferred launch ramp designs for motorized boats, in order of priority, are:
 - i. Open grid designs with minimum coverage of substrate.
 - ii. Seasonal ramps that can be removed and stored upland.
 - iii. Structures with segmented pads and flexible connections that leave space for natural beach substrate and can adapt to changes in shoreline profile

- iv. Designs other than above.
 - m. Construction of breakwater, jetties, groins, and bulkheads, as well as dredging activities associated with construction or maintenance of a boating facility, including marinas, shall comply with applicable regulations contained in this Master Program.
 - n. Marinas shall provide parking facilities adequate to meet projected user demand. Overwater parking structures shall not be permitted at any boating facility, including marinas.
3. Site Design and Operation.
- a. Boating facilities shall be designed so that lawfully existing or planned public shoreline access is not blocked, obstructed nor made dangerous.
 - b. Parking and outdoor storage areas associated with marinas shall be landscaped in a manner which provides a visual buffer between these uses and public access areas and screens these areas when viewed from the water.
 - c. Accessory uses at marinas or boat launches shall be limited to water-oriented uses or uses that support physical or visual shoreline access for substantial numbers of the general public. Accessory development may include, but is not limited to, parking, non-hazardous waste storage and treatment, stormwater management facilities, and utilities where these are necessary to support the water-oriented use.
 - d. All new marinas shall be designed to accommodate public access and enjoyment of the shoreline, including walkways, view points, and restrooms. Marinas may include specific areas restricted for security reasons.
 - e. Compliance with Clean Water Act Section 311 is required. The discharge of sewage and/or toxic materials from moored boats or shore installations shall be prohibited at all boating facilities. Marinas shall be required to include facilities for handling and disposal of boat waste, including sewage, bilge fluids, oil, and diesel.
 - f. Marinas shall provide adequate restroom facilities and solid waste receptacles to accommodate marina users and shall establish facilities and procedures for proper disposal of solid waste and sewage. Discharge of either solid waste or sewage to the water shall be prohibited.
 - g. Marinas shall comply with all applicable state and federal regulations for protection of the health and safety of marina users.

5. Commercial

a. Applicability

Commercial development means those uses and facilities that are involved in wholesale or retail trade or other business activities. Examples include, but are not limited to, hotels, motels, grocery stores, restaurants, shops, restaurants, offices and indoor recreation facilities. Not included are port, industrial, residential or boating facilities, such as marinas.

b. Policies

1. Give priority to those commercial developments that are dependent on shoreline locations or that allow a substantial number of people to actively or passively enjoy the shoreline; preference should first be given to water-dependent uses, then to water-related and water-enjoyment uses.
2. Except for water-dependent uses and related facilities, prohibit new over-water commercial structures.
3. New commercial development over the water should occur only in areas where commercial development already exists, unless a specific identified demand exists for a water-dependent commercial good or service.
4. New and expanded commercial developments should be designed and located to protect and enhance public views of the water from upland properties and from public roads and walkways.
5. New and expanded commercial development should be permitted only where adequate parking area is or can be made available.

c. Regulations

1. New primary non-water-oriented commercial uses shall not be allowed unless:
 - a. There is no direct access to navigable waterways, for example those areas landward of SE Bayshore Drive or SE Pioneer Way, or
 - b. The use part of a mixed-use project that includes water-dependent uses and the use provides a significant public benefit with respect to SMA objectives, such as providing public access and ecological restoration, or
 - c. Navigability is severely limited at the proposed site, such as properties south of SE Bayshore Drive, between Windjammer Park and Flintstone Park, and the commercial use is part of a mixed-use project that includes a residential component and provides a significant public benefit with respect to SMA objectives, such as providing public access and ecological restoration.
2. Shoreline permit applications for commercial and mixed-use development shall include a detailed statement describing the type of commercial use(s) proposed, how they relate to the water or shoreline, and whether they are water-dependent, water-related, water enjoyment, or non-water-oriented uses. Such statements shall include at least the following:
 - a. Nature of the commercial activity.
 - b. Need for shoreline or over-water location.
 - c. Proposed measures to enhance the relationship of the activity to the shoreline (e.g. outdoor view dining area)
 - d. Proposed provisions for public physical or visual access to and/or along the shoreline.

3. Over-water construction of commercial uses is prohibited, except as follows:
 - a. Commercial docks and boat fueling stations.
 - b. The development of docks, piers, marinas, boat launch ramps, fueling stations or similar shoreline boating facilities intended for general public use.
 - c. Minor commercial uses that are accessory and clearly incidental to an allowed use may be provided on publicly owned docks and piers (e.g. boat rental, boater convenience store, boat services, etc).
 - d. Bulkheads or landfills required by a water-dependent or public recreational use, which are necessary for that use.
4. All commercial developments which are non-water-dependent, other than those that are part of a mixed use project with a residential component, shall be subject to the following requirements:
 - a. A minimum of 20% of gross lot area exclusive of any public right-of-way shall be dedicated to outdoor open space. This area shall extend landward from the shoreline and be developed with landscaping and finished surfaces prior to occupancy.
 - b. Parking shall not be located seaward of the buildings and adequate street access shall be provided. Shoreline permit applications shall include a parking plan showing the location, dimensions, and capacity of the proposed parking area and the proposed landscaping and screening.
 - c. A landscaping plan shall be submitted with shoreline permit applications.
5. All commercial uses must be sited and designed to avoid impacts to existing navigation, recreation and public access.
6. Nonconforming commercial structures that are modified, replaced, repaired or enlarged are subject to the requirements in Chapter 6, Section J (Nonconforming Development).
7. A new or expanded shoreline commercial development shall provide public access when required by Chapter 3, Section B.6.c and meet all standards identified therein.
8. All commercial development shall comply with mitigation sequencing and no net loss as required in Chapter 3, Section B.5.

6. Industrial and Port Facilities

a. Applicability

Industry applies to those businesses or uses involved in the production, processing, manufacturing or fabrication of goods. Warehousing and storage of materials or products is considered part of the industrial process. Water-dependent industries are those that require a location adjacent to the shoreline by reason of the intrinsic nature of their business. Ports are a specialized subcategory of general industrial use. Port facilities are centers of water-borne traffic and commerce. Industry and ports are both covered in this section.

Some industrial and port developments are often associated with a number of uses and modifications that are identified separately in this Master Program (e.g. parking, dredging). Each use activity and every type of shoreline modification should be carefully identified and reviewed for compliance with all applicable sections.

Some industrial and port facilities are intensive and have the potential to negatively impact the shoreline environment. When impacts cannot be avoided, they must be mitigated to assure no net loss of the ecological functions necessary to sustain shoreline resources. Please refer to Chapter 3, Section B.5, *Environmental Impacts and Mitigation*.

b. Policies

1. Water-dependent and water-related industrial development should only be allowed in areas designated Maritime. All other industrial uses should be prohibited.
2. Prohibit non-water-dependent industrial and port developments over water.
3. Require new industrial and port developments to provide physical and visual access to shorelines wherever possible, consistent with constitutional and statutory limitations, and provided such access does not interfere with industrial operations or endanger public health and safety.
4. Industrial development should not displace existing visual or physical public access.
5. Encourage cooperative use of docks, storage, parking and other accessory facilities among private or public entities in shoreline industrial and port areas.
6. Industrial uses and redevelopment are encouraged to locate where environmental cleanup and restoration can be accomplished.

c. Regulations

1. Only water-dependent industry and water-related industry shall be permitted in shoreline jurisdiction. The Maritime shoreline environment is the only environment where these uses shall be permitted.
2. Over-water construction of non-water-dependent industrial uses is prohibited. This provision is not intended to preclude the development of docks, piers or boating facilities that are necessary for the operation of the water-dependent or water-related use.
3. Industrial and port facilities shall be located, designed, constructed and operated so as to minimize impacts to shoreline resources and not interfere with adjacent property uses, as well as adjacent shoreline or water uses. To this end, applications for industrial/port facilities must demonstrate conformance with the following criteria. The proposal shall:
 - a. Comply with all federal, state, regional and local requirements regarding air and water quality.
 - b. Industrial development and use shall be consistent with mitigation sequencing and result in no net loss of shoreline ecological function.

- c. All new or expanded industrial development shall be set back and buffered from adjacent shoreline properties that are used for or zoned for non-industrial purposes. Such buffering shall include landscaping, shrubs, trees and fencing as found to be appropriate depending on the impact.
 - d. Industrial and port facilities shall be designed and operated to promote joint use of over-water and accessory facilities such as piers, docks, storage and parking whenever practicable.
 - e. Protect public views of harbor areas and other recognized vistas. Private views of the shoreline, although considered during the review process, are not expressly protected.
 - f. Adequate provisions shall be made for fire and safety hazards:
 - g. The storage and handling of flammable liquids, liquefied petroleum gases and explosives shall comply with rules and regulations falling under the jurisdiction of the City Fire Chief, the laws of the state and other local ordinances;
 - h. Bulk storage of flammable liquids below ground shall be permitted, and the tank shall be located not closer to the property line than the greatest dimension (diameter, length or height of the tank).
 - i. Adequate firefighting, fire prevention and safety equipment shall be provided as necessary to handle materials stored or used on the site.
 - j. Flammable/explosive, hazardous materials shall be kept removed from adjacent activities to a distance that is compatible with the potential danger involved.
 - k. Provisions shall be made to minimize the probability of spills of fuel or other toxic substances and to handle accidental spoils that occur.
 - l. Emission of dangerous radioactivity shall be prohibited.
4. Provide for necessary shielding or other measures to prevent on-site mechanical or electrical equipment from interfering with the use of electrical apparatus off-site.
 5. Exterior lighting shall be shielded to prevent nuisance glare and prevent trespass of light onto adjacent properties or water bodies to the maximum extent practicable.
 6. Arc welding, acetylene torch cutting or similar processes shall be performed so as not to be seen from any point beyond the property.
 7. Noxious odors shall be eliminated to the extent feasible.
 8. A new or expanded shoreline industrial development shall provide public access when required by Chapter 3, Section B.6.c and meet all standards identified therein.

7. Parking

a. Applicability

Parking is the temporary storage of automobiles or other motorized vehicles. The following provisions apply only to parking that is accessory to a permitted shoreline use. Parking as a primary use and parking which serves a use not permitted in shoreline jurisdiction is prohibited.

b. Policies

1. Parking should be permitted in shoreline jurisdiction only if there is no other feasible option, and if the following criteria are met:
 - a. Parking facilities in shoreline areas should be located and designed to minimize adverse impacts including those related to stormwater runoff, water quality, visual qualities, public access, and vegetation and habitat maintenance, and shall result in no loss of ecological functions.
 - b. Parking in shoreline areas should not restrict access to the site by necessary public safety vehicles, utility vehicles, or other vehicles requiring access to shoreline properties.

c. Regulations

1. Parking as a primary use is prohibited in Shoreline jurisdiction. Parking may be provided as part of a scenic vista.
2. Parking facilities shall provide adequate provisions to control surface water runoff to prevent it from contaminating water bodies, consistent with the City's adopted stormwater design manual and NPDES permit.
3. Parking facilities serving individual buildings on the shoreline shall be located landward from the principal building being served, except when the parking facility is within or beneath the structure and adequately screened or in cases when an alternate orientation would have less adverse impact on the shoreline.
4. Exterior parking facilities shall be designed and landscaped to minimize adverse impacts upon adjacent shoreline and abutting properties pursuant to OHMC 19.46.030(5) (Ordinance No. 1615 § 1, 2011). All landscaping must be maintained in a neat and orderly manner. In no event shall such landscape areas be used for the storage of materials or vehicles.
5. Security lighting associated with parking facilities shall be beamed, hooded or directed so as not to cause nuisance glare on adjoining properties. Full cut-off fixtures are recommended.
6. New and reconstructed parking areas shall utilize all practicable Low Impact Development (LID) techniques as described in the current NPDES permit. and the City's adopted stormwater design manual. LID requirements apply to all parking spaces and drive aisles within shoreline jurisdiction. If LID is not feasible, parking facilities shall provide adequate

controls for surface water runoff as specified in the adopted stormwater design manual to prevent it from contaminating water bodies.

8. Recreational Development

a. Applicability

Recreational uses include passive activities, such as walking, viewing and fishing, as well as active uses, such as swimming, boating, and other outdoor recreational activities. This section applies to both public and private non-commercial shoreline recreational facilities, including passive areas such as Freund Marsh and Windjammer Park, as well as more intense recreational uses, such as the Oak Harbor Marina.

Uses and activities associated with recreational developments that are identified as separate use activities in this SMP, such as “Boating Facilities,” “Private Overwater Structures,” and “Residential Development,” are subject to the regulations established for those uses in addition to the standards for recreation established in this section.

b. Policies

1. Preference should be given to developments that provide for recreational activities and improvements facilitating public access to the shoreline. A variety of water-oriented recreational activities should be encouraged to satisfy the diverse needs of residents and visitors.
2. Recreational development should be located, designed, and operated to be compatible with adjacent uses and to minimize adverse effects on ecological and aesthetic qualities of the shoreline and water.
3. The coordination of City, County, state and federal recreation planning should be encouraged. Expansions to City recreational facilities, such as the Oak Harbor Marina and Waterfront Trail, should be coordinated with plans for activities on U.S. Navy property and adopted County plans to expand connections between these recreation opportunities.
4. Recreational developments and plans should promote the conservation of the shoreline’s natural character, ecological functions, and processes while expanding the public’s ability to enjoy the shoreline.
5. Shoreline areas with a potential for providing recreation or public access opportunities should be identified and acquired by lease or purchase, or through partnerships with nonprofit and service organizations, and incorporated into the park and open space system.
6. Recreational development should be designed to preserve or create open space and public use of the water and shorelines.
7. Links between existing and future shoreline parks, recreation areas and public access points should be created via a non-motorized network using existing rights-of-way or through acquisition of easements and/or land, where feasible.

8. Recreational activities should be designed to avoid conflict with private property rights, and to minimize and mitigate negative impacts on adjoining property.

c. Regulations

1. Recreational uses and developments shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. The City may request necessary studies by qualified professionals to determine compliance with this standard.
2. Water-dependent recreational activities such as swimming, boating, and fishing, and water-enjoyment activities that benefit from waterfront scenery such as picnicking, hiking and bicycling shall be emphasized in planning public and private (excluding residential) noncommercial recreation sites in the shoreline corridor.
3. All recreational developments shall make adequate provisions for:
 - a. Non-motorized and pedestrian access;
 - b. The prevention of trespass onto adjacent properties, including but not limited to landscaping and fencing;
 - c. Protection and restoration of environmentally sensitive areas and shoreline processes and functions;
 - d. Signs indicating the public's right of access to shoreline areas, installed and maintained in conspicuous locations at the point of access and the entrance; and
 - e. Buffering of such development from adjacent private property or natural area.
4. In approving shoreline recreational developments, the City may apply conditions to project dimensions, use intensity, parking provisions, or landscaping to ensure that the development will maintain, enhance or restore desirable shoreline functions or scenic qualities.
5. Swimming areas shall be separated from boat launch areas.
6. The construction of piers, moorages, floats and launching facilities waterward of the OHWM shall be governed by the regulations relating to Boating Facilities (Section 4.D.3) and Piers, Docks, Floats, and Mooring Buoys (Section 5.C.4) of this SMP.
7. Fragile and unique shoreline areas with valuable ecological functions, such as wildlife habitats, shall be used only for non-intensive recreation activities that do not involve the construction of structures.
8. All structures associated with a recreational use, except water-dependent structures, such as docks and boardwalks, and appurtenances that provide access to the water for that use, shall maintain a standard setback from the OHWM per Chapter 4, Section C, Table 2. Further setback reduction shall require restoration or enhancement of the shoreline buffer, as required by the Shoreline Administrator.

9. A new or expanded shoreline recreational development shall provide public access when required by Chapter 3, Section B.6.c and meet all requirements identified therein.
10. Applications for new recreational development within the shoreline jurisdiction shall include a parking and landscaping plan. Landscaping plans shall comply with OHMC Chapter 19.46. Safe pedestrian walkways shall be provided between parking areas and recreational facilities.
11. Use of recreational off-road vehicles is prohibited within designated shoreline setbacks and below the Ordinary High Water Mark, except by public agencies for maintenance, operations and emergency services.

9. Residential Development

a. Applicability

Residential development means one or more buildings, structures, lots, parcels, or portions thereof which are designed for and used or intended to be used to provide a place of abode for human beings, including single family residences and other detached dwellings together with accessory uses and structures normally applicable to residential uses located landward of the OHWM, including, but not limited to, swimming pools, garages, sheds, fences and saunas. Single-family residences are identified as a priority use under the Shoreline Management Act. Without proper management, residential uses, including single-family residential uses, can cause significant damage to the shoreline area through cumulative impacts from shoreline armoring, stormwater runoff, on-site septic systems, introduction of pollutants and vegetation removal.

Please see other relevant sections that pertain to common residential development activities. Provisions relating to vegetation conservation are included in Chapter 3. Provisions relating to shoreline modifications, such as shoreline stabilization, dredging and fill, trams, and overwater structures, associated with residential development can be found in Chapter 5.

b. Policies

1. Residential development is not a water-dependent use and should not be allowed to locate over water, except in the case of existing liveaboard vessels moored at marinas.
2. Residential structures should be designed and sited in such a manner as to not detract from the scenic and aesthetic qualities of the shoreline.
3. Residential development should be discouraged in portions of the shoreline jurisdiction where bulkheading or other forms of hard shoreline stabilization would be necessary at the time of construction or in the foreseeable future to protect the residence.
4. Residential development should be designed so as to preserve existing shoreline vegetation, control erosion and protect water quality using best management practices and where possible, utilizing low impact development technologies.
5. The City should encourage the use of alternative paving products, such as pervious pavers, for walkways, driveways, and patios, as a mechanism for reducing impervious surfaces and surface water runoff.

6. Development should, at a minimum, achieve no net loss of ecological functions necessary to sustain shoreline natural resources, even for exempt development.

c. Regulations

1. Residential development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. The City may request necessary studies by qualified professionals to determine compliance with this standard.
2. Structures or other development accessory to residential uses are permitted in shoreline jurisdiction, if allowed under all other applicable standards in this SMP and subject to the provisions of the City's zoning code. Accessory uses and appurtenant structures not specifically addressed in the SMP shall be subject to the same regulations as primary residences.
3. New and/or expanded residential development shall be located and designed to avoid the need for shoreline stabilization structures.
4. Overwater residences, including Floating homes, shall be prohibited in all shoreline environment designations. Liveaboard vessels may be approved in Marinas, provided they comply with the development regulations of the Aquatic environment and are located within marinas equipped with adequate sanitation facilities to accommodate them.
5. All additions to residential structures must comply with all standards in this SMP, including required shoreline setbacks established in Table 2.
6. Nonconforming residential structures that are modified, replaced, repaired or enlarged are subject to the requirements in Chapter 6, Section J (Nonconforming Development).
7. In order to maintain visual access to the waterfront, fences within the required setback from the OHWM shall be:
 - a. No more than 4 feet high when separating two residential lots and no more than 6 feet high when separating a residential lot from a park or commercial use, and
 - b. May not extend beyond the OHWM.
8. The stormwater runoff for all new or expanded pavements or other impervious surfaces shall be directed to infiltration systems, and other Low Impact Development techniques shall be incorporated into new development as practicable, in accordance with the City's adopted Surface Water Design Manual and the current NPDES permit.
9. A new or expanded shoreline residential development shall provide public access when required by Chapter 3, Section B.6.c and meet all requirements identified therein.
10. Freund Marsh Residential Setback is 20 feet measured from the property line nearest the Marsh. Setback Limitations: Car and RV covers should not be allowed, but existing established uses can continue. A 30% overall impervious surface limit within the 20-foot setback for each property, would apply to all the listed allowances with the exception of gardens.

9-11. Freund Marsh Residential Setback Allowances: Decking, patios, hot tubs, garden sheds (150 square foot maximum limit), and gardens.

10. Transportation

a. Applicability

Transportation facilities that serve the City of Oak Harbor shorelines include roads, access drives, pedestrian paths and public and private parking areas. Future transportation facilities could include water taxi or ferry facilities. Excluded are the marina and other moorages regulated by other sections of this master program.

b. Policies

1. Non-water-dependent transportation facilities, other than non-motorized facilities developed in accordance with this SMP, should not be located over water or within the shoreline jurisdiction where a feasible alternate location exists. Before approval of new transportation facilities within the shoreline environment, the City should require an alternatives analysis to evaluate the feasibility of locating the facility elsewhere.
2. When transportation facilities are located over water or on shorelines, they should be designed to minimize their impacts on shoreline resources and avoid net loss of ecological function.
3. Joint use of transportation corridors within the shoreline jurisdiction for roads, utilities and motorized and non-motorized forms of transportation should be encouraged, where feasible.
4. Pedestrian trails and bicycle paths along shorelines should be promoted in conformance with the Oak Harbor Parks, Recreation, and Open Space Plan trails policies.
5. Rights of way and other facilities that provide scenic views or access to the water should be retained in public ownership and kept open whenever possible.

c. Regulations

1. New road construction in the shoreline jurisdiction shall be allowed only when demonstrated through an alternatives analysis that an upland location is neither feasible nor practical. New access drives directly servicing shoreline uses shall not require an alternatives analysis.
2. Transportation facility development shall result in no net loss of shoreline ecological functions and shall be designed to minimize the need for landfill, vegetation removal, bank stabilization, and grading. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial.
3. Graded areas and slopes altered during construction shall be stabilized and, where appropriate, planted with native vegetation.
4. Expansion of existing roadways within the shoreline jurisdiction shall be allowed only when the proponent demonstrates that:

- a. No alternative route is feasible;
 - b. Site grading, removal of vegetation, bank stabilization, and use of fill has been minimized;
 - c. The roadway is constructed and maintained to cause the least possible adverse impact on the land and water environment; and
 - d. The roadway is found to be in the public interest.
5. Transportation and primary utility facilities shall be required to make joint use of rights-of-way, and to consolidate crossings of water bodies to minimize adverse impacts to the shoreline.
 6. All debris and other waste materials from roadway construction shall be disposed of in such a way as to prevent their entry into any water body.
 7. Road designs must provide safe pedestrian and non-motorized vehicular crossings where public access to shorelines is intended.
 8. Streets within shoreline jurisdiction shall be designed with the minimum pavement area allowed under City road standards. Pervious materials shall be used where feasible for pathways and road shoulders to minimize the amount of impermeable surfaces and help to maintain a more natural appearance.

11. Utilities (Primary)

a. Applicability

Utilities in this SMP are divided into primary and accessory based on type and scale. The provisions of this section apply to primary use and activities such as solid waste handling and disposal, water transmission lines, sewage treatment facilities and mains, power generating or high voltage transmission facilities, gas distribution lines and storage facilities, stormwater mains and regional stormwater treatment facilities.

b. Policies

1. New primary utilities should be located outside of the SMA unless no other feasible option exists. Where allowed they should utilize existing transportation and utility sites, rights-of-way and corridors whenever possible, rather than creating new corridors. Joint use of rights-of-way and corridors should be encouraged.
 - a. With the exception of on-site, accessory solid waste and recycling containers, new solid waste disposal and recycling activities and facilities should be prohibited in shoreline areas.
 - b. Primary utilities should avoid locating in environmentally sensitive areas unless no feasible alternatives exist.
2. In the case of a new primary utility facility, the determination as to the feasibility of alternative locations outside the shoreline area and/or the possibility of using existing rights-

of-way may include, but is not necessarily limited to, consideration of: (1) construction impacts on the community, including impacts on traffic and adjacent land uses; (2) engineering considerations, including restoration or disruption issues related to the presence of existing public improvements and utility facilities; (3) environmental considerations, including impacts on the ecological function both within and outside of the shoreline; and (4) project considerations, including construction cost, construction schedule and expenditures or contractual commitments made by the proponent of the corridor, prior to the adoption of this SMP, in acquiring rights for the proposed route.

3. Wherever primary utility facilities and corridors must be placed in a shoreline area, they should be located so as to protect scenic views. Whenever possible, such facilities should be placed underground or designed to minimize impacts on the aesthetic qualities of the shoreline area.

c. Regulations

1. Primary utilities shall be located outside of shoreline jurisdiction unless no other feasible option exists. When allowed under this regulation, primary utilities shall be located landward of the ordinary high water mark unless such location is not feasible or would result in potentially greater environmental impacts. Where utilities must cross the shoreline environment, they shall be located along a route that would involve the least environmental and aesthetic impacts to the shoreline.
2. Primary utility facilities shall avoid disturbance of unique and fragile areas, as well as wildlife spawning, nesting and rearing areas. Utility facility development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial.
3. Utility development shall, through coordination with local government agencies, provide for compatible, multiple-use of sites and rights-of-way. Such uses include shoreline access points, trail systems and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, endanger public health and safety or create a significant and disproportionate liability for the owner.
4. Utility lines shall utilize existing rights-of-way, corridors and/or bridge crossings whenever possible and shall avoid duplication and construction of new corridors in all shoreline areas. Proposals for new corridors or water crossings must fully substantiate the infeasibility of existing routes.
5. Solid waste disposal sites and facilities are prohibited in the shoreline environment.
6. Where major facilities must be placed in a shoreline area, the location and design shall be chosen to avoid and minimize impacts to scenic views, where feasible.
7. Clearing of vegetation for the installation or maintenance of utilities shall be kept to a minimum and upon project completion any disturbed areas shall be restored to their pre-project condition.

8. The City shall hold public meeting(s) prior to the issuance of a Substantial Development Permit for a major primary utility project in accordance with the administrative procedures outlined in this Master Program to allow for the greatest amount of public input to help guide utility-related decisions.
9. New utility lines installed within the shoreline jurisdiction shall be located underground unless it can be demonstrated that such underground installation would be infeasible or would cause greater adverse impacts to the shoreline environment than an above-ground installation. Underwater cables or utility structures that must cross the shoreline jurisdiction to upland areas shall remain buried above the OHWM to a point that allows unimpeded access to the shoreline.
10. Proposals for new utility corridors (e.g. local power or water distribution) shall fully substantiate the infeasibility of existing routes

12. Utilities (Accessory)

a. Applicability

Utilities have been split into accessory and primary with accessory utilities generally meaning utilities that affect small-scale distribution services (sometimes referred to as side services) connected directly to the uses along the shoreline. For example, power distribution, telephone, cable, water and sewer service lines, and all stormwater collection and conveyance other than those specifically listed as primary utilities, are all considered as utilities accessory to shoreline uses. They are covered in this section because they concern all types of development and have the potential of impacting the ecological condition and visual quality of the shoreline and its waters.

b. Policies

1. Utilities are necessary to serve shoreline uses and should be properly installed to protect the shoreline and water from contamination and degradation.
2. Utility facilities and right-of-ways should be located outside of the shoreline area to the maximum extent possible. When utility lines require a shoreline location, they should be placed underground, where feasible.
3. Utility facilities should be designed and located in a manner which preserves the natural landscape and shoreline ecology, and minimizes conflicts with present and planned land uses.

c. Regulations

1. Utility developments shall, through coordination with local government agencies and utility purveyors, provide for compatible, multiple-use of utility sites and rights-of-way. Such uses include shoreline access points, trail systems, and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, or endanger public health and safety.

2. In shoreline areas, accessory utilities servicing new development that exceeds the thresholds identified in Chapter 6, Section J, Nonconforming Development, shall be placed underground unless demonstrated to be infeasible. Further, such lines shall utilize existing rights-of-way, and existing corridors whenever possible. Existing above ground lines shall be moved underground when properties are redeveloped or in conjunction with major system upgrades or replacements.
3. Utility facilities shall be located and designed to avoid destruction of, or damage to, important wildlife areas, and other unique and fragile areas. Utility facility development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial.
4. Clearing for the installation or maintenance of utilities shall be kept to a minimum, and upon project completion, any disturbed area shall be restored, to the greatest extent feasible, to pre-project conditions, including replanting with native species, or other species as approved by the City. If the previous condition is identified as being undesirable for shoreline function, then landscaping and other improvements shall be undertaken.
5. The location and construction of outfalls shall comply with all appropriate federal, state, county and city regulations.

Chapter 5: SHORELINE MODIFICATION PROVISIONS

A. Introduction

Shoreline modification activities are, by definition, undertaken in support of or in preparation for a permitted shoreline use. A single use may require several different shoreline modification activities.

Shoreline modification activity policies and regulations are intended to assure, at a minimum, no net loss of ecological functions necessary to sustain shoreline natural resources and to prevent, reduce and mitigate the negative environmental impacts of proposed shoreline modifications consistent with the goals of the Shoreline Management Act. A proposed development must meet all of the regulations for both applicable uses and activities as well as the general and environment designation regulations.

This chapter has been divided into five sections: Shoreline Stabilization, Dredging, Fill, Overwater Structures, and Restoration.

B. Shoreline Modifications Table

The shoreline modification table below determines whether a specific shoreline modification is allowed within each of the shoreline environments. See standards following the table for a full explanation of activities and required conditions for permitted activities. The shoreline environment is located on the vertical column of the table and the specific modification is located on the horizontal row of the table.

TABLE 3 - Shoreline Modifications

KEY

P = Permitted Use

C = May be permitted as a conditional use

X = Prohibited, not eligible for a variance or CUP

N/A = Not applicable

	Maritime	Urban Mixed Use	Residential	Residential Bluff Conservancy	Urban Public Facility	Conservancy	Aquatic
SHORELINE STABILIZATION							
Beach Restoration and Enhancement	P	P	P	P	P	P	See adjacent upland environment
Soil Bio-engineering, other Non-Structural	P	P	P	P	P	P	
Structural Stabilization	P	P	P	C	P	C	
Breakwaters, jetties, and groins	C	C	X	X	C	X	
CLEARING AND GRADING	P	P	P	C	P	C	
DREDGING	P	C	C	C	P/C ¹	C	
FILL							
Fill upland of OHWM	P	P	P	P	P	C	
Fill waterward of OHWM ²	C	C	C	C	C	C	
OVERWATER STRUCTURES							

KEY

P = Permitted Use

C = May be permitted as a conditional use

X = Prohibited, not eligible for a variance or CUP

N/A = Not applicable

	Maritime	Urban Mixed Use	Residential	Residential Bluff Conservancy	Urban Public Facility	Conservancy	Aquatic
Recreational Float (Not Associated with a Pier or Dock)	P	X	X	X	X/P ³	X	
Overwater Boathouse	P	X	X	X	X	X	
Piers and Docks (Including Pier/Float Combinations) ⁴	P	C ⁵ /P ⁵ ₆	X	X	X/P ³	X	
Moorage Ball and Buoy	P	P	C	C	P	C	
Marina	P	X ⁷	X	X	C	X	
Boat Ramp	P	X	X	X	P	C	
Launching Rails	P	X	X	X	X	X	
Boat Lifts	P	X	X	X	X	X	
Boat Lift Canopies	P	X	X	X	X	X	
Covered Moorage and Boat Houses	P	X	X	X	X	X	

1. Dredging associated with the maintenance of the swimming lagoon is a permitted use, all other dredging requires a conditional use permit.
2. Fill proposed as part of a soft shoreline stabilization design associated with an approved shoreline use or as part of an approved mitigation or restoration project shall be permitted in all shoreline environments. Otherwise, fill waterward of the OHWM shall be approved by conditional use permit only when one of the following conditions are met:
 - a. Placement of fill is necessary to protect a water-dependent use or is necessary for maintenance and repair of an existing structure;
 - b. Fill is necessary for the expansion or alteration of an existing transportation or navigation facility located in the shoreline environment, and it has been demonstrated that alternative locations and/or alternatives to fill are not feasible;
 - c. Fill is intended for disposal of dredged sediments in accordance with DNR rules; or
 - d. The proposed fill is part of an environmental clean-up plan for contaminated sediments.
3. This modification is permitted in Flintstone Park, but are not permitted in other areas of this designation.
4. All floating docks outside marinas shall comply with the provisions of SMP 5.C.4.c.1.f regarding grounding.
5. Piers, docks, and floats for multifamily or commercial uses in the Urban Mixed Use environments shall be approved ~~by conditional use by a substantial development~~ permit only when one of the following conditions are met:
 - a. The proposed dock, pier, or float will be a joint-use structure serving more than a single upland residential unit, or will provide access to more than one upland property.
 - b. The proposed dock, pier, or float will provide shoreline access to the general public. If a public-access dock or pier is located on private property, an upland pedestrian connection between the dock or pier and an adjacent public street must be provided to fulfil this condition.
6. Private, exclusive use docks and piers for single-family residences are considered to be permitted uses in the Urban Mixed Use Environment and shall not be required to provide public access or be joint-use structures. Such piers or docks must comply with applicable policies and regulations of the SMP.

7. Expansion of the existing marina is allowed into Aquatic areas waterward of this designation, but all upland facilities must be located in the Maritime or Urban Public Facility designation.

C. Policies and Regulations

1. Shoreline Stabilization (Including Bulkheads)

a. Applicability

Shoreline stabilization includes actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural and nonstructural methods. Nonstructural methods include shoreline buffers or setbacks, relocation of the structure to be protected, groundwater management, stormwater management, planting of vegetation, and planning and regulatory measures to avoid the need for structural stabilization.

b. Policies

1. Shoreline stabilization should be located, designed, and maintained to protect and maintain shoreline ecological functions, ongoing shoreline processes, and the integrity of shoreline features. Ongoing shoreline processes and the probable effects of proposed shoreline stabilization on other properties and shoreline features should be considered. Shoreline stabilization should not be developed for the purpose of filling shorelines.
2. Structural shoreline stabilization measures should only be used when more natural, flexible, non-structural methods such as placing the development farther from the OHWM, planting vegetation, or installing on-site drainage improvements, beach enhancement and bioengineering have been determined infeasible. Alternatives for shoreline stabilization should be considered in the following priority order:
 - a. No action (allow the shoreline to retreat naturally), increase buffers, and relocate structures.
 - b. Flexible defense works constructed of natural materials including soft shore protection, bioengineering, including beach nourishment, protective berms, or vegetative stabilization.
 - c. Rigid works constructed of artificial materials such as riprap or concrete.
3. Structures should be located and designed to avoid the need for future shoreline stabilization where feasible. Land subdivisions should be designed to assure that future development of the created lots will not require shoreline stabilization for development to occur.
4. New or enlarged structural shoreline stabilization should only be permitted where demonstrated to be necessary to protect a primary structure, including a residence that is in imminent danger of loss or substantial damage, and where mitigation of impacts would not cause a net loss of shoreline ecological functions and processes.

5. Shoreline stabilization should not be permitted when it interferes with public access to shorelines of the state, nor with other appropriate shoreline uses including, navigation or recreation.
6. In addition to conformance with the regulations in this section, non-regulatory methods to protect, enhance, and restore shoreline ecological functions and other shoreline resources should be encouraged as part of shore stabilization. Non-regulatory methods may include public facility and resource planning, technical assistance, education, voluntary enhancement and restoration projects, or other incentive programs.
7. Materials used for construction of shoreline stabilization should be selected for long-term durability, ease of maintenance, compatibility with local shoreline features including aesthetic values, and flexibility for future uses.

c. Regulations

1. General
 - a. The standards in this section apply to all developments and uses in shoreline jurisdiction.
 - b. New development or redevelopment shall be located and designed to avoid the need for new or future soft or hard structural shoreline stabilization to the extent feasible.
 - c. Structural stabilization may be authorized only where the proponent can demonstrate that an existing primary structure or use is in imminent danger from shoreline erosion and that non-structural stabilization methods are not feasible or would not provide adequate protection, as determined by a geotechnical analysis. Please see specific requirements for new or enlarged stabilization, as well as stabilization replacement and repair in this Subsection.
 - d. Structural stabilization, such as dikes and levees, that provides flood hazard protection to flood hazard areas as determined by the Shoreline Administrator based on the best available information, shall not be subject to this requirement. Please see Chapter 3, Section B.4 for regulations pertaining to flood hazard areas.
 - e. Soft shoreline stabilization may include the use of gravels, cobbles, boulders, and logs, as well as vegetation.
 - f. If construction or repair of a shoreline stabilization measure entails vegetation clearing or ground disturbance within the shoreline setback, such disturbance shall be restored as quickly as feasible to pre-disturbance conditions or better to avoid impacts to the ecological function of the shoreline.
 - g. The following is a summary of the key requirements found in and 5.C.1.c.2 through 5.C.1.c.7:

Shoreline Stabilization Measures	Requirements
Structural and Nonstructural Methods	<ul style="list-style-type: none"> • Nonstructural methods are preferred, and the need for

Shoreline Stabilization Measures	Requirements
	structural stabilization measures must be demonstrated before approval.
New or Enlargement of Hard Shoreline Structural Measures (enlargement includes additions and increases in size, such as height, width, length, or depth, to existing shoreline stabilization measures)	<ul style="list-style-type: none"> • Allowed when existing primary structure is 10 ft. or less from OHWM • When existing primary structure is greater than 10 ft. from OHWM, requires geotechnical report to show need, an evaluation of the feasibility of soft rather than hard structural shoreline stabilization measures and design recommendations for minimizing structural shoreline measures. • Requires mitigation, including plantings.
Major Repair or Replacement of Hard Shoreline Structural Measures	<ul style="list-style-type: none"> • A major repair is a collapsed or eroded structure or a demonstrated loss of structural integrity, or repair of toe rock or footings of more than 50% in continuous linear length; or • A major repair is repair to more than 75% of the linear length of structure that involves replacement of top or middle course rocks or other similar repair • Allowed when existing primary structure is 10 ft. or less from OHWM • When existing primary structure is more than 10 ft. from the OHWM, requires a written narrative that provides a demonstration of need
Minor Repair of Hard Shoreline Stabilization Measure	<ul style="list-style-type: none"> • Does not meet threshold of new, enlarged, major repair or replacement measurement. • No geotechnical report or needs assessment required.
New, Enlarged, Repair or Replacement of Soft Shoreline Stabilization Measure	<ul style="list-style-type: none"> • Allowed when existing primary structure is 10 ft. or less from OHWM (provided that need can be demonstrated through a written narrative prepared by a qualified professional) or for repair or replacement. • For primary structure greater than 10 ft. from the OHWM, new or enlarged requires a written narrative that provides a

Shoreline Stabilization Measures	Requirements
	demonstration of need.

2. New or Enlarged Structural Shoreline Stabilization

- a. For the purposes of this section, enlargement of an existing structural stabilization shall include additions to or increases in size (such as height, width, length, or depth). Primary structure includes appurtenances listed under WAC 173-14-040, but not tool sheds, greenhouses, swimming pools, spas and other ancillary residential improvements.
- b. The City may only approve a new or enlarged hard or soft structural stabilization measure in the following circumstances:
 - i. To protect an existing primary structure, conclusive evidence, documented by a geotechnical analysis that the primary structure is in danger from shoreline erosion caused by waves. The analysis must show that there is a significant possibility that an existing structure will be damaged within three (3) years as a result of shoreline erosion in the absence of hard structural stabilization measures, or where waiting until the need is immediate results in the loss of opportunity to use measures that would avoid impacts on ecological functions. Where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three (3) years, the report may still be used to justify more immediate authorization to protect against erosion using soft structural stabilization measures.
 - ii. To protect a new primary structure, including a new detached dwelling unit, the applicant must demonstrate that placement of the structure farther upland of the OHWM is not feasible and that non-structural measures, planting vegetation, or installing on-site drainage improvements are not feasible or would not provide sufficient protection to prevent damage.
 - iii. For hard and soft stabilization measures, the applicant must demonstrate that any on-site drainage issues have been directed away from the shoreline edge prior to considering structural stabilization.
 - iv. To protect ecological restoration or enhancement projects or for hazardous substance remediation projects pursuant to RCW 70.105D when nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
 - v. To protect new water dependent uses or development, provided that the applicant can demonstrate the following: that shoreline erosion is not being caused by upland conditions, such as loss of vegetation and drainage; that non-structural stabilization measures are not feasible or sufficient; that a geotechnical analysis has determined that structural stabilization will be necessary to protect the primary structure from damage due to erosion; and that the proposed erosion control structure will not result in a net loss of shoreline ecological function.

3. Submittal Requirements for New or Enlarged Structural Stabilization Measures. In addition to the requirements described in 5.C.1.c.2 above, the following shall be submitted to the City for proposed new or enlarged structural stabilization measures:
 - a. A geotechnical report prepared by a qualified professional. The report shall include the following:
 - i. An assessment of the necessity for structural stabilization by estimating time frames and rates of erosion and documenting the urgency associated with the specific situation. See Regulation 2.b.i above.
 - ii. An assessment of the cause of erosion, including on-site drainage issues, looking at processes occurring both waterward and landward of the OHWM.
 - iii. An assessment of the feasibility of using nonstructural or soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures.
 - iv. For both hard and soft structural shoreline stabilization measures, design recommendations for minimizing the sizing of shoreline stabilization materials, including gravel and cobble beach substrates necessary to dissipate wave energy, eliminate scour, and provide long-term shoreline stability.
 - b. See general submittal requirements in Regulation 8, maintenance agreement standards in Regulation 9 and general design standards in Regulation 10 below.
4. Replacement or Major Repair of Hard Structural Shoreline Stabilization
 - a. For the purposes of this section, major repair or replacement of a hard shoreline stabilization measure shall include the following activities:
 - i. A repair to a portion of an existing stabilization structure that has collapsed, eroded away or otherwise demonstrated a loss of structural integrity, or in which the repair work involves modification of the toe rock or footings, and the repair is 50 percent or greater than the linear length of the shoreline stabilization measure; or
 - ii. A repair to more than 75 percent of the linear length of the existing hard structural shoreline stabilization measure in which the repair work involves replacement of top or middle course rocks or other similar repair activities.
 - b. The City may only approve a major repair or replacement of an existing hard structural stabilization measure with a new hard structural shoreline stabilization measure to protect existing primary structures or principal uses, including detached dwelling units, in either of the following circumstances:
 - i. The primary structure is located 10 feet or less from the OHWM, provided that a need for replacement can be demonstrated through a written narrative prepared by a qualified professional (shoreline designer or other consultant familiar with shoreline processes and shoreline stabilization), but not necessarily a licensed geotechnical engineer. The narrative shall consist of the elements described in

5.C.1.c.5.a below. For the purposes of this provision, the distance shall be measured to the most waterward location of the primary structure; or

- ii. For a primary structure located more than 10 feet from the OHWM or a use, conclusive evidence is provided to the City that the primary structure or use is in danger from shoreline erosion caused by waves as required in 5.C.1.c.5 below.

5. Submittal Requirements for Major Repairs or Replacements of Hard Stabilization Measures. The following shall be submitted to the City when the primary structure is located more than 10 feet landward of the OHWM or for a use with no primary structure:

- a. Written narrative that provides a demonstration of need shall be submitted. A qualified professional (e.g., shoreline designer or other consultant familiar with shoreline processes and shore stabilization), but not necessarily a licensed geotechnical engineer, shall prepare a written narrative. The written narrative shall consist of the following:
 - i. An assessment of the necessity for hard structural stabilization, considering site-specific conditions such as water depth, orientation of the shoreline, wave fetch, and location of the nearest structure.
 - ii. An assessment of erosion potential resulting from the action of waves or other natural processes operating at or waterward of the OHWM in the absence of the hard structural shoreline stabilization.
 - iii. An assessment of the feasibility of using soft structural stabilization measures in lieu of hard structural shoreline stabilization measures. Soft stabilization may include the use of gravels, cobbles, boulders, and logs, as well as vegetation.
 - iv. Design recommendations for minimizing impacts and ensuring that the replacement or repaired stabilization measure is designed, located, sized, and constructed to assure no net loss of ecological functions.
- b. See additional requirements below in Regulations 8, 9 and 10 for general submittal requirements, maintenance agreement and general design standards.

6. Minor Repairs of Hard Shoreline Stabilization. Minor repairs of hard shoreline stabilization include those maintenance and repair activities not otherwise addressed in the subsection above. The City shall allow minor repair activities to existing hard structural shoreline stabilization measures.

7. Repair or Replacement of Soft Shoreline Stabilization and Submittal Requirements

- a. The City shall allow repair or replacement of soft shoreline stabilization.
- b. The applicant shall submit to the City design recommendations for minimizing impacts and ensuring that the replacement or repaired stabilization measure is designed, located, sized, and constructed to assure no net loss of ecological functions.
- c. See additional requirements below in Regulations 8, 9 and 10 for general submittal requirements, maintenance agreement and general design standards.

8. General Submittal Requirements for New, Enlarged, Replacement and Major Repair Measures. Detailed construction plans shall be submitted to the City, including the following:
 - a. Plan and cross-section views of the existing and proposed shoreline configuration, showing accurate existing and proposed topography, including extreme low tide, mean lower tide, mean tide, mean higher high tide, and extreme high tide elevations.
 - b. Detailed construction sequence and specifications for all materials, including gravels, cobbles, boulders, logs, and vegetation. The sizing and placement of all materials shall be selected to accomplish the following objectives:
 - i. Protect the property and structures from erosion and other damage over the long term, and accommodate the normal amount of alteration from wind- and boat-driven waves;
 - ii. Allow safe passage and migration of fish and wildlife; and
 - iii. Minimize or eliminate juvenile salmon predator habitat.
 - c. For hard structural stabilization measures, when shoreline vegetation is required as part of mitigation, a detailed 5-year vegetation maintenance and monitoring program to include the following:
 - i. Goals and objectives of the shoreline stabilization plan;
 - ii. Success criteria by which the implemented plan will be assessed;
 - iii. A 5-year maintenance and monitoring plan, consisting of one (1) site visit per year by a qualified professional, with annual progress reports submitted to the Planning Official and all other agencies with jurisdiction;
 - iv. A contingency plan in case of failure; and
 - v. Proof of a written contract with a qualified professional who will perform the monitoring.
 - d. In the event the Shoreline Administrator determines that a professional review of a geotechnical report, shoreline stabilization plan, monitoring and maintenance program, or other document submitted by an applicant to satisfy the requirements of this shoreline master program is required, the Shoreline Administrator may establish a fee sufficient to reimburse the City's expenses for such review.
9. Maintenance Agreement for Hard and Soft Structural Stabilization. The applicant shall complete and submit a 5-year period maintenance agreement, using the City's standard form, for recording to ensure maintenance of all required mitigation associated with a structural shoreline stabilization measure.
10. General Design Standards – So as to limit avoid or minimize the impacts of sediment transport, the following design standards shall be incorporated into the stabilization design:
 - a. Soft structural shoreline stabilization measures shall be used to the maximum extent feasible, limiting hard structural shoreline stabilization measures to those portions of

the site where necessary to connect with existing hard shoreline stabilization measures on adjacent properties. The length of hard structural shoreline stabilization connections to adjacent properties shall be minimized to the maximum extent feasible and shall extend into the subject property from adjacent properties no more than the minimum amount necessary.

- b. For enlargement, major repair, or replacement of hard structural shoreline stabilization measures, excavation and fill activities associated with the structural stabilization shall be landward of the existing OHWM, except when not feasible due to existing site constraints or when conducted to mitigate impacts of hard structural stabilization by increasing shallow water habitat with gravel, rocks and logs.
- c. For short-term construction activities, hard and soft structural stabilization measures must minimize and mitigate any adverse impacts to ecological functions by compliance with appropriate timing restrictions, use of best management practices to prevent water quality impacts related to upland or in-water work, and stabilization of exposed soils following construction.
- d. For long-term impacts, new and enlarged hard structural shoreline stabilization, as well as major repair or replacement of hard structural stabilization, shall incorporate the following measures into the design wherever feasible.
 - i. Limiting the size of hard structural shoreline stabilization measures to the minimum necessary, including height, depth, and mass.
 - ii. Shifting hard stabilization structures landward and/or sloping the structure landward to provide some dissipation of wave energy and increase the quality or quantity of nearshore shallow-water habitat.
- e. For new and enlarged hard shoreline stabilization, the following additional measures shall be incorporated into the design:
 - i. To increase shallow-water habitat, install gravel/cobble beach fill waterward of the OHWM, grading slope to a maximum of 1 vertical (v): 4 horizontal (h). The material shall be sized and placed to remain stable and accommodate alteration from wind- and boat-driven waves.
 - ii. Plant native riparian vegetation as follows:
 - 1. At least 75 percent of the nearshore riparian area located along the edge of the OHWM shall be planted an average of ten (10) feet in depth from the OHWM, but may be a minimum of 5 feet wide to allow for variation in landscape bed shape and plant placement provided that the total square footage of the area planted equals ten (10) feet along the water's edge.
 - 2. Restoration of native vegetation shall consist of a mixture of trees, shrubs and groundcover, or a mixture of vegetation that is appropriate for site conditions and would be found on a similar undisturbed site, and shall be designed to improve habitat functions. At least 3 trees per 100 linear feet

of shoreline and 60% shrubs must be included in the plan, unless the Shoreline Administrator determines that trees are not appropriate for the specific site conditions.

3. Plant materials must be native.

ii. These standards may be modified for water-dependent development in the Maritime shoreline environment where the Shoreline Administrator determines they are not feasible for a specific development or use.

- f. An alternative planting plan or mitigation measure in lieu of meeting this section shall be allowed if the applicant demonstrates to the satisfaction of the Shoreline Administrator that it would result in equal or better ecological function when compared to the standard requirement. An alternative planting plan or mitigation measure may also be allowed if it is approved by other state and federal agencies. In addition, the City shall accept existing native trees, shrubs and groundcover as meeting the requirements of this section, including vegetation previously installed as part of a prior development activity, provided that the existing vegetation provides a landscape strip at least as effective in protecting shoreline ecological functions as the required vegetation.
- g. Hard and soft shoreline stabilization measures shall be designed to not significantly interfere with normal surface and/or subsurface drainage into any water body, constitute a hazard to navigation or extend waterward more than the minimum amount necessary to achieve effective stabilization.
- h. Hard and soft stabilization measures are allowed to have gravel, logs and rocks waterward of the OHWM, as approved by the City and federal and state agencies, to provide enhancement of shoreline ecological functions through creation of nearshore shallow-water habitat.
- i. Stairs or other water access measures may be incorporated into the shoreline stabilization, but shall not extend waterward of the shoreline stabilization measure.
- j. The shoreline stabilization measures shall be designed to ensure that the measures do not restrict public access or make access unsafe to the shoreline, except where such access is modified under the provisions of 3.B.5 for public access. Access measures shall not extend farther waterward than the face of the shoreline stabilization structure.
- k. All new and replacement shoreline stabilization measures shall be designed to minimize negative impacts to nearshore sediment transport. Construction of erosion control structures on feeder bluffs or other sediment producing areas shall be required to minimize, avoid, and mitigate adverse effects on sediment transport.
- l. See 5.C.1.c.11 below concerning additional design standards for hard structural stabilization and 5.C.1.c.13 for soft structural stabilization.

11. Specific Design Standards for New or Enlarged Hard Structural Stabilization. In addition to the general design standards in and 5.C.1.c.10 above, the following design standards shall be incorporated:

- a. Where hard stabilization measures are not located on adjacent properties, the construction of a hard stabilization measure on the site shall tie in with the existing contours of the adjoining properties, as feasible, such that the proposed stabilization will not cause erosion of the adjoining properties.
 - b. Where hard stabilization measures are located on adjacent properties, the proposed hard stabilization measure may tie in flush with existing hard stabilization measures on adjoining properties, but by no more than reasonably required. The new hard stabilization measure shall not extend waterward of OHWM, except as necessary to make the connection to the adjoining hard stabilization measures. No net intrusion into the water body and no net creation of upland shall occur with the connection to adjacent stabilization measures. In order to comply with this no net intrusion standard, where a project includes connection to an adjoining stabilization that is waterward of the OHWM, it may be necessary to compensate by siting another portion of the new stabilization landward of the existing OHWM.
 - c. Fill behind hard shoreline stabilization measures shall be limited to an average of one (1) cubic yard per linear foot of bulkhead. Any filling in excess of this amount shall be considered a regulated activity subject to the regulations in this Chapter pertaining to fill activities and the requirement for obtaining a shoreline substantial development permit.
12. Specific Design Standards for Replacement of Hard Structural Stabilization. Replacement of hard structural stabilization measures shall not encroach waterward of the OHWM or waterward of the existing shoreline stabilization measure unless the primary structure was constructed prior to January 1, 1992 (RCW 90.58.100.6 and WAC 173.26.241 and WAC 173.26.231.3.j), and there is overriding safety or environmental concerns if the stabilization measure is moved landward of the OHWM. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. All other replacement structures shall be located at or landward of the existing shoreline stabilization structure.
13. Specific Design Standards for Soft Structural Stabilization. In addition to the general design standards in 5.C.1.c.10, the following design standards shall be incorporated:
- a. Provide sufficient protection of adjacent properties by tying in with the existing contours of the adjoining properties to prevent erosion at the property line. Proposals that include the minimum necessary use of hard structural stabilization measures to tie in with adjacent properties shall be permitted as soft structural shoreline stabilization measures. The length of hard structural stabilization connections to adjacent properties shall be the minimum needed and shall extend into the subject property from adjacent properties as reasonably required.
 - b. Size and arrange any gravels, cobbles, logs, and boulders so that the improvement remains stable in the long-term and dissipates wave energy, without presenting extended linear faces to oncoming waves.

14. Expansion of SMA Jurisdiction from Shift in OHWM. If a shoreline stabilization measure constructed as part of any action required by this Chapter or intended to improve ecological functions results in a shift of the OHWM landward of the pre-modification location, thus expanding the shoreline jurisdiction onto any property other than the subject property, then as part of the shoreline permit process found in Chapter 6:
 - a. The City shall notify the affected property owner in writing, and
 - b. The City may propose to grant relief for the affected property owners from applicable shoreline regulations resulting in expansion of shoreline jurisdiction. The proposal to grant relief must be submitted to the Department of Ecology with the shoreline permit under the procedures established in Chapter 6. If approved, notice of the relief, in a form approved by the City Attorney, shall be recorded on the title of the affected property with the Island County Auditor's Office.

2. Dredging and Disposal

a. Applicability

Dredging is the removal or displacement of earth or sediments such as gravel, sand, mud or silt and/or other materials or debris from any water body. In a marine shoreline setting, dredging is normally done for specific purposes or uses such as deepening a navigational channel or maintaining moorage.

Dredge material is disposed of on land or into water bodies and may be intended for the purpose of creating new or additional lands for other uses. Dredge spoil varies from clean river sand to organic sludge. While some of this material is deposited on land, a significant portion is dumped, intentionally or unintentionally, back into the water or immediately adjacent to the water.

In most cases, dredging occurs in shallow areas and may disturb the aquatic environment in the following ways: (1) temporary reduction of water clarity from suspended sediments, (2) loss of aquatic plants and animals by direct removal or from the sedimentation of suspended materials, (3) alteration of the nutrient and oxygen levels of the water column, and (4) suspension of toxic materials from the sediments into the water column.

b. Policies

1. In all cases, dredging operations should be planned and conducted to protect and maintain existing aquatic habitat and other shoreline uses, properties, and values. Proposals that include dredging should provide mitigation to achieve no net loss of shoreline ecological functions.
2. When allowed, dredging and dredge material disposal should be limited to the minimum amount necessary.
3. Dredging waterward of the ordinary high water mark for the primary purpose of obtaining fill should not be allowed, except as part of a restoration or environmental cleanup project.

4. The City may impose limitations on dredging activities, such as limited operating hours, time periods, and requirements for buffer strips at the site.

c. Regulations

1. Dredging and disposal of dredge material shall avoid, and minimize significant ecological impact; impacts that cannot be avoided shall be mitigated to achieve no net loss of ecological processes and functions.
2. New development siting and design shall avoid, where feasible, and minimize the need for dredging.
3. Dredging may be permitted as follows:
 - a. When necessary to support a water-dependent use;
 - b. For expansion or alteration of public utility facilities;
 - c. As part of mitigation actions, environmental restoration and habitat enhancement projects;
 - d. When technical information demonstrates water circulation, littoral drift, aquatic life and water quality will not be substantially impaired;
 - e. When other solutions would result in greater environmental impact;
 - f. As part of an approved habitat improvement project;
 - g. If it improves water quality; and
 - h. When applicable permits of other local, state and federal agencies have been obtained.
4. Maintenance dredging associated with a water-dependent use, including existing navigation channels, shall be restricted to maintaining the previously dredged and/or existing authorized location, depth and width.
5. Dredging for the primary purpose of obtaining fill or construction material is prohibited, except for projects associated with a significant MTCA or CERCLA restoration effort approved by a shoreline CUP. When dredging is allowed for fill materials for a restoration project, placement of fill must be waterward of the OHWM.
6. Proposals for dredging and dredge disposal shall include details on all feasible mitigation measures to protect aquatic habitats. All dredging related to improvements for the Marina shall occur in compliance with Department of the Army Permit NWS-2007-951-NO. Dredging and dredge disposal shall not create a net loss of shoreline ecological functions.
7. Dredging material which will not subsequently cause violation of State Water Quality Standards may be used in permitted landfill projects.
8. Excavation on beaches below the OHWM in lands covered by water constitutes dredging and shall include precautions to prevent the migration of fine grain sediments, disturbed by the excavation, onto adjacent beach areas. Excavations on beaches shall be backfilled promptly using material of similar composition and similar or coarser grain size.

9. Dredging operations shall be designed and scheduled to avoid impacts to fish, including impacts to fish rearing, feeding and spawning.
10. Depositing dredge materials in water areas within the jurisdiction of this SMP shall be prohibited, except where it is being used as part of a comprehensive ecological restoration project.
11. Where feasible, dredging shall utilize techniques (such as hydraulic dredging instead of agitation dredging) that cause minimal dispersal and broadcast of bottom material.
12. Limitations may be imposed on dredging activities, such as limited operating hours, time periods, and requirements for buffer strips at the site.

3. Fill

a. Applicability

Fill is usually considered in locations where the water is shallow and where rooted vegetation often occurs. In their natural condition, these same areas provide valuable habitat for fish and wildlife feeding, breeding, and shelter. Biologically, the shallow vegetated areas tend to be highly productive portions of the shoreline. For these reasons, governmental agencies and scientific experts have generally sought to prohibit or restrict fill.

The policies contained herein are intended to focus on the aspects of natural systems affected by man-made fill, cuts, excavations and site grading actions, while at the same time recognizing the community's needs.

Fill occurring on dry land landward of the OHWM which does not exceed a cost of five thousand seven hundred eighteen (5,718) dollars or 250 cubic yards of material (per WAC 173-27-040), does not require a shoreline substantial development permit, as noted elsewhere in this Master Program. This development, however, must comply with all other applicable policies and regulations as defined in this Master Program.

b. Policies

1. Fills should be permitted in all shoreline environments only when tied to a specific development proposal that is permitted by the master program, and when they are located, designed and constructed to protect shoreline ecological functions and ecosystem-wide processes.
2. Where permitted, fill coverage should be the minimum necessary to provide for the proposed use.
3. In evaluating fill projects, factors such as current and potential public use of the shoreline and water surface area, water flow and drainage, water quality and habitat should be considered and protected to the maximum extent feasible.
4. Fills waterward of the OHWM should be restricted to the minimum necessary to support water-dependent uses, public access, cleanup and disposal of contaminated sediments as part

of an interagency clean-up plan, disposal of dredged sediments in accordance with DNR rules, expansion or alteration of transportation facilities of statewide significance when no other alternatives are feasible, and for mitigation actions, environmental restoration and enhancement projects, and only when other solutions would result in greater environmental impact.

5. Shoreline fills should be designed and located so that there will be no significant damage to existing ecological systems or result in hazard to adjacent life, property, or natural resource systems.

c. Regulations

1. Fill proposals must demonstrate, at a minimum, that they will result in no net loss of shoreline ecological functions.
2. Fill waterward of the OHWM proposed as part of a soft shoreline stabilization design associated with an approved shoreline use or as part of an approved mitigation or restoration project shall be permitted in all shoreline environments. All other proposed fill waterward of the OHWM shall require a conditional use permit and shall be restricted to the minimum necessary to:
 - a. Support water-dependent uses,
 - b. Provide public access,
 - c. Allow for the remediation and disposal of contaminated sediments as part of an interagency clean-up plan,
 - d. Allow the disposal of dredged sediments in accordance with DNR rules, or
 - e. Provide for the expansion or alteration of transportation facilities of statewide significance when no other alternatives are feasible.
3. Fills shall be designed, constructed, and maintained to prevent, minimize, and control material movement, erosion, and sedimentation from the affected area.
4. All perimeters of fills shall be provided with vegetation, retaining walls, or other satisfactory mechanisms for erosion prevention and sediment capture that are consistent with shoreline stabilization standards and all other standards of this SMP.
5. Fill shall be permitted only where it is demonstrated that the proposed action will not:
 - a. Result in significant damage to water quality, fish, aquatic habitat, and/or wildlife habitat; or
 - b. Adversely alter natural drainage and circulation patterns, or significantly reduce flood water holding capabilities.
6. Refuse disposal sites, solid waste disposal sites, or sanitary fills shall be prohibited within the shoreline jurisdiction.

7. Any placement or removal of materials landward of the OHWM shall comply with the provisions of Vegetation Conservation of this SMP.

4. Piers, Docks, Floats, Mooring Balls and Mooring Buoys

a. Applicability

The purpose of this section is to provide policies and regulations for the location and design of private docks and piers, floats, and moorage buoys. Overwater structures is a general term for a structure or group of structures that provides boat moorage or other uses. An overwater structure, commonly known as a dock, may be made up of piers (which are structures on fixed piles) and floats (which float on the water's surface and are typically attached to piles so that they may rise and fall with changes in the water's elevation). Design standards for overwater structures, mooring balls, and mooring buoys apply to private docks, as well as moorage structures within a marina, except as noted in the specific policies and regulations below. Please also see Section 5.D.5, Boating Facilities for use policies and regulations that apply to public and community facilities.

b. Policies

1. Construction of overwater structures should be limited to joint-use and public access facilities in the Maritime, and Urban Public Facility environments and marina facilities in the Maritime environment. Private, exclusive use piers for single-family residences shall be allowed in the Urban Mixed Use environment.
2. Mooring balls and mooring buoys are preferred over piers or docks because they generally have less ecological impact. Locate and design ball and buoy installation to avoid or minimize adverse impacts on ecological functions.
3. Piers should be preferred over floating docks where significant littoral drift does not occur and where scenic values will not be impaired.
4. Because opportunities for private overwater structures are limited and confined to less suitable and more environmentally sensitive areas of the shoreline, these features should be carefully regulated through specific standards, outlined in Regulations 1-10 in Subsection c below.
5. Public overwater structures and marina development on public lands requires greater flexibility to account for more diverse opportunities, evolving public needs, and compatibility with the evolving requirements of federal and state agencies for these facilities, including the Department of Natural Resources, which is the lessor for the marina.
6. Regardless of the level of specificity and flexibility for different types of overwater structures (e.g. private, joint use, public and marina) provided in the standards in this SMP, construction and operation of all overwater structures should demonstrate adherence to mitigation sequencing and no net loss.

7. Piers, docks, floats, mooring balls, and mooring buoys outside of marinas should not allow moorage of houseboats or live aboard vessels.
8. To reduce the amount of over-water and in-water structures and reduce potential long-term impacts associated with those structures, mooring balls and mooring buoys are preferred over docks in residential areas, and shared moorage facilities (either joint-use docks or community docks) are preferred over single-user moorage.
9. Moorage should be sited and designed to avoid adversely impacting shoreline ecological functions or processes, particularly fish habitat. Any unavoidable impacts to ecological functions should be mitigated.
10. Moorage should be spaced and oriented in a manner that minimizes hazards and obstructions to public navigation rights and corollary rights thereto such as, but not limited to, fishing, swimming and pleasure boating.
11. Moorage should be restricted to the minimum size necessary to meet the needs of the proposed use. The length, width and height of over-water structures and other developments regulated by this section should be no greater than that required for safety and practicality for the primary use.
12. Moorage should be constructed of materials that will not adversely affect water quality or aquatic plants and animals in the long term, and have been approved by applicable state agencies.

c. Regulations

1. General
 - a. Piers, docks, moorage balls, mooring buoys and mooring piles, boatlifts and canopies are hereby referred to as overwater structures and may only be developed in those shoreline environments where they are allowed pursuant to Table 3.
 - b. Commercial, public and community moorage facilities, other than those serving four or fewer single-family residences, shall be subject to all requirements contained in Section 4.D.3, Boating Facilities, as well as those contained in this Section, except as specifically noted. Boating facilities with more than ten moorage spaces shall constitute a marina for the purposes of the policies and regulations contained in this SMP.
 - c. Overwater structures, including mooring balls and mooring buoys, outside of marinas shall not be used for residential purposes (i.e. liveaboards).
 - d. Overwater structures may only be developed and used when they are accessory to existing dwelling units on waterfront lots and are used for water-dependent uses (e.g. access to watercraft), or they are part of an approved public access or marina development.
 - e. Only one overwater structure (which may include pier and float combinations) shall be allowed on a lot, other than a marina or water-dependent commercial, industrial or port use.

- f. Overwater structures outside of marinas shall be limited to piers, floats and pier/float combinations. Docks which float entirely on the surface of the water shall not be permitted unless they are necessary and appurtenant to a boat launch or a water-dependent industrial or commercial use.
 - g. Use of privately owned overwater structures, mooring balls and mooring buoys is limited to the residents and guests of the waterfront lots to which the moorage is accessory. Outside of marinas, moorage space, including moorage balls and mooring buoys, shall not be leased, rented, or sold.
 - h. In the following circumstances, a joint-use pier shall be required:
 - i. On lots subdivided to create additional lots with waterfront access rights.
 - ii. New residential development of two or more dwelling units with waterfront access rights.
 - i. Piers, docks, boatlifts, mooring balls, mooring buoys and moorage piles shall be designed and located using mitigation sequencing principles and shall not result in net loss of ecological functions.
2. Setbacks
- a. Piers and docks, and moorage buoys located outside a marina and serving only a single property shall maintain a 12-foot setback from the side property lines.
 - b. Joint-use structures may abut property lines provided the property owners sharing the moorage facility have mutually agreed to the structure location. To insure that a pier is shared, each property owner must sign a statement in a form acceptable to the City Attorney, stating that the pier or dock is used by the other property. The applicant must file this statement with the Island County Auditor's Office to run with the properties.
3. General Standards
- a. Proposed piers and docks that do not comply with the dimensional standards contained in this section may only be approved if they obtain a Shoreline Variance under the provisions of 6.G.
 - b. All piers and docks and other developments regulated by this section shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe structures shall be removed or repaired promptly by the owner.
 - c. All floating docks shall incorporate stops to prevent grounding of the dock on tidelands during low tide.
 - d. Temporary moorages shall be permitted for vessels used in the construction of shoreline facilities. The design and construction of temporary moorages shall be such that upon termination of the project, the aquatic habitat in the affected area can be returned to its original (pre-construction) condition.

- e. The following new structures and improvements are not permitted outside of public marinas, but may be maintained where existing and provided their removal is not a condition of a permit:
 - i. Boathouses, or other walled moorage.
 - ii. Skirting on any structure.
 - f. Piers and docks shall be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night. Exterior finish of all structures and windows shall be generally non-reflective.
 - g. All utility and service lines located waterward of the OHWM should be sited and designed to reduce their visibility, while maintaining safety. All utility and service lines located upland of the OHWM shall be underground, where feasible.
4. New Pier or Dock Dimensional Standards. New piers or docks may be permitted as indicated in Table 2, subject to the following dimensional regulations:
- a. Docks, piers and floats shall not extend far enough from shore to become an impediment to navigation.
 - b. The maximum width of any new dock or pier, including ells, shall not exceed 4 feet within the first 30 feet waterward of the ordinary water mark and no more than 6 feet wide beyond 30 feet, unless the dock or pier provides public access or a water-dependent commercial, marina, industrial or port use requires a wider structure.
 - c. Docks and piers shall be the shortest length necessary to provide moorage for the intended boating use. In no case shall a dock or pier extend farther from shore than necessary to achieve a water depth of 10 feet.
5. Floats. All floats located outside of marinas, either associated with a pier or otherwise, must meet the following requirements.
- a. Float width shall not exceed 8 feet and float length shall not exceed 60 feet, unless the float provides public access, or a water-dependent commercial, industrial or port use requires a wider structure.
 - b. Floats shall be suspended a minimum of 1 foot above the tidal substrate at all tide levels. Where feasible, float stops that fully support the entire float shall be used.
 - c. If the float is removed seasonally, the applicant shall indicate an upland storage location that is outside of any required vegetation area.
 - d. Floats shall be held in place with lines anchored with a helical screw or “duckbill” anchor, piling with stoppers and/or float support/stub pilings.
 - e. Floatation shall be fully enclosed and contained in a shell that prevents breakup or loss of material into the water.
6. New Pier or Dock Decking Materials Standards. New piers or docks outside of marinas shall be subject to the following regulations regarding approved decking materials.

- a. To allow transmission of light to the water, dock and pier decking shall incorporate open grating to result in open area equal to 24% or greater of the total surface area of the dock or pier. This can be achieved by installing grating with 60% open area on at least 40% of the pier or by grating a larger percentage of the pier with grating with openings of less than 60%.
 - b. For all sections of the pier that span upper intertidal obligate vegetation, including salt marsh vegetation, that section must be fully grated with grating having 60% open area.
 - c. Grated portions of piers and docks shall not be used for storage of any items that may block light transmission, and grating shall be kept clean of mud, algae, or debris.
 - d. These standards may be modified if the Shoreline Administrator determines that they are not feasible for a water-dependent commercial, industrial or port use.
7. Mitigation. All proposals involving new piers or docks outside of marinas are subject to the following mitigation requirements:
- a. Any existing in-water and overwater structures shall be removed if they are associated with either a moorage structure or other recreational use that is located within 30 feet of the OHWM.
 - b. Emergent vegetation shall be planted waterward of the OHWM, unless the City determines that it is not appropriate or feasible.
 - c. Native riparian vegetation shall be planted in at least 75 percent of the nearshore riparian area located along the water's edge. The vegetated portion of the nearshore riparian area shall average ten (10) feet in depth from the OHWM, but may be a minimum of five (5) feet wide to allow for variation in landscape bed shape and plant placement. Joint-use piers required under the provisions of this Chapter shall require a vegetative riparian zone along all properties sharing the pier. Other joint-use piers shall be required to provide the same mitigation as required for one property, which can be split evenly between the subject properties.
 - d. Restoration of native vegetation shall consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions. At least three (3) trees per 100 linear feet of shoreline and 60% shrubs must be included in the plan, unless the Shoreline Administrator determines that site specific conditions warrant a different mix of vegetation. Plant materials must be native. Plant density and spacing shall be appropriate for the site and commensurate with spacing recommended for each individual species proposed.
 - e. An alternative planting plan or mitigation measure in lieu of meeting these requirements shall be allowed if approved by other state and federal agencies, or the applicant demonstrates that an alternative measure provides equivalent or greater ecological function.

- f. In addition, the City shall accept existing native trees, shrubs and groundcover as meeting the requirements of this section, including vegetation previously installed as part of a prior development activity, provided that the existing vegetation provides a landscape strip at least as effective in protecting shoreline ecological functions as the required vegetation.
 - g. In addition to a native planting plan, a 5-year vegetation maintenance and monitoring plan shall be submitted to the City for approval. Copies of reports that are submitted to state or federal agencies in compliance with permit approvals may be submitted in lieu of a separate report to the City, provided that the reports address a 5-year maintenance and monitoring plan. The monitoring plan shall include the following performance standards:
 - i. Preparation of as-built drawings after installation of the mitigation plantings;
 - ii. Annual monitoring reports for 5 years that include written and photographic documentation on tree and shrub mortality, subject to the following success criteria:
 - 1. One-hundred (100) percent survival of all planted native trees and shrubs during the first two (2) years after planting; and
 - 2. One hundred (100) percent survival of trees and eighty (80) percent survival of remaining native plants in years three (3) through five (5).
 - iii. Woody debris existing on-site or contributed to the site as part of the mitigation efforts shall not be removed.
8. The following requirements apply to all overwater structures, including those located within a marina.
- a. Wood treated with toxic compounds shall not be used for decking, pilings or other in-water components.
 - b. Tires shall not be used on moorage facilities, even for fenders.
 - c. Foam material should be encapsulated so it cannot break up and be released into water.
 - d. New or reconfigured structures shall be sited to avoid impacts to forage fish habitat.
 - e. Where feasible, overwater structures should be located at least 8 meters (27 feet) from native aquatic vegetation or the distance that the structure will cast shade, whichever is greater. Otherwise, standard mitigation sequencing and no net loss applies.
 - f. Where feasible, new activities and structures shall avoid existing native vegetation attached to or rooted in the substrate.
 - g. Floating or suspended watercraft lifts should be more than 9 feet waterward of the OHWM.
 - h. Where liveboards are allowed, pump out facilities shall be available.

9. Repair and Replacement of Existing Pier or Dock
 - a. Repair of an existing dock or pier that replaces only decking or decking substructure and less than 50% of existing pilings shall be considered minor repair and permitted consistent with all other applicable codes and regulations, including best management practices and mitigation sequencing under this SMP. If cumulative minor repairs of an existing pier or dock over three year exceed the threshold described above, the repair proposal shall be reviewed as a replacement.
 - b. Repair of an existing dock that exceeds the threshold established in 5.C.4.c.6.a above shall be considered a replacement. Replacement docks and piers shall be required to meet all dimensional, design, and mitigation standards associated with a new pier or dock.
10. Boat Lifts, Covered Moorage and Boat Canopies.
 - a. Covered moorage with a solid roof and structural elements is not permitted outside of marinas and water-dependent commercial, industrial or port facilities in the Maritime shoreline environment.
 - b. Boat lifts and boat lift canopies are permitted where allowed in Section 5.B, Table III.
 - c. Boat lift canopies shall be made of translucent material.
11. Mooring Balls and Buoys. Mooring balls and buoys shall be permitted subject to the following standards.
 - a. Land based retrieval lines from mooring balls and buoys shall be prohibited.
 - b. Mooring balls and buoys shall be located no closer than 100 feet from navigation channels, another mooring ball or buoy, overwater structure or other fixed navigational obstruction, unless there is a written agreement allowing for the encroachment with the parties affected, including the subtidal property owner.
 - c. Balls and buoys shall be marked with the responsible party or agency's name, address and telephone number.
 - d. Balls and buoys shall comply with the requirements of all applicable regulatory agencies (e.g. WAC 332-30-148).
 - e. Helical anchors or other designs that minimize the footprint on the seabed are to be used to the greatest extent practicable.
 - f. Mooring balls and buoys shall be located, designed, constructed and operated so as to minimize impacts to shoreline resources and unnecessary interference with the right of adjacent property owners and adjacent shoreline and water uses. To this end, applications for buoys shall demonstrate conformance with the following criteria. The proposal:
 - i. Is located with regard to favorable conditions related to wind, current and bathymetrics.

- ii. Complies with all federal, state, regional and local requirements regarding water quality including, but not limited to, Department of Health Standards and environmental policies and regulations contained in this SMP.
- iii. Does not significantly interfere with navigation.
- iv. Demonstrates that the ball or buoy system proposed is adequate to withstand the maximum expected physical stress that the environment and moored craft will place on the buoy.
- v. Demonstrates compliance with mitigation sequencing techniques. When impacts cannot be avoided, impacts must be mitigated to assure no net loss of economical function necessary to sustain shoreline resources.

5. Boat Launches (Including Boat Ramps and Rails)

a. Applicability

Boat launches are slabs, pads, planks, rails, cranes or graded slopes used for launching boats by means of a trailer, hand or mechanical device.

b. Policies

1. Maintain, improve, and where appropriate, expand, boat launch capacity for future Port, commercial and recreational uses.
2. Install, maintain and rebuild boat launches in such a manner as to minimize adverse impacts on natural and physical shoreline resources.

c. Regulations

1. Boat launches shall be limited to public or water-dependent commercial, industrial and port facilities in those locations where they are allowed pursuant to Section 5.B, Table III.
2. Boat launches shall be subject to the requirements contained in Section 4.D.3, Boating Facilities.

6. Shoreline Restoration and Ecological Enhancement

a. Applicability

Shoreline habitat and natural systems enhancement and restoration projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines.

b. Policies

1. Restoration and enhancement of shorelines should be designed using principles of landscape and conservation ecology and should restore or enhance chemical, physical, and biological watershed processes that create and sustain shoreline habitat structures and functions.
2. Restoration and enhancement actions should improve shoreline ecological functions and processes and should target meeting the needs of sensitive plant, fish and wildlife species as identified by Washington Department of Fish and Wildlife, Washington Department of Natural Resources, National Marine Fisheries Service and/or U.S. Fish and Wildlife Service.
3. The City should, and private entities are encouraged to, seek funding from State, Federal, private and other sources to implement restoration, enhancement, and acquisition projects, particularly those that are identified in the Restoration Plan of this SMP.
4. The City should develop processing guidelines that will streamline the review of restoration-only projects.
5. Allow for the use of tax incentive programs, mitigation banking, grants, land swaps, or other programs, as they are developed, to encourage restoration and enhancement of shoreline ecological functions and to protect habitat for fish, wildlife and plants.

c. Regulations

1. Purpose - Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines.
2. Covered Activities – The following actions are allowed under this section, provided they first meet the purpose stated in 5.C.5.c.1 above:
 - a. Establishment or enhancement of native vegetation.
 - b. Removal of non-native or invasive plants upland of the OHWM, including only those identified as noxious weeds on Island County’s published Noxious Weed List, unless otherwise authorized by the City.
 - c. Conversion of hard structural shoreline stabilization to soft shoreline stabilization, including associated clearing, dredging and filling necessary to implement the conversion, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline.
 - d. Implementation of any project or activity identified in the City’s Restoration Plan.

7. Breakwaters, Jetties, and Groins

a. Applicability

Breakwaters, jetties, and groins are generally intended to protect harbors, moorages and navigation activity from wave and wind action by creating stillwater areas along shore. A secondary purpose is to protect shorelines from wave-caused erosion.

b. Policies

1. Breakwaters, jetties and groins should only be permitted where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose and where protection from strong wave action is essential. Breakwaters, jetties, and groins should not be permitted unless the applicant can demonstrate that construction would result in a long-term public benefit that outweighs adverse impacts on natural shoreline processes.
2. Breakwaters, jetties and groins should be located and designed to achieve no net loss of ecological functions.
3. Floating breakwaters should be preferred over rigid breakwaters.

c. Regulations

1. Breakwaters, jetties, and groins may only be permitted where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose. Except for those structures installed to protect or restore ecological functions, breakwaters, jetties, and groins must obtain a Shoreline Conditional Use Permit in those environments where they are allowed.
2. Design and construction of breakwater, jetties, and groins shall address impacts to ecological functions and critical areas. Mitigation sequencing and appropriate mitigation measures shall be required.
3. Design Standards.
 - a. All breakwaters, jetties or groins must be designed and constructed under the supervision of a civil engineer or a similarly qualified professional. As part of the application, the engineer or the other professional designing the breakwater, jetty or groin must certify that it is the smallest feasible structure to meet the requirements of this Chapter and accomplish its purpose and that the design will result in the minimum feasible adverse impacts upon the environment, nearby waterfront properties and navigation.
 - b. Breakwaters shall be designed and constructed to minimize alterations to the movement of sand, circulation of water, and biological resources
 - c. Applications for construction of rigid breakwaters must demonstrate that installation of a floating breakwater or open-pile design would either not be feasible at the proposed location or would not provide adequate protection from wave action.
 - d. Breakwater designs shall minimize alterations to sand and gravel transport along the shoreline, unless such impediment can be demonstrated to be beneficial.

Chapter 6: **ADMINISTRATION**

A. Purpose and Applicability

This Chapter establishes an administrative system assigning responsibilities for implementation of the Master Program and shoreline permit review, prescribing an orderly process by which to review proposals and permit applications, and ensuring that all persons affected by this Master Program are treated in a fair and equitable manner. All proposed shoreline uses and development, including those that do not require a shoreline permit, must conform to the Shoreline Management Act and to the policies and regulations of this SMP. Where inconsistencies or conflicts with other sections of the Oak Harbor Municipal Code occur, this section shall prevail.

B. Shoreline Administrator

1. The City's Development Services Director, or designee, is hereby vested with:
 - a. Overall responsibility for administering the Shoreline Management Act and this Master Program;
 - b. Authority to approve, approve with conditions, or deny shoreline permit decisions in accordance with the policies and provisions of this Master Program; and
 - c. Authority to grant statements of exemption from shoreline substantial development permits in accordance with the policies and provisions of this Master Program.
2. The duties and responsibilities of the Shoreline Administrator shall include:
 - a. Preparing and using forms deemed essential for the administration of this Master Program.
 - b. Advising interested citizens and applicants of the goals, policies, regulations, and procedures of this Master Program.
 - c. Making administrative decisions and interpretations of the policies and regulations of this Master Program and the Shoreline Management Act.
 - d. Collecting applicable fees, as established by the City in OHMC 3.63 and 3.64.
 - e. Determining that all applications and necessary information and materials are provided.
 - f. Conducting field inspections, as necessary.
 - g. Reviewing, insofar as possible, all provided and related information deemed necessary for review of shoreline master program decisions.
 - h. Determining if a shoreline substantial development permit, conditional use permit or variance permit is required.
 - i. Providing copies of permit applications to relevant staff and agencies for review and comment.
 - j. Conducting a thorough review and analysis of shoreline exemption, substantial development and conditional use permit applications; reviewing other staff and agency comments; making

written findings and conclusions; and approving, approving with conditions, or denying such exemptions and permits.

- k. Submitting shoreline variance permit applications, and when determined to be appropriate, substantial development and conditional use permit applications, and written recommendations and findings on such permits to the City's Hearing Examiner for consideration and action.
- l. Investigating, developing, and proposing amendments to this Master Program as deemed necessary to more effectively and equitably achieve its goals and policies.
- m. Submitting shoreline master program amendment applications and written recommendations and findings on such permits to the Hearing Examiner for recommendation to the City Council.
- n. Assuring that proper notice is given to appropriate persons and the public for all permit comment periods and hearings, consistent with WAC 173-27-110.
- o. Providing technical and administrative assistance to the City's Hearing Examiner and City Council as required for effective and equitable implementation of this program and the Act.
- p. Enforcing and seeking remedies for alleged violations of this program, the provisions of the Act and this Master Program or of conditions of any approved shoreline permit issued by the City of Oak Harbor. The Shoreline Administrator may delegate these enforcement duties to a designated representative.
- q. Acting as the primary liaison between local and state agencies in the administration of the Shoreline Management Act and this Master Program.
- r. Forwarding shoreline permits to the Department of Ecology for filing or action.

C. Review Criteria for All Development

- 1. No authorization to undertake use of or development on shorelines of the state shall be granted by the City unless, upon review, the use or development is determined to be consistent with the policies and provisions of the Shoreline Management Act and this Master Program.
- 2. No permit shall be issued for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same, and then only when overriding considerations of the public interest will be served.

D. Permit Application Requirements

A complete application for a substantial development, conditional use, or variance permit shall contain, as a minimum, the following information:

- 1. The name, address and phone number of the applicant. The applicant should be the owner of the property or the primary proponent of the project, and not the representative of the owner or representative of the primary proponent.

2. The name, address and phone number of the applicant's representative if other than the applicant.
3. The name, address and phone number of the property owner, if other than the applicant.
4. Location of the property. This shall, at a minimum, include the property address and identification of the section, township and range to the nearest quarter, quarter section or latitude and longitude to the nearest minute. All applications for projects located in open water areas away from land shall provide a longitude and latitude location.
5. A general description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project.
6. A general description of the property as it now exists including its physical characteristics and improvements and structures.
7. A general description of the vicinity of the proposed project including identification of the adjacent uses, structures and improvements, intensity of development and physical characteristics.
8. A site development plan consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information, photographs and text which shall include:
 - a. The boundary of the parcel(s) of land upon which the development is proposed.
 - b. The ordinary high water mark of all water bodies located adjacent to or within the boundary of the project. This may be an approximate location, provided that, for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark, the mark shall be located precisely, and the biological and hydrological basis for the location as indicated on the plans shall be included in the development plan. Where the ordinary high water mark is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline.
 - c. Existing and proposed land contours. The contours shall be at intervals sufficient to accurately determine the existing character of the property and the extent of proposed change to the land that is necessary for the development. Areas within the boundary that will not be altered by the development may be indicated as such and contours approximated for that area.
 - d. A delineation of all wetland areas that will be altered or used as a part of the development.
 - e. A general indication of the character of vegetation found on the site.
 - f. The dimensions and locations of all existing and proposed structures and improvements including but not limited to; buildings, paved or graveled areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities.
 - g. Where applicable, a landscaping plan for the project consistent with the requirements of OHMC 19.46.100 and this SMP.
 - h. Where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project shall be included and contain information consistent with the requirements of this section.

- i. Quantity, source and composition of any fill material that is placed on the site whether temporary or permanent.
- j. Quantity, composition and destination of any excavated or dredged material.
- k. A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments and uses on adjacent properties.
- l. Where applicable under Chapter 3, Section B.6.c.21, a depiction of the impacts to views from existing residential uses and public areas.
- m. On all variance applications the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.

E. Permit Process

1. Applicants shall apply for shoreline substantial development, variance, and conditional use permits on forms provided by the City.
2. Shoreline substantial development and conditional use permits are a Review Process II application and shall be processed and subject to the applicable regulations of Chapter 18.20.240 OHMC. Shoreline variances are classified as Review Process III applications and shall be subject to the requirements of Chapter 18.20.250 OHMC. The Shoreline Administrator may refer a substantial development permit or conditional use application to the Hearing Examiner for a public hearing and decision, when requested by the Applicant or when the Shoreline Administrator determines that such action is prudent based on the significance of public comments received, or based on the scale and/or scope of the proposal.
3. Public notice. A notice of application shall be issued for all shoreline permit applications as provided for in Chapter 18.20.370 OHMC, which is consistent with WAC 173-27-110. The public comment period for the notice of application for a shoreline permit shall be not less than thirty (30) days, per WAC 173-27-1 10(2)(e).
4. Application review. The Shoreline Administrator shall make decisions on applications for substantial development permits, and recommendations on applications for conditional use and variance permits based upon: (1) the policies and procedures of the Shoreline Management Act and related sections of the Washington Administrative Code; and (2) this SMP.
5. Hearing Examiner action. The Hearing Examiner shall review an application for a shoreline variance and shoreline conditional use permit and make decisions based upon: (1) this SMP; (2) the policies and procedures of the Shoreline Management Act and related sections of the Washington Administrative Code; (3) written and oral comments from interested persons, and (4) reports from the Shoreline Administrator.
6. Filing with Department of Ecology. All applications for a permit or permit revision shall be submitted to the Department of Ecology, as required by WAC 173-27-130 or as subsequently amended.

7. After City approval of a Conditional Use or Shoreline Variance permit, the City shall submit the permit to the Department of Ecology for the Department's approval, approval with conditions, or denial, as provided in WAC 173-27-200. The Department shall transmit its final decision to the City and the applicant within thirty (30) calendar days of the date of submittal by the City.
8. Hold on Construction. Each permit issued by the City shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one (21) days from the date of filing with the Department of Ecology, per WAC 173-27-190 or as subsequently amended. "Date of filing" of the City's final decision on substantial development permits differs from date of filing for a Conditional Use permit or variance. In the case of a substantial development permit, the date of filing is the date the City transmits its decision on the permit to the Department of Ecology. In the case of a variance or Conditional Use permit, the "date of filing" means the date the Department of Ecology's final order on the permit is transmitted to the City.
9. Duration of permits. Construction, or the use or activity, shall commence within two (2) years after approval of the permits. Authorization to conduct development activities shall terminate within five (5) years after the effective date of a shoreline permit. The Shoreline Administrator may authorize a single extension before the end of either of these time periods, with prior notice to parties of record and the Department of Ecology, for up to one (1) year based on reasonable factors.
10. Compliance with permit conditions. When permit approval includes conditions, such conditions shall be satisfied prior to occupancy or use of a structure or prior to commencement of a nonstructural activity.
11. The application of this Program should be consistent with constitutional and other legal limitations on the regulation of private property. The Shoreline Administrator should give adequate consideration to setback averaging, mitigation measures, variances, and other flexibility allowed within the program to prevent undue or unreasonable hardships upon property owners.

F. Substantial Development Permits and Exemptions

1. Permits Required.
 - a. A development, use, or activity shall not be undertaken within the jurisdiction of the SMA, Chapter 90.58 RCW, and this shoreline Master Program unless it is consistent with the policy and procedures of the SMA, applicable state regulations and this shoreline Master Program.
 - b. A substantial development shall not be undertaken within the jurisdiction of the SMA, Chapter 90.58 RCW, and this Shoreline Master Program unless a shoreline substantial development permit has been obtained and the appeal period has been completed and any appeals have been resolved and/or the applicant has been given permission to proceed by the proper authority.
 - c. Any person wishing to undertake substantial development or exempt development on shorelines shall apply to the Shoreline Administrator for an appropriate shoreline permit or statement of exemption.
 - d. If a development, use or activity is listed as a conditional use by the shoreline master program, it shall not be undertaken within shoreline jurisdiction unless a shoreline conditional use permit has

- been obtained, the appeal period has been completed, any appeals have been resolved, and/or the applicant has been given permission to proceed by the proper authority.
- e. If a development, use or activity cannot comply with the regulations of the master program, a shoreline variance must be obtained before commencement of development or construction, the beginning the use or activity.
2. Determination of Exemption. The following guidelines shall supplement Regulation 3 below when determining whether or not a development proposal is exempt from the substantial shoreline development permit.
 - a. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the substantial development permit process.
 - b. An exemption from the substantial development permit process is not an exemption from compliance with the Shoreline Management Act or this Shoreline Master Program, or from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of this Shoreline Master Program and the Shoreline Management Act. A development or use that is listed as a conditional use pursuant to this Shoreline Master Program or is an unlisted use, must obtain a conditional use permit (see Section G below) even though the development or use does not require a substantial development permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of this Shoreline Master Program, such development or use can only be authorized by approval of a variance (see Section F below).
 - c. The burden of proof that a development or use is exempt from the permit process is on the applicant.
 - d. If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire proposed development project.
 - e. The City's Shoreline Administrator may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the Shoreline Management Act and this Shoreline Master Program.
 3. List of Exemptions. The following list outlines common exemptions that shall not be considered substantial developments for the purpose of this Master Program. This list of exceptions is further articulated and supplemented by provisions of WAC 173-27-040, as amended.
 - a. Any development of which the total cost or fair market value, whichever is higher, is below the threshold established by the Shoreline Management Act and any amendments to the Act, if such development does not materially interfere with the normal public use of the water or shoreline. The Substantial Development dollar threshold on the adoption date of this Shoreline Master Program is \$6,416. Under current law, the dollar threshold will be recalculated every five (5) years by the Office of Financial Management (OFM). OFM will post updated dollar thresholds in the Washington State Register. See RCW 90.58.030(3)(e). The Legislature may change the dollar threshold at any time.

- b. Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements. "Normal maintenance" shall be defined by the Act.
- c. Construction of a normal protective bulkhead common to single family residences; provided that such bulkheads are located at or near, and parallel to the ordinary high water mark for the sole purpose of protecting an existing single family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land.
- d. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with the Act or this Master Program. Emergency construction does not include development of new permanent protective structures where none previously existed.
- e. Construction or modification of navigational aids such as channel markers and anchor buoys.
- f. Construction by an owner, lessee, or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five (35) feet above average grade level and meets all requirements of the City of Oak Harbor and State agency(s) with jurisdiction. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. Normal appurtenances include a garage, deck, driveway, utilities, fences, installation of a septic tank and drainfield, and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill waterward of the ordinary high water mark or in any wetland. Construction authorized under this exemption shall be located landward of the ordinary high water mark and shall be subject to required setbacks.
- g. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exemption applies if the fair market value of the dock does not exceed the threshold established by the Shoreline Management Act, as amended.
- h. The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with the normal public use of the surface waters;
- i. Any project with certification from the Governor pursuant to Chapter 80.50 RCW.
- j. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under WAC 173-27-040(2)(m).
- k. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020.
- l. Watershed restoration projects as defined in WAC 173-27-040(2)(o).

- m. A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the conditions identified in WAC 173-27-040(2)(p) apply.
- 4. Whenever a development falls within the exemption criteria outlined above and the development is subject to a U.S. Army Corps of Engineers Section 10 or Section 404 Permit, the City's Shoreline Administrator shall prepare a Statement of Exemption per the requirements of WAC 173-27-050 and transmit a copy to both the applicant and the Washington State Department of Ecology. Exempt development as defined herein shall not require a substantial development permit, but may require a conditional use permit, variance and/or a Statement of Exemption.
- 5. Before determining that a proposal is exempt, the City's Shoreline Administrator may conduct a site inspection to ensure that the proposal meets the exemption criteria. The exemption granted may be conditioned to ensure that the activity is consistent with the Master Program and the Shoreline Management Act.

G. Variances

1. Purpose

The purpose of a variance is strictly limited to granting relief to specific bulk dimensional, or performance standards set forth in the Master Program, and where there are extraordinary or unique circumstances relating to the property such that the strict implementation of the Master Program would impose unnecessary hardships on the applicant or thwart the SMA policies as stated in RCW 90.58.020.

Construction pursuant to this permit shall not begin nor can construction be authorized except as provided in RCW 90.58.020. In all instances, extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

2. Shoreline Variance Application

An application for a Shoreline variance shall be submitted on a form provided by the City accompanied by maps, completed environmental checklist, applicable fees, and any other information specified in this Master Program or requested by the Shoreline Administrator. An applicant for a substantial development permit who wishes to request a variance shall submit the variance application and the substantial development permit application simultaneously.

3. Shoreline Variance Criteria

- a. Variances for development that will be located landward of the ordinary high water mark and landward of any wetland may be authorized provided the applicant can demonstrate consistency with the following variance criteria as listed in WAC 173-27-170:
 - i. That the strict application of the bulk, dimensional, or performance standards set forth in the Master Program precludes, or significantly interferes with, reasonable use of the property.

- ii. That the hardship described above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the Master Program and not, for example, from deed restrictions or the applicant's own actions.
 - iii. That the design of the project is compatible with other permitted activities within the area and with uses planned for the area under the Comprehensive Plan and Master Program and will not cause adverse impacts to the shoreline environment.
 - iv. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area.
 - v. That the variance requested is the minimum necessary to afford relief.
 - vi. That the public interest will suffer no substantial detrimental effect.
- b. Variances for a development and/or uses that will be located waterward of the ordinary high water mark or within any wetland may be authorized provided the applicant can demonstrate all of the following:
- i. That the strict application of the bulk, dimensional, or performance standards set forth in the Master Program precludes all reasonable use of the property.
 - ii. That the proposal is consistent with the criteria established under subsection Chapter 6, subsection G.3.a.i through G.3.a.vi above.
 - iii. That the public rights of navigation and use of the shorelines will not be adversely affected.
- c. In the granting of all variances, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.
- d. Variances from the use regulations of the Master Program are prohibited.

H. Conditional Use Permit

1. Purpose. The purpose of a conditional use permit is to provide a system within the Master Program which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by the City of Oak Harbor or the Department of Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Act and the Master Program. Uses that are specifically prohibited by this Master Program may not be authorized with the approval of a conditional use permit.
2. Conditional Use Permit Criteria. Uses which are classified or set forth as conditional uses in the Master Program may be authorized, provided the applicant demonstrate all of the following conditional use criteria as listed in WAC 173-27-160:

- a. That the proposed use is consistent with the policies of RCW 90.58.020 and the Master Program;
 - b. That the proposed use will not interfere with the normal public use of public shorelines;
 - c. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and this Master Program;
 - d. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
 - e. That the public interest suffers no substantial detrimental effect.
3. In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.
 4. Other uses which are not classified or set forth in this Master Program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the Master Program.
 5. Uses which are specifically prohibited by the Master Program may not be authorized.

I. Time Requirements of Permit

1. The time requirements of this section shall apply to all substantial development permits and to any development authorized pursuant to a variance or conditional use permit authorized by this chapter. Upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of the master program and this chapter, local government may adopt different time limits from those set forth in subsections (2) and (3) of this section as a part of action on a substantial development permit.
2. Construction activities shall be commenced or, where no construction activities are involved, the use or activity shall be commenced within two years of the effective date of a substantial development permit. However, local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record on the substantial development permit and to the department.
3. Authorization to conduct development activities shall terminate five years after the effective date of a substantial development permit. However, local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and to the department.
4. The effective date of a substantial development permit shall be the date of filing as provided in RCW 90.58.140(6). The permit time periods in RCW 90.58.140 subsections (B) and (C) do not include the

time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals.

5. Revisions to permits may be authorized after original permit authorization has expired, provided that the requested revisions meet all the criteria set forth in WAC 173-27-100. This procedure shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.
6. Local government shall notify the department in writing of any change to the effective date of a permit, as authorized by this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by RCW 90.58.143 as amended and as described above shall require a new permit application,

J. Nonconforming Development

"Nonconforming use or development" means a shoreline use or development which was lawfully constructed or established prior to the effective date of the Act or this Master Program, or amendments thereto, but which does not conform to present regulations or standards of this Master Program. In such cases, the following standards shall apply:

1. Structures that were legally established and are used for a conforming use, but which are nonconforming with regard to setbacks, buffers, area, bulk, height or density may be maintained and repaired and may be enlarged or expanded provided that said enlargement does not increase the extent of nonconformity by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses;
2. Uses that were legally established and are nonconforming with regard to the use regulations of the Master Program may continue as legal nonconforming uses. Such uses shall be allowed to expand once to occupy up to an additional fifty (50) percent of the existing floor area occupied by the nonconforming use. Beyond this one-time expansion, minor expansions of up to five (5) percent of the existing floor area may be permitted once per calendar year. In no case shall a non-conforming use be allowed to expand to occupy additional parcels or additional lot area created by boundary line adjustment or lot combination, nor shall a non-conforming use be allowed to expand into an adopted shoreline setback area. In the event that the non-conforming use is located completely or partially within an adopted shoreline setback area, future expansion may not occur waterward of the existing primary structure.
3. A use which is listed as a conditional use, but which existed prior to adoption of the Master Program or any relevant amendment and for which a conditional use permit has not been obtained, shall be considered a nonconforming use. A use which is listed as a conditional use, but which existed prior to the applicability of the Master Program to the site and for which a conditional use permit has not been obtained, shall be considered a nonconforming use.
4. A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.

5. A structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit. A conditional use permit may be approved only upon a finding that:
 - a. No reasonable alternative conforming use is practical; and
 - b. The proposed use will be at least as consistent with the policies and provisions of the act and the master program and as compatible with the uses in the area as the preexisting use.
 - c. In addition such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the Master Program and the Shoreline Management Act and to assure that the use will not become a nuisance or a hazard.
6. A nonconforming structure which is moved horizontally must be brought into conformance with the Master Program and the Act.
7. Modification or addition to a nonconforming structure shall not increase the building footprint lying within the above described setback area.
8. If a nonconforming structure is modified and the cost of the proposed development exceeds sixty (60) percent of the market value as determined by the Island County Assessor, it shall be required to meet all applicable standards in the SMP.
9. If a nonconforming structure other than a single family home is damaged to an extent not exceeding seventy five (75) percent of its real valuation exclusive of foundations, it may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, provided that application is made for the permits necessary to restore the structure within six months of the date the damage occurred, all permits are obtained, and the restoration is completed within two years of permit issuance.
10. Single family homes that are damaged may be reconstructed to those configurations, including height, setback, and footprint, existing immediately prior to the time the structure was damaged, regardless of the extent of damage, provided that application is made for the permits necessary to restore the structure within six months of the date the damage occurred, all permits are obtained, and the restoration is completed within two years of permit issuance.
11. A nonconforming use that is discontinued for a period of twelve (12) continuous months shall not be allowed to be re-established as a nonconforming use.
12. An undeveloped lot, tract, parcel, site, or division of land located landward of the ordinary high water mark which was established prior to the effective date of the Act or the Master Program, but which does not conform to the present lot size standards, may be developed if permitted by other land use regulations of the local government and so long as such development conforms to all other requirements of the Master Program and the Act.

K. Appeals

Any person aggrieved by the granting or denying of a substantial development permit, variance, or conditional use permit, the upholding of an exemption appeal, or by the rescinding of a permit pursuant to

the provisions of this Master Program, may seek review from the State of Washington Shorelines Hearing Board by filing a request for the same within twenty-one (21) days of receipt of the final order and by concurrently filing copies of such request with the Department of Ecology and the Attorney General's office. State Hearings Board regulations are provided in RCW 90.58.180 and Chapter 461-08 WAC. A copy of such appeal notice shall also be filed with the City of Oak Harbor City Clerk.

L. Enforcement and Penalties

All provisions of this Master Program shall be enforced by the Shoreline Administrator and/or a designated representative. The enforcement procedures and penalties contained in WAC Chapter 173-27 and RCW Chapter 90.58 are hereby incorporated by reference.

M. Master Program Review

1. This Master Program shall be periodically reviewed and amendments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in State statutes and regulations.
2. The City's established permit tracking system, aerial photographs, review of other available data, and field observations as feasible shall be used to periodically evaluate the effectiveness of the Shoreline Master Program in achieving no net loss of shoreline ecological functions with respect to both permitting and exemptions.
3. As part of the required SMP update, an evaluation report assessing the effectiveness of the SMP in achieving no net loss shall be prepared and considered in determining whether policies and regulations are adequate in achieving this requirement.
4. The SMP review and update process shall be consistent with the requirements of WAC 173-26 or its successor and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

N. Amendments to the Master Program

1. Any of the provisions of this Master Program may be amended as provided for in RCW 90.58.120 and .200 and Chapter 173-26 WAC. Any amendments shall also be subject to the procedures in OHMC 19.85.
2. Amendments or revisions to the Master Program, as provided by law, do not become effective until approved by the Department of Ecology.

O. Severability

If any provisions of this Master Program, or its application to any person or legal entity or parcel of land or circumstance, are held invalid, the remainder of the Master Program, or the application of the provisions to other persons or legal entities or parcels of land or circumstances, shall not be affected.

P. Conflict of Provisions

Should a conflict occur between the provisions of this SMP or between this SMP and the laws, regulations, codes or rules promulgated by any other authority having jurisdiction within the City, the requirement that most supports the purposes and provisions of the Shoreline Management Act, as detailed in RCW 90.58.020 shall apply, as determined by the City, except when constrained by federal or state law.

Chapter 7: DEFINITIONS

Accepted arboricultural standards - Those pruning standards approved in the publication “Pruning Standards” published by the International Society of Arboriculture, as the same now exists and may be revised from time to time.

Accessory use or accessory structure - A use incidental and subordinate to the principal use and located on the same lot or in the same building as the principal use.

Act - The Shoreline Management Act (Chapter 90.58 RCW and WAC Chapter 173-27).

Shoreline Administrator - The City Planning and Community Development Director or his/her designee, charged with the responsibility of administering the shoreline master program.

Agriculture - The cultivation of the soil, production of crops, and/or raising of livestock, including incidental preparation of these products for human use. Agriculture means agricultural uses, practices and activities. In all cases, the use of agriculture related terms shall be consistent with the specific meanings provided in WAC 173-26-020.

Agriculture, Accessory – The cultivation of soil or production of crops in a manner incidental and subordinate to the principal use of the property. Examples include private residential gardens, community gardens, and or pea patches associated with a public park.

Alteration - Any human-induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to, grading, filling, channelizing, dredging, clearing (vegetation), construction, compaction, excavation, or any other activity that changes the character of the critical area.

Anadromous fish - Fish that spawn and rear in freshwater and mature in the marine environment.

Applicant - A person who files an application for a permit and who is either the owner of the land on which that proposed activity would be located, a contract purchaser, or the authorized agent of such a person.

Appurtenance - A structure or development which is necessarily connected to the use and enjoyment of a single family residence and is located landward of the ordinary high water mark and also of the perimeter of any wetland. (On a statewide basis, normal appurtenances include a garage, deck, driveway, utilities, fences, installation of a septic tank and drainfield, and grading which does not exceed two hundred fifty cubic yards (250) [except to construct a conventional drainfield] and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark) (see WAC 173-27-040(2)(g)).

Aquaculture – The culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state-managed wildstock geoduck fishery.

Aquifer - A geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

Aquifer recharge areas - Areas that, due to the presence of certain soils, geology, and surface water, act to recharge ground water by percolation.

Archaeological - Having to do with the scientific study of material remains of past human life and activities.

Archaeological Object – means an object that comprises the physical evidence of an indigenous and subsequent culture including material remains of past human life including monuments, symbols, tools, facilities, graves, skeletal remains and technological by-products.

Archaeological Resource/Site – means a geographic locality in Washington, including, but not limited to, submerged and submersible lands and the bed of the sea within the state’s jurisdiction, that contains archaeological objects.

Archaeology – means systematic, scientific study of the human past through material remains.

Area of known historic/archaeological resources – that area lying within 500 feet of an historic or prehistoric property or location identified by the Washington State Department of Archaeology and Historic Preservation’s GIS layer of archaeological historic sites (City of Oak Harbor Data sharing MOU 2010-44)

Associated Wetlands - Those wetlands that are in proximity to and either influence, or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act. Refer to RCW 90.58.030.

Average grade level - The average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure; provided that in case of structures to be built over water, average grade level shall be the elevation of ordinary high water. Calculation of the average grade level shall be made by averaging the elevations at the center of all exterior walls of the proposed building or structure (WAC 173-27-030(3)).

Baseline - The existing shoreline condition, in terms of both ecological function and shoreline use, established at the time this Shoreline Master Program is approved.

BMPs - see Best Management Practices.

Beach - The zone of unconsolidated material that is moved by waves, wind and tidal currents, extending landward to the coastline.

Beach enhancement/restoration - Process of restoring a beach to a state more closely resembling a natural beach, using beach feeding, vegetation, drift sills and other nonintrusive means as applicable.

Beach feeding - "Beach feeding" means landfill deposited on land or in the water to be distributed by natural water processes for the purpose of supplementing beach material.

Benthic organism - Organisms that live in or on the bottom of a body of water.

Berm - An earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise.

Best Available Science - “Best available science” means current scientific information used in the process to designate, protect, or restore critical areas, that is derived from a valid scientific process as defined by WAC 365-195-900 through 365-195-925. Examples of best available science are included in “Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas,” published by the Washington State Department of Commerce.

Best Management Practices (BMPs) - “Best management practices (BMPs)” means conservation practices or systems of practices and management measures that:

- a. Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, or sediment;
- b. Minimize adverse impacts to surface water and ground water flow and circulation patterns and to the chemical, physical, and biological characteristics of wetlands;
- c. Protect trees, vegetation and soils designated to be retained during and following site construction and use native plant species appropriate to the site for revegetation of disturbed areas; and

Provide standards for proper use of chemical herbicides within critical areas. **Bioengineering** - see Soil bioengineering

Biofiltration system - A stormwater or other drainage treatment system that utilizes as a primary feature the ability of plant life to screen out and metabolize sediment and pollutants. Typically, biofiltration systems are designed to include grassy swales, retention ponds and other vegetative features.

Biota - The animals and plants that live in a particular location or region.

Boat launch or ramp - Graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device.

Boat lift - A mechanical device that can hoist vessels out of the water for storage. These devices are usually located along a pier.

Boat lift canopy - A translucent canopy or awning that is attached to the boat lift and shield the boat from sun and precipitation.

Boat rail or railway - A set of steel rails running from the upland area into the water upon which a cart or dolly can carry a boat to be launched.

Boathouse - A structure designed for storage of vessels located over water or on shorelands. Boathouses should not be confused with "houseboats".

Boating Facility - A public moorage structure (including marinas) or a private moorage structure serving more than four residences.

Bog - A low nutrient, acidic wetland with organic soils, which is sensitive to disturbance and impossible to re-create through compensatory mitigation.

Breakwater - An off-shore structure generally built parallel to the shore that may or may not be connected to land. Its primary purpose is to protect a harbor, moorage, or navigational activity from wave and wind action by creating a still-water area along the shore. A secondary purpose is to protect the shoreline from wave-caused erosion.

Buffer - An area that is contiguous to and protects a critical area, which is required for the continued maintenance, functioning, and/or structural stability of a critical area.

Bulkhead - means a vertical or nearly vertical erosion protection structure placed parallel to the shoreline at or near the Ordinary High Water Mark, consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

CERCLA - Comprehensive Environmental Response, Compensation, and Liability Act ("Superfund"); 1986 amendments are known as Superfund Amendments and Reauthorization Act or SARA.

CFR - Code of Federal Regulations.

Clearing - The destruction or removal of vegetation ground cover, shrubs and trees including, but not limited to, root material removal and/or topsoil removal.

Commercial use - An activity with goods, merchandise or services for sale or involving a rental fee.

Comprehensive Plan - Comprehensive plan means the document, including maps adopted by the city council that outlines the City's goals and policies relating to management of growth, and prepared in accordance with RCW 36.70A. The term also includes adopted subarea plans prepared in accordance with RCW 36.70A.

Conditional Use - A use which, because of special requirements, unusual character, size or shape, infrequent occurrence or possible detrimental effect on surrounding property and for other similar reasons, may be allowed in certain zones only after review by the hearing examiner and the granting of a conditional use permit imposing such performance standards as will make the use compatible with other permitted uses in the same vicinity or zone. "Conditional use" shall also mean any use, development, or substantial development classified as a conditional use or is not classified within the applicable master program. Refer to WAC 173-27-030(4).

Conservation Easement - A legal agreement that the property owner enters into to restrict uses of the land. Such restrictions can include, but are not limited to, passive recreation uses such as trails or scientific uses and fences or other barriers to protect habitat. The easement is recorded on a property deed, runs with the land,

and is legally binding on all present and future owners of the property, therefore, providing permanent or long-term protection.

Covered moorage - Boat moorage, with or without solid walls, that has a solid roof to protect the vessel and is attached to the dock itself or the substrate of the water body.

Critical areas - Any of the following areas or ecosystems: critical aquifer recharge areas, fish and wildlife habitat conservation areas, geologically hazardous areas, and wetlands, as defined in Chapter 36.70A RCW and this title.

Cumulative Impact - The combined, incremental effects of human activity on ecological or critical areas functions and values. Cumulative impacts result when the effects of an action are added to or interact with the effects of other actions in a particular place and within a particular time. It is the combination of these effects, and any resulting environmental degradation, that should be the focus of cumulative impact analysis and changes to policies and permitting decisions.

Degrade - To scale down in desirability or salability, to impair in respect to some physical property or to reduce in structure or function.

Developable area - A site or portion of a site that may be utilized as the location of development, in accordance with the rules of this title.

Development - A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters of the state subject to Chapter 90.58 RCW at any state of water level (RCW 90.58.030(3d3a)).

Director - The director of the City of Oak Harbor department of development services, or other city staff granted the authority to act on behalf of the director.

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

Dredge spoil - The material removed by dredging. Same as Dredge Material.

Dredging - Excavation or displacement of the bottom or shoreline of a water body. Dredging can be accomplished with mechanical or hydraulic machines. Most dredging is done to maintain channel depths or berths for navigational purposes; other dredging is for cleanup of polluted sediments.

Drift cell – “Drift sector” or “littoral cell” means a particular reach of marine shore in which littoral drift may occur without significant interruption and which contains any natural sources of such drift and also accretion shore forms created by such drift. Refer to WAC 173-26-020.

Drip line - A line projected to the ground delineating the outermost extent of a tree's foliage in all directions.

Dwelling unit – A building or portion thereof providing complete housekeeping facilities for one family. The term “dwelling” does not include motel, tourist court, rooming house, or tourist home.

Ecological Functions - The work performed or the role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

Ecosystem-wide Processes - The suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

Ell – Terminal section of a pier which typically extends perpendicular to the pier walkway. These sections can be either on fixed-piles or floating docks and are typically wider than the pier walkway.

Emergency - An unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with the master program. Emergency construction is construed narrowly as that which is necessary to protect property from the elements (RCW 90.58.030(3eiii) and WAC 173-27-040(2d)).

Endangered Species Act (ESA) - A federal law intended to protect any fish or wildlife species that are threatened with extinction throughout all or a significant portion of its range.

Enhancement - Alteration of an existing resource to improve or increase its characteristics and processes without degrading other existing functions. Enhancements are to be distinguished from resource creation or restoration projects.

Erosion - The wearing away of land by the action of natural forces.

Excavation - Excavation is the artificial movement of earth materials.

Exemption - Certain specific developments are exempt from the definition of substantial developments and are therefore exempt from the substantial development permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the Act and the local master program. Conditional use and/or variance permits may also still be required even though the activity does not need a substantial development permit. Exemptions shall be construed narrowly. (WAC 172-27-040)

Fair market value - "Fair market value" of a development is the open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials (WAC 173-27-030(8)).

Feasible - "Feasible" means, for the purpose of this SMP, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

- (a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
 - (b) The action provides a reasonable likelihood of achieving its intended purpose; and
 - (c) The action does not physically preclude achieving the project's primary intended legal use.
- In cases where certain actions are required unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the City and State may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

Fill - the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetland, or on shorelands in a manner that raises the elevation or creates dry land.

Finger Pier - A narrow extension to a fixed-pile pier, usually extending perpendicular to the pier walkway along with an ell to form an enclosed area for boat moorage.

Float - A floating structure that is moored, anchored, or otherwise secured in the water offshore and that may be associated with a fixed-pile pier, or may be a standalone structure, such as platforms used for swimming and diving.

Floating Dock - A fixed structure floating upon a water body for the majority of its length and connected to shore.

Floating home - A structure designed and operated substantially as a permanently based over water residence. Floating homes are not vessels and lack adequate self-propulsion and steering equipment to operate as a vessel. They are typically served by permanent utilities and semi-permanent anchorage/moorage facilities.

Floodplain - Synonymous with 100-year floodplain. The land area susceptible to being inundated by stream derived waters with a 1 percent chance of being equaled or exceeded in any given year. The limits of this area are based on flood regulation ordinance maps or a reasonable method that meets the objectives of the SMA (WAC 173-26-020).

Floodway - The area, as identified in a master program, that either: (i) has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (ii) consists of those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the

floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

Forage fish - Small fish that consume plankton, which are consumed by other fish higher in the food chain, such as salmon.

Functions and values - The beneficial roles served by critical areas including, but not limited to, water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage, conveyance and attenuation; ground water recharge and discharge; erosion control; wave attenuation; protection from hazards; historical, archaeological, and aesthetic value protection; educational opportunities; and recreation.

Geotechnical Report or Geotechnical Analysis - A scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

Grading – The movement or distribution of the soil, sand, rock, gravel, sediment or other material on a site in a manner that alters the natural contour of the land.

Groin - A barrier-type structure extending from, and usually perpendicular to, the backshore into a water body. Its purpose is to protect a shoreline and adjacent upland by influencing the movement of water and/or deposition of materials. This is accomplished by building or preserving an accretion beach on its up drift side by trapping littoral drift. A groin is relatively narrow in width but varies greatly in length. A groin is sometimes built in a series as a system and may be permeable or impermeable, high or low, and fixed or adjustable.

Ground water - Water in a saturated zone or stratum beneath the surface of land or a surface water body.

Growth Management Act - Chapters 36.70A and 36.70B RCW, as amended.

Habitat - The place or type of site where a plant or animal naturally or normally lives and grows.

Habitat conservation areas - Areas designated as fish and wildlife habitat conservation areas.

Hazardous substances - Any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical, or biological properties described in WAC 173-303-090 or 173-303-100.

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

Height - The distance measured from the average grade level to the highest point of a structure: provided, that television antennas, chimneys and similar appurtenances shall not be used in calculating height, except where it obstructs the view of a substantial number of residences on areas adjoining such shorelines: provided further, that temporary construction equipment is excluded in this calculation (WAC 173-27-030(9)).

Helical anchor - An anchoring mechanism consisting of bearing plates arranged in a spiral pattern and welded to a central shaft and driven into the substrate to anchor a floating structure, such as a dock or mooring buoy.

Historic condition - A condition of the land, including flora, fauna, soil, topography, and hydrology, that existed before the area and vicinity were developed or altered by human activity.

Historic Preservation Professional – means those individuals who hold a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history, or a bachelor’s degree in architectural history, art history, historic preservation or closely related field plus one of the following:

- a. At least two years full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or
- b. Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

Historic Site – means those sites that are eligible or listed on the Washington Heritage Register, National Register of Historic Places or any locally developed historic registry formally adopted by the Oak Harbor City Council.

Houseboat - A vessel, principally used as an over water residence. Houseboats are licensed and designed for use as a mobile structure with detachable utilities or facilities, anchoring and the presence of adequate self-propulsion and steering equipment to operate as a vessel. Principal use as an overwater residence means occupancy in a single location, for a period exceeding two months in any one calendar year. This definition includes live aboard vessels.

HPA - Hydraulic Project Approval - The permit issued by the Washington State Departments of Fisheries or Wildlife pursuant to the State Hydraulic Code Chapter 75.20.100-140 RCW.

Impervious surface - A hard surface area that either prevents or retards the entry of water into the soil mantle, as under natural conditions prior to development, or that causes water to run off the surface in

greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater.

Infiltration - The downward entry of water into the immediate surface of soil.

In-kind compensation - Replacement of critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by a regulated activity.

Isolated wetlands - Those wetlands that are outside of and not contiguous to any 100-year floodplain of a lake, river, or stream and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water, including other wetlands.

Landfill - the creation of, or addition to, a dry upland area (landward of the OHWM) by the addition of rock, soil, gravels and earth or other material. Does not include solid or hazardous waste.

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

Landslide hazard areas - Areas that are potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors, including: bedrock, soil, slope gradient, slope aspect, geologic structure, ground water, or other factors.

Launching rail - See also Boat launch or ramp and Boat railway.

Launching ramp - See also Boat launch or ramp and Boat railway.

Low impact development – This term and its implementing term “to the maximum extent practicable” shall have the meanings as they are defined by the current *Western Washington Phase II Municipal Stormwater Permit* which applies to the City of Oak Harbor.

Marina - A private or public facility providing the purchase or lease of a slip for storing, berthing and securing more than ten motorized boats or watercraft, including both long-term and transient moorage. Marinas may include accessory facilities for providing incidental services to users of the marina, such as waste collection, boat sales or rental activities, and retail establishments providing fuel service, repair or service of boat.

Marine - means pertaining to tidally influenced waters, including oceans, sounds, straits, marine channels, and estuaries, including the Pacific Ocean, Puget Sound, Straits of Georgia and Juan de Fuca, and the bays, estuaries, and inlets associated therewith.

Mature forested wetland - A wetland with at least 30 percent of the surface area covered by woody vegetation greater than 20 feet in height, which is at least partially rooted within the wetland, where the largest trees are at least 80 years old or are greater than 21 inches in diameter at breast height.

May - “May” means the action is acceptable, provided it conforms to the provisions of this SMP.

Mitigation or Mitigation Sequencing - The process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal. See WAC 197-11-768 and WAC 173-26-020 (30). Mitigation or mitigation sequencing means the following sequence of steps listed in order of priority, with (a) of this subsection being top priority:

- a) Avoiding the impact all together by not taking a certain action or parts of an action;
- b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
- c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- d) Minimizing or eliminating a hazard by restoring or stabilizing the hazard area through engineered or other methods.
- e) Reducing or eliminating the impact over time by preservation and maintenance operations;
- f) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
- g) Monitoring the impact and the compensation projects and taking appropriate corrective measures.

Monitoring - Evaluating the impacts of development proposals on the biological, hydrological, and geological elements of such systems, and assessing the performance of required mitigation measures through the collection and analysis of data by various methods for the purpose of understanding and documenting changes in natural ecosystems and features, including gathering baseline data.

Moorage - A place to tie up or anchor a boat or vessel.

Mooring buoy - A floating object anchored to the bottom of a water body that provides tie up capabilities for vessels.

Moorage Cover – See covered moorage.

Multifamily dwelling (or residence) - A building designed to house two or more families living independently of each other and having one yard in common.

Must - “Must” means a mandate; the action is required.

Native growth protection area (NGPA) - An area where native vegetation is preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering, and protecting plants and animal habitat.

Native vegetation – Plant species that are indigenous to the area in question.

Nonconforming use or development - A use which lawfully occupied a building or land at the time the ordinance codified in this title became effective, but which use, because of the passage of the ordinance codified in this title, does not conform to the use regulations of the district in which the use exists.

Normal maintenance - Those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition (WAC 173-27-040(2b)). See also Normal repair.

Normal protective bulkhead - Those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land (WAC 173-27-040(2)(c)).

Normal repair - To restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction except where repair involves total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment (WAC 173-27-040(2b)). See also Normal maintenance.

Oak tree - A Garry Oak (*Quercus garryana*, also known as Oregon White Oak) tree more than six feet tall. “Oak tree” shall not apply to any tree grown or held for sale in a licensed nursery, nor to the first removal or transplanting of a tree pursuant to the operation of a licensed nursery business.

Off-site compensation - To replace critical areas away from the site on which a critical area has been impacted.

On-site compensation - To replace critical areas at or adjacent to the site on which a critical area has been impacted.

Ordinary High Water Mark (OHWM) - That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water. See RCW 90.58.030(2)(b) and WAC 173-22-030(11).

Overwater structure - Any device or structure projecting over the ordinary high water mark, including, but not limited to piers, docks, floats, and moorage.

Permeability - The capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer or confining bed and is independent of the force causing movement.

Permit (or Shoreline Permit) - Any substantial development, variance or conditional use permit, or revision, or any combination thereof, authorized by the Act. Refer to WAC 173-27-030(13).

Person - Any person, individual, public or private corporation, firm, association, joint venture, partnership, owner, lessee, tenant, or any other entity whatsoever or any combination of such, jointly or severally.

Pesticide - A chemical used to kill pests, including herbicides, insecticides and fungicides.

Pier - a fixed, pile-supported moorage structure.

Porous soil types - Soils, as identified by the National Resources Conservation Service, U.S. Department of Agriculture, that contain voids, pores, interstices, or other openings which allow the passing of water. High permeable soils in Oak Harbor include: Hoypus gravelly loamy sand, Snakelum Course sandy loam, Keystone loamy sand and Norma loam. Moderate permeable soils include: Coastal Beach, Made Land, Whidbey gravelly sandy loam, Townsend sand loam, and Swantown gravelly sandy loam.

Potable water - Water that is safe and palatable for human consumption.

Practical alternative - An alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and has less impacts to critical areas.

Practicable – This word shall have the meaning as the term “maximum extent practicable” is defined in the *Western Washington Phase II Municipal Stormwater Permit* which applies to Oak Harbor.

Primary association area - The area used on a regular basis by, that is in close association with, or is necessary for the proper functioning of the habitat of a species protected under the critical areas regulations of this title. “Regular basis” means that the habitat area is normally, or usually, known to contain the species, or it is likely to contain the species based on its known habitat requirements. Regular basis is species and population dependent. Species that exist in low numbers may be present infrequently yet rely on certain habitat types.

Priority habitat - Habitat type or elements with unique or significant value to one or more species as classified by the State Department of Fish and Wildlife. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element, as identified in WAC 173-26-020.

Priority Species - Species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below.

(a) Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the department of fish and wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

(b) Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.

- (c) Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.
- (d) Criterion 4. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

Project area - All areas within 50 feet of the area proposed to be disturbed, altered, or used by the proposed activity or the construction of any proposed structures. When the action binds the land, such as a subdivision, short subdivision, binding site plan, planned unit development, or rezone, the project area shall include the entire parcel, at a minimum.

Professional Archaeologist – means a person with qualifications meeting the federal secretary of interior’s standards for a professional archaeologist. Archaeologists not meeting this standard may be conditionally employed by working under the supervision of a professional archaeologist for a period of four years provided the employee is pursuing qualifications necessary to meet the federal secretary of the interior’s standards for a professional archaeologist. During this four-year period, the professional archaeologist is responsible for all findings. The four-year period is not subject to renewal.

Public access - Public access is the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Refer to WAC 173-26-221(4).

Public use - Public use means to be made available daily to the general public on a first-come, first-served basis, and may not be leased to private parties on any more than a day use basis. Refer to WAC 332-30-106.

Qualified Professional - “Qualified professional” means a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or a related field, and have at least five years of related work experience.

- (a) A qualified professional for aquatic shoreline habitats or wetlands must have a degree in biology and professional experience related to the subject habitats and related species.
- (b) A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington.
- (c) A qualified professional for urban forestry must have academic and field experience that makes them competent in urban forestry. This may include arborists certified by the International Society of Arboriculture or foresters certified by the Society of American Foresters. Qualified professionals in urban forestry must possess the ability to evaluate the health and hazard potential of existing trees, and the ability to prescribe appropriate measures necessary for the preservation of trees during land development.

(d) A qualified professional for vegetation mitigation plan must have academic and field experience that makes them competent in the subject area. This includes, but is not limited to, a landscape architect or biologist with direct experience preparing shoreline habitat enhancement and mitigation plans.

RCW - Revised Code of Washington.

RCW 90.58 - The Shoreline Management Act of 1971.

Recharge - The process involved in the absorption and addition of water to ground water.

Recreational facilities Use or Development - Facilities such as boat or yacht clubs, swimming pools, athletic clubs, golf and country clubs, for the use of the general public and operated by the municipal corporation.

Recreational Float - A floating structure that is moored, anchored, or otherwise secured in the water off-shore and that is generally used for recreational purposes such as swimming and diving.

Repair or maintenance - An activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter critical areas are not included in this definition.

Residential development - Development which is primarily devoted to or designed for use as a dwelling(s). Residential development includes single family development, multi-family development and the creation of new residential lots through land division.

Restoration - "Restore," "restoration" or "ecological restoration" means the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

Riparian - Of, on, or pertaining to the banks of a river, stream or lake.

Riparian habitat - Areas adjacent to aquatic systems that contain elements of both aquatic and terrestrial ecosystems that mutually influence each other.

Riprap - A layer, facing, or protective mound of stones placed to prevent erosion, scour, or sloughing of a structure or embankment; also, the stone so used.

Runoff - Water that is not absorbed into the soil but rather flows along the ground surface following the topography.

Salmonids - Members of the Salmonidae family of fishes, including regionally important species such as salmon, steelhead, and trout.

Sediment - The fine grained material deposited by water or wind.

Seeps - Spots where water oozes from the earth, often forming the source of a small stream.

Seismic hazard areas - Areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.

SEPA - Washington State Environmental Policy Act, Chapter 43.21C RCW.

Setback - A required open space, specified in shoreline master programs, measured horizontally upland from and perpendicular to the ordinary high water mark.

Shall - “Shall” means a mandate; the action must be done.

Shorelands or Shoreland Areas - Those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous flood plain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of the Shoreline Management Act.

Shoreline Administrator - The City of Oak Harbor Planning and Community Development Director or his/her designee, charged with the responsibility of administering the shoreline master program.

Shoreline environment designations - The categories of shorelines established by local shoreline master programs in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas. See WAC 173-26-211.

Shoreline jurisdiction - The term describing all of the geographic areas covered by the SMA, related rules and the applicable master program. Also, such areas within a specified local government's authority under the SMA.

Shoreline Management Act - Chapter 90.58 RCW, as amended. Washington’s Shoreline Management Act was passed by the Legislature in 1971 and adopted by the public in a 1972 referendum. The goal of the SMA is to prevent the inherent harm in an uncoordinated and piecemeal development of the state’s shorelines.

Shoreline Master Program (SMP) - The comprehensive use plan and related use regulations which are used by local governments to administer and enforce the permit system for shoreline management. Master programs must be developed in accordance with the policies of the SMA, be approved and adopted by the state, and be consistent with the rules (WACs) adopted by Ecology.

Shoreline Modification - those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged

basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

Shoreline Permit - A substantial development, conditional use, revision, or variance permit or any combination thereof (WAC 173-27-030(13)).

Shoreline stabilization – Actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind or wave action. These actions include structural measures such as bulkheads and nonstructural methods such as soil bioengineering.

Shorelines - All of the water areas of the state, including reservoirs and their associated uplands, together with the lands underlying them, except those areas excluded under RCW 90.58.030(2)(d).

Shorelines Hearings Board - A state-level quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit, enforcement penalty and appeals by local government. See RCW 90.58.170; 90.58.180.

Shorelines of statewide significance - A select category of shorelines of the state, defined in RCW 90.58.030(2)(e), where special preservationist use preferences apply and where greater planning authority is granted by the SMA. SMP policies, use regulations, and Permit review must acknowledge the use priorities for these areas established by the SMA. See RCW 90.58.020.

Shorelines of the state - Shorelines and shorelines of statewide significance.

Should - “Should” means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this Master Program, against taking the action.

Sign - Any letters, figures, design, symbol, trademark or device intended to attract attention to any activity, service, place, subject, person, firm, corporation, public performance, article, machine or merchandise whatsoever. Sources of light used primarily to illuminate a sign, or a building, or ground surrounding the building, shall not be considered signs themselves; provided, however, that sources of light used primarily to attract attention to the sign itself or as a decorative feature of the display shall be considered as part of the sign. Lighted canopies, with the exception of the signed portion, shall not be considered signs themselves. Excluded from the definition are official traffic signs or signals, sheriff’s notices, court notices or official public notices and the flag of a government or noncommercial institution, and signs not visible from the street or sidewalk.

Significant portion of its range - That portion of a species range likely to be essential to the long-term survival of the population in Washington.

Significant tree - A healthy evergreen or deciduous tree 12 inches or more in diameter measured four feet above existing grade.

Significant Vegetation Removal - The removal or alteration of trees, shrubs, or ground cover by clearing, grading, cutting, burning, chemical treatment, or other methods that cause significant impacts to ecological

functions provided by such vegetation. The removal of noxious or invasive weeds does not constitute significant vegetation removal. Tree pruning (with the exception of topping), where it does not affect ecological functions, does constitute significant vegetation removal.

Single-family residence - A detached building designed for and occupied exclusively by one family and the household employees of that family.

Solid waste - Solid waste means all garbage, rubbish trash, refuse, debris, scrap, waste materials and discarded materials of all types whatsoever, whether the sources be residential or commercial, exclusive of hazardous wastes, and including any and all source-separated recyclable materials and yard waste.

Soil bioengineering - An applied science that combines structure, biological and ecological concepts to construct living structures that stabilizes the soil to control erosion, sedimentation and flooding using live plant materials as a main structural component.

Soil survey - The most recent soil survey for the local area or county by the National Resources Conservation Service, U.S. Department of Agriculture.

Species - Any group of animals classified as a species or subspecies as commonly accepted by the scientific community.

Species, endangered - Any fish or wildlife species that is threatened with extinction throughout all or a significant portion of its range and is listed by the state or federal government as an endangered species.

Species of local importance - Those species of local concern designated by the city of Oak Harbor due to their population status or their sensitivity to habitat manipulation, or that are game species.

Species, threatened - Any fish or wildlife species that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range without cooperative management or removal of threats, and is listed by the state or federal government as a threatened species.

Steep slope - Naturally occurring slopes that rise 10 feet or more for every 25 feet horizontal, with a total vertical relief greater than 10 feet. A slope is delineated by establishing its toe and top. Existing slopes modified with engineering oversight or in accordance with standard construction industry techniques are not considered steep slopes.

Stream - An area where open surface water produces a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices or other entirely artificial watercourses, unless they are used by salmonids or are used to convey a watercourse naturally occurring prior to construction. A channel or bed need not contain water year-round, provided there is evidence of at least intermittent flow during years of normal rainfall.

Terrestrial - Of or relating to land as distinct from air or water.

Topping, tree - The severing of the main stem of a tree in order to reduce its overall height; provided, that no more than 40 percent of the live crown shall be removed.

Trimming, tree - The pruning or removal of limbs; provided, that the main stem is not severed and no more than 40 percent of the live crown is removed.

Unavoidable - Adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

Unstable slope - A naturally occurring slope with a gradient between 15 and 39 percent (dividing the vertical rise by the horizontal extent), with a total vertical relief greater than 10 feet, where springs or ground water seepage is present on the slope. Existing slopes modified with engineering oversight or in accordance with standard construction industry techniques are not considered unstable slopes.

Upland - Generally described as the dry land area above and landward of the ordinary high water mark.

Utilities - Services and facilities that produce, transmit, store, process or dispose of electric power, gas, water, stormwater, sewage and communications.

Utilities, Accessory - Utilities comprised of small-scale distribution and collection facilities connected directly to development within the shoreline area. Examples include local power, telephone, cable, gas, water, sewer and stormwater service lines.

Utilities, Primary - Utilities comprised of trunk lines or mains that serve neighborhoods, areas and cities. Examples include solid waste handling and disposal sites, water transmission lines, sewage treatment facilities, sewage lift stations and mains, power generating or transmission facilities, gas storage and transmission facilities and stormwater mains and regional facilities.

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

WAC - Washington Administrative Code.

Water-dependent use - A use or a portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include moorage structures (including those associated with residential properties), ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities and sewer outfalls.

Water-enjoyment use - A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline.

In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

Water-oriented use - Refers to any combination of water-dependent, water-related, and/or water enjoyment uses and serves as an all-encompassing definition for priority uses under the SMA. Non-water-oriented serves to describe those uses which have little or no relationship to the shoreline and are not considered priority uses under the SMA. Examples include professional offices, automobile sales or repair shops, mini-storage facilities, multifamily residential development, department stores and gas stations.

Water-related use - A use or a portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

- (a) Of a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water or,
- (b) The use provides a necessary service supportive of the water-dependent commercial activities and the proximity of the use to its customers makes its services less expensive and/or more convenient. Examples include manufacturers of ship parts large enough that transportation becomes a significant factor in the products cost, professional services serving primarily water-dependent activities and storage of water-transported foods. Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker and log storage.

Water quality - The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impermeable surfaces and storm water handling practices. Water quantity, for purposes of this chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through RCW 90.03.340.

Watershed restoration plan - A plan developed or sponsored by the Department of Fish and Wildlife, the Department of Ecology, and/or the Department of Transportation acting within or pursuant to its authority, a city, a county or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to 43.21C RCW, the State Environmental Policy Act.

Wetlands - "Wetlands" or "wetland areas" means areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined

swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

Wetland mitigation bank - A site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing advance mitigation to compensate for future, permitted impacts to similar resources.

Wetland mosaic - An area with a concentration of multiple small wetlands, in which each patch of wetland is less than one acre; on average, patches are less than 100 feet from each other; and areas delineated as vegetated wetland are more than 50 percent of the total area of the entire mosaic, including uplands and open water. (Ord. 1440 § 1, 2005).

Exhibit 1

Shoreline Environment

Designations

Map

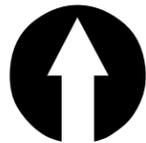
Figure 1

Shoreline Environment Designations

-  Aquatic*
-  Maritime
-  Urban Mixed Use
-  Residential
-  Residential - Bluff Conservancy
-  Urban Public Facility
-  Conservancy



*The Aquatic shoreline environment designation extends to the City's in-water jurisdiction line.



0 1,000 2,000
Feet

Data represented on this map were collected at different accuracy levels by various sources, including the City of Oak Harbor, Island County, NASWI, WA DNR Shorezone data and WDFW. Shoreline jurisdiction and wetland boundaries are approximate and have not been formerly delineated or surveyed and are intended for planning analysis only. Additional site-specific evaluation may be needed to confirm/verify information shown on this map. No warranties of any sort, including, but not limited to accuracy, fitness or merchantability, accompany this map.

Map Date: September 2012



Exhibit 2

Chapter 17.20

“Flood Damage Prevention”

Chapter 17.20 FLOOD DAMAGE PREVENTION¹

Sections:

- Article I. Statutory Authorization, Findings of Fact, Purpose and Objectives
 - 17.20.010 Statutory authorization.
 - 17.20.020 Findings of fact.
 - 17.20.030 Statement of purpose.
 - 17.20.040 Methods of reducing flood losses.
- Article II. Definitions
 - 17.20.050 Definitions.
- Article III. General Provisions
 - 17.20.060 Lands to which this chapter applies.
 - 17.20.070 Basis for establishing the areas of special flood hazard.
 - 17.20.080 Penalties for noncompliance.
 - 17.20.090 Abrogation and greater restrictions.
 - 17.20.100 Interpretation.
 - 17.20.110 Warning and disclaimer of liability.
- Article IV. Administration
 - 17.20.120 Development permit required.
 - 17.20.130 Application for development permit.
 - 17.20.140 Designation of the building official.
 - 17.20.150 Duties of responsible official.
 - 17.20.160 Variance procedure – Appeal board.
 - 17.20.170 Conditions for variances.
- Article V. Provisions for Flood Hazard Reduction
 - 17.20.180 General standards.
 - 17.20.190 Specific standards.
 - 17.20.200 Floodways.
 - 17.20.210 Wetlands management.
 - 17.20.220 Encroachments.

Article I. Statutory Authorization, Findings of Fact, Purpose and Objectives

17.20.010 Statutory authorization.

The Legislature of the state of Washington has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. (Ord. 835 § 1.1, 1989).

17.20.020 Findings of fact.

(1) The flood hazard areas of the city of Oak Harbor are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare;

(2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss. (Ord. 835 § 1.2, 1989).

17.20.030 Statement of purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money and costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 835 § 1.3, 1989).

17.20.040 Methods of reducing flood losses.

In order to accomplish its purposes, this chapter includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- (4) Controlling filling, grading, and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or may increase flood hazards in other areas. (Ord. 835 § 1.4, 1989).

Article II. Definitions

17.20.050 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

(1) "Appeal" means a request for a review of the building official's interpretation of any provision of this chapter or a request for a variance.

(2) "Area of shallow flooding" means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

(3) "Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

(4) "Basement" means any area of a building having its floor subgrade (below ground level) on all sides. The floor does not have to be finished; it can be a dirt floor.

(5) "Critical facility" means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, and installations which produce, use, or store hazardous materials or hazardous waste.

(6) "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials located within the area of special flood hazard.

(7) "Flood" or "flooding" means a general and temporary condition or partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters; and/or

(b) The unusual and rapid accumulation of runoff of surface waters from any source.

(8) "Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

(9) "Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

(10) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

(11) "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter found at OHMC 17.20.190(1)(b).

(12) "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive

days. For insurance purposes the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles.

(13) “Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

(14) “New construction” means structures for which the “start of construction” commenced on or after the effective date of the ordinance codified in this chapter.

(15) “Recreational vehicle” means a vehicle which is:

(a) Built on a single chassis;

(b) Four hundred square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(16) “Start of construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The “actual start” means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

(17) “Structure” means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

(18) “Substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either: (a) before the improvement or repair is started; or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either: (a) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or (b) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(19) “Variance” means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

(20) “Water-dependent” means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. (Ord. 1472 § 1, 2006; Ord. 835 § 2, 1989).

Article III. General Provisions

17.20.060 Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city of Oak Harbor. (Ord. 835 § 3.1, 1989).

17.20.070 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration on Flood Insurance Maps for the city of Oak Harbor, with an effective date of August 16, 1995, and any revisions thereto, are adopted by reference and declared to be a part of this chapter. The Flood Insurance Maps (numbered 53029C0140D, 53029C0120D, 53029C0145D and 53029C0000) are on file at Oak Harbor City Hall, 3075-300 Avenue West, Oak Harbor, Washington 98277. (Ord. 1472 § 1, 2006; Ord. 1016 § 1, 1995; Ord. 835 § 3.2, 1989).

17.20.080 Penalties for noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city of Oak Harbor from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 835 § 3.3, 1989).

17.20.090 Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restriction shall prevail. (Ord. 835 § 3.4, 1989).

17.20.100 Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 835 § 3.5, 1989).

17.20.110 Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or

flood damages. This chapter shall not create liability on the part of the city of Oak Harbor, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 835 § 3.6, 1989).

Article IV. Administration

17.20.120 Development permit required.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in OHMC 17.20.070. The permit shall be for all structures including manufactured homes, as set forth in OHMC 17.20.050, and for all development including fill and other activities, also as set forth in OHMC 17.20.050. (Ord. 835 § 4.1.1, 1989).

17.20.130 Application for development permit.

Application for a development permit shall be made on forms furnished by the building official and may include but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, draining facilities, and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level to which any structure has been floodproofed;
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in OHMC 17.20.190(2); and
- (4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development. (Ord. 835 § 4.1.2, 1989).

17.20.140 Designation of the building official.

The building official is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. (Ord. 835 § 4.2, 1989).

17.20.150 Duties of responsible official.

Duties of the building official shall include, but not be limited to:

- (1) Permit Review.
 - (a) Review all development permits to determine that the permit requirements of this chapter have been satisfied.
 - (b) Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
 - (c) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the provisions of OHMC 17.20.200 are met.

(2) Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with OHMC 17.20.070, the building official shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer OHMC 17.20.190 and 17.20.200.

(3) Information to be Obtained and Maintained.

(a) Where base flood elevation data is provided through the Flood Insurance Study or required as in subsection (2) of this section, obtain and record the actual (as-built) elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures, and whether or not the structure contains a basement.

(b) For all new or substantially improved floodproofed structures:

- (i) Verify and record the actual elevation (in relation to mean sea level); and
- (ii) Maintain the floodproofing certifications required in OHMC 17.20.130(3).

(c) Maintain for public inspection all records pertaining to the provisions of this chapter.

(4) Alteration of Watercourses.

(a) Notify adjacent communities and the Washington State Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

(b) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

(5) Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact locations of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in OHMC 17.20.160 and 17.20.170. (Ord. 835 § 4.3, 1989).

17.20.160 Variance procedure – Appeal board.

(1) The appeal board as established by the city of Oak Harbor shall hear and decide appeals and requests for variances from the requirements of this chapter.

(2) The appeal board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the building official in the enforcement or administration of this chapter.

(3) Those aggrieved by the decision of the appeal board, or any taxpayer, may appeal such decision to the Island County superior court by writ of certiorari filed and served within 30 days of the decision.

(4) In passing upon such applications, the appeal board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

(a) The danger that materials may be swept onto other lands to the injury of others;

(b) The danger to life and property due to flooding or erosion damage;

(c) The susceptibility of the proposed facilities and its contents to flood damage and the effect of such damage on the individual owner;

- (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location, where applicable;
 - (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (5) Upon consideration of the factors of subsection (4) of this section and the purposes of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- (6) The building official shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request. (Ord. 835 § 4.4.1, 1989).

17.20.170 Conditions for variances.

- (1) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a) through (k) in OHMC 17.20.160(4) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.
- (3) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall only be issued upon:
- (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in OHMC 17.20.160(4), or conflict with existing local laws or ordinances.

(6) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

(7) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except OHMC 17.20.170(1), and otherwise complies with OHMC 17.20.180(1) and (2).

(8) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. 835 § 4.4.2, 1989).

Article V. Provisions for Flood Hazard Reduction

17.20.180 General standards.

In all areas of special flood hazards, the following standards are required:

(1) Anchoring.

(a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

(b) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

(2) Construction Materials and Methods.

(a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(c) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(3) Utilities.

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and

(c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) Subdivision Proposals.

(a) All subdivision proposals shall be consistent with the need to minimize flood damage;

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

(d) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).

(5) Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (OHMC 17.20.150(2)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates. (Ord. 835 § 5.1, 1989).

17.20.190 Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in OHMC 17.20.070, or OHMC 17.20.150(2), the following provisions are required:

(1) Residential Construction.

(a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

(b) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

(ii) The bottom of all openings shall be no higher than one foot above grade;

(iii) Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

(2) Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to or above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(a) Be floodproofed so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in OHMC 17.20.150(3)(b);

(d) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (1)(b) of this section;

(e) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to one foot above the base flood level will be rated as at the base flood level).

(3) Critical Facility. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the base floodplain. Construction of new critical facilities shall be permissible within the base floodplain if no feasible alternative site is available. Critical facilities constructed within the base floodplain shall have the lowest floor elevated to three feet or more above the level of the base flood elevation at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base floodplain shall be provided to all critical facilities to the extent possible.

(4) Manufactured Homes. All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is to or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of OHMC 17.20.180(1)(b).

(5) Recreational Vehicles. Recreational vehicles placed on sites are required to either:

(a) Be on the site for fewer than 180 consecutive days;

(b) Be fully licensed and ready for highway use, on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

(c) Meet the requirements of subsection (4) of this section and be securely anchored to an adequately anchored foundation system in accordance with the provisions of OHMC 17.20.180(1)(b). (Ord. 1472 § 1, 2006; Ord. 835 § 5.2, 1989).

17.20.200 Floodways.

Located within areas of special flood hazard established in OHMC 17.20.070 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that

encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) Construction or reconstruction of residential structures is prohibited within designated floodways, except for (a) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (b) repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either (i) before the repair, reconstruction, or repair is started, or (ii) if the structure has been damaged, and is being restored, before the damage occurred. Work done on structures to comply with existing health, sanitary, or safety codes or to structures identified as historic places shall not be included in the 50 percent.

(3) If subsection (1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article V of this chapter. (Ord. 1472 § 1, 2006; Ord. 835 § 5.3, 1989).

17.20.210 Wetlands management.

To the maximum extent possible, avoid the short and long term adverse impacts associated with the destruction or modification of wetlands, especially those activities which limit or disrupt the ability of the wetland to alleviate flooding impacts. The following process should be implemented:

(1) Review proposals for development within base floodplains for their possible impacts on wetlands located within the floodplain.

(2) Ensure that development activities in or around wetlands do not negatively affect public safety, health, and welfare by disrupting the wetlands' ability to reduce flood and storm drainage.

(3) Request technical assistance from the Department of Ecology in identifying wetland areas. Existing wetland map information from the National Wetlands Inventory (NWI) can be used in conjunction with the community's FIRM to prepare an overlay zone indicating critical wetland areas deserving special attention. (Ord. 835 § 5.4, 1989).

17.20.220 Encroachments.

The cumulative effect of any proposed development, where combined with all other existing and anticipated development shall not increase the water surface elevation of the base flood more than one foot at any point. (Ord. 835 § 5.5, 1989).

¹ Prior legislation: Ord. 481.

Exhibit 3

Title 20

“Environment”

Title 20
ENVIRONMENT^{i*}

Chapters:

- 20.02 Critical Areas Definitions**
- 20.04 State Environmental Policy Act**
- 20.12 General Critical Areas Regulations**
- 20.14 SEPA Environmental Review Process**
- 20.16 Oak Tree Protection**
- 20.24 Wetlands**
- 20.25 Fish and Wildlife Habitat Conservation Areas**
- 20.28 Geologically Sensitive Areas**
- 20.32 Critical Aquifer Recharge Areas**
- 20.50 SEPA Policies for Review of SEPA Checklists**

Chapter 20.02
CRITICAL AREAS DEFINITIONS

Sections:

20.02.010 Purpose.

20.02.020 Definitions.

20.02.010 Purpose.

For purposes of the city's critical areas regulations, Chapter 20.12, General Critical Areas Regulations; Chapter 20.16, Oak Tree Protection; Chapter 20.24, Wetlands; Chapter 20.25, Fish and Wildlife Habitat Conservation Areas; Chapter 20.28, Geologically Sensitive Areas; and Chapter 20.32, Critical Aquifer Recharge Areas, and to clarify the intent and meaning of certain words or terms, the following list of definitions is provided. All other words used in these chapters carry their customary meanings. Words in the present tense include the past tense and words in the singular include the plural, and vice versa. (Ord. 1440 § 1, 2005).

20.02.020 Definitions.

- (1) "Alteration" means any human-induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to, grading, filling, channelizing, dredging, clearing (vegetation), construction, compaction, excavation, or any other activity that changes the character of the critical area.
- (2) "Anadromous fish" means fish that spawn and rear in freshwater and mature in the marine environment.
- (3) "Applicant" means a person who files an application for a critical areas permit and who is either the owner of the land on which that proposed activity would be located, a contract purchaser, or the authorized agent of such a person.
- (4) "Aquifer" means a geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.
- (5) "Aquifer recharge areas" means areas that, due to the presence of certain soils, geology, and surface water, act to recharge ground water by percolation.
- (6) "Best available science" means current scientific information used in the process to designate, protect, or restore critical areas, that is derived from a valid scientific process as defined by WAC 365-195-900 through 365-195-925. Examples of best available science are included in "Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas," published by the Washington State Department of Community, Trade and Economic Development.
- (7) "Best management practices (BMPs)" means conservation practices or systems of practices and management measures that:
 - (a) Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, or sediment;
 - (b) Minimize adverse impacts to surface water and ground water flow and circulation patterns and to the chemical, physical, and biological characteristics of wetlands;
 - (c) Protect trees, vegetation and soils designated to be retained during and following site construction and use native plant species appropriate to the site for revegetation of disturbed areas; and
 - (d) Provide standards for proper use of chemical herbicides within critical areas.
- (8) "Bog" means a low nutrient, acidic wetland with organic soils, which is sensitive to disturbance and impossible to re-create through compensatory mitigation.
- (9) "Buffer" or "buffer zone" means an area that is contiguous to and protects a critical area, which is required for the continued maintenance, functioning, and/or structural stability of a critical area.

- (10) "Critical aquifer recharge area" means as defined in OHMC 20.32.010.
- (11) "Critical areas" include any of the following areas or ecosystems: critical aquifer recharge areas, fish and wildlife habitat conservation areas, geologically hazardous areas, and wetlands, as defined in Chapter 36.70A RCW and this title.
- (12) "Cumulative impacts or effects" means the combined, incremental effects of human activity on ecological or critical areas functions and values. Cumulative impacts result when the effects of an action are added to or interact with the effects of other actions in a particular place and within a particular time. It is the combination of these effects, and any resulting environmental degradation, that should be the focus of cumulative impact analysis and changes to policies and permitting decisions.
- (13) "Developable area" means a site or portion of a site that may be utilized as the location of development, in accordance with the rules of this title.
- (14) "Development" means a land use consisting of the construction or exterior alteration of structures; grading, dredging, drilling, or dumping; filling; removal of sand, gravel, or minerals; bulk heading; driving of pilings; or any project of a temporary or permanent nature which modifies structures, land, or shorelines and which does not fall within the allowable exemptions contained in the Oak Harbor Municipal Code.
- (15) "Director" means the director of the city of Oak Harbor department of development services, or other city staff granted the authority to act on behalf of the director.
- (16) "Drip line" means a line projected to the ground delineating the outermost extent of a tree's foliage in all directions.
- (17) "Fish and wildlife habitat conservation areas" means as defined in OHMC 20.25.010.
- (18) "Forage fish" means small fish that consume plankton, which are consumed by other fish higher in the food chain, such as salmon.
- (19) "Functions and values" means the beneficial roles served by critical areas including, but not limited to, water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage, conveyance and attenuation; ground water recharge and discharge; erosion control; wave attenuation; protection from hazards; historical, archaeological, and aesthetic value protection; educational opportunities; and recreation.
- (20) "Geologically sensitive areas" means as defined in OHMC 20.28.010.
- (21) "Ground water" means water in a saturated zone or stratum beneath the surface of land or a surface water body.
- (22) "Growth Management Act" means Chapters 36.70A and 36.70B RCW, as amended.
- (23) "Habitat conservation areas" means areas designated as fish and wildlife habitat conservation areas.
- (24) "Hazardous substances" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical, or biological properties described in WAC 173-303-090 or 173-303-100.
- (25) "Historic condition" means a condition of the land, including flora, fauna, soil, topography, and hydrology, that existed before the area and vicinity were developed or altered by human activity.
- (26) "Impervious surface" means a hard surface area that either prevents or retards the entry of water into the soil mantle, as under natural conditions prior to development, or that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater.
- (27) "Infiltration" means the downward entry of water into the immediate surface of soil.
- (28) "In-kind compensation" means to replace critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by a regulated activity.
- (29) "Isolated wetlands" means those wetlands that are outside of and not contiguous to any 100-year

floodplain of a lake, river, or stream and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water, including other wetlands.

- (30) "Landslide hazard areas" means areas that are potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors, including: bedrock, soil, slope gradient, slope aspect, geologic structure, ground water, or other factors.
- (31) "Mature forested wetland" means a wetland with at least 30 percent of the surface area covered by woody vegetation greater than 20 feet in height, which is at least partially rooted within the wetland, where the largest trees are at least 80 years old or are greater than 21 inches in diameter at breast height.
- (32) "Mitigation" means avoiding, minimizing, or compensating for adverse critical areas impacts. Mitigation, in the following sequential order of preference, is:
 - (a) Avoiding the impact altogether by not taking a certain action or parts of an action;
 - (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
 - (c) Rectifying the impact to wetlands, critical aquifer recharge areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;
 - (d) Minimizing or eliminating a hazard by restoring or stabilizing the hazard area through engineered or other methods;
 - (e) Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;
 - (f) Compensating for the impact to wetlands, critical aquifer recharge areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and
 - (g) Monitoring the hazard or other required mitigation and taking remedial action when necessary.

Mitigation for individual actions may include a combination of the above measures.

- (33) "Monitoring" means evaluating the impacts of development proposals on the biological, hydrological, and geological elements of such systems, and assessing the performance of required mitigation measures through the collection and analysis of data by various methods for the purpose of understanding and documenting changes in natural ecosystems and features, including gathering baseline data.
- (34) "Native growth protection area (NGPA)" means an area where native vegetation is preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering, and protecting plants and animal habitat.
- (35) "Native vegetation" means plant species that are indigenous to the area in question.
- (36) "Oak tree" means a Garry Oak (*Quercus garryana*, also known as Oregon White Oak) tree more than six feet tall. "Oak tree" shall not apply to any tree grown or held for sale in a licensed nursery, nor to the first removal or transplanting of a tree pursuant to the operation of a licensed nursery business.
- (37) "Off-site compensation" means to replace critical areas away from the site on which a critical area has been impacted.
- (38) "On-site compensation" means to replace critical areas at or adjacent to the site on which a critical area has been impacted.
- (39) "Ordinary high water mark" means that mark which is found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, that the soil has a character distinct from that of the abutting upland in respect to vegetation.
- (40) "Permeability" means the capacity of an aquifer or confining bed to transmit water. It is a

- property of the aquifer or confining bed and is independent of the force causing movement.
- (41) "Person" means any person, individual, public or private corporation, firm, association, joint venture, partnership, owner, lessee, tenant, or any other entity whatsoever or any combination of such, jointly or severally.
 - (42) "Pesticide" means a chemical used to kill pests, including herbicides, insecticides and fungicides.
 - (43) "Porous soil types" means soils, as identified by the National Resources Conservation Service, U.S. Department of Agriculture, that contain voids, pores, interstices, or other openings which allow the passing of water. High permeable soils in Oak Harbor include: Hoypus gravelly loamy sand, Snakelum Course sandy loam, Keystone loamy sand and Norma loam. Moderate permeable soils include: Coastal Beach, Made Land, Whidbey gravelly sandy loam, Townsend sand loam, and Swantown gravelly sandy loam.
 - (44) "Potable water" means water that is safe and palatable for human consumption.
 - (45) "Practical alternative" means an alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and has less impacts to critical areas.
 - (46) "Primary association area" means the area used on a regular basis by, that is in close association with, or is necessary for the proper functioning of the habitat of a species protected under the critical areas regulations of this title. "Regular basis" means that the habitat area is normally, or usually, known to contain the species, or it is likely to contain the species based on its known habitat requirements. Regular basis is species and population dependent. Species that exist in low numbers may be present infrequently yet rely on certain habitat types.
 - (47) "Priority habitat" means habitat type or elements with unique or significant value to one or more species as classified by the State Department of Fish and Wildlife. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element, as identified in WAC 173-26-020.
 - (48) "Project area" means all areas within 50 feet of the area proposed to be disturbed, altered, or used by the proposed activity or the construction of any proposed structures. When the action binds the land, such as a subdivision, short subdivision, binding site plan, planned unit development, or rezone, the project area shall include the entire parcel, at a minimum.
 - (49) "Qualified professional" means a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or a related field, and have at least five years of related work experience.
 - (a) A qualified professional for habitats or wetlands must have a degree in biology and professional experience related to the subject species.
 - (b) A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington.
 - (c) A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.
 - (50) "Recharge" means the process involved in the absorption and addition of water to ground water.
 - (51) "Repair or maintenance" means an activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter critical areas are not included in this definition.
 - (52) "Restoration" means measures taken to restore an altered or damaged natural feature, including:
 - (a) Active steps taken to restore damaged wetlands, streams, protected habitat, or their buffers to the functioning condition that existed prior to an unauthorized alteration; and
 - (b) Actions performed to reestablish structural and functional characteristics of the critical

- area that have been lost by alteration, past management activities, or catastrophic events.
- (53) "Riparian habitat" means areas adjacent to aquatic systems that contain elements of both aquatic and terrestrial ecosystems that mutually influence each other.
 - (54) "Salmonids" means members of the Salmonidae family of fishes, including regionally important species such as salmon, steelhead, and trout.
 - (55) "Seeps" means spots where water oozes from the earth, often forming the source of a small stream.
 - (56) "Seismic hazard areas" means areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.
 - (57) "SEPA" means Washington State Environmental Policy Act, Chapter 43.21C RCW.
 - (58) "Significant portion of its range" means that portion of a species range likely to be essential to the long-term survival of the population in Washington.
 - (59) "Significant tree" means a healthy evergreen or deciduous tree 12 inches or more in diameter measured four feet above existing grade.
 - (60) "Soil survey" means the most recent soil survey for the local area or county by the National Resources Conservation Service, U.S. Department of Agriculture.
 - (61) "Species" means any group of animals classified as a species or subspecies as commonly accepted by the scientific community.
 - (62) "Species, endangered" means any fish or wildlife species that is threatened with extinction throughout all or a significant portion of its range and is listed by the state or federal government as an endangered species.
 - (63) "Species of local importance" means those species of local concern designated by the city of Oak Harbor due to their population status or their sensitivity to habitat manipulation, or that are game species.
 - (64) "Species, priority" means any fish or wildlife species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels as classified by the Washington State Department of Fish and Wildlife, including endangered, threatened, sensitive, candidate and monitor species, and those of recreational, commercial, or tribal importance.
 - (65) "Species, threatened" means any fish or wildlife species that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range without cooperative management or removal of threats, and is listed by the state or federal government as a threatened species.
 - (66) "Steep slope" means naturally occurring slopes that rise 10 feet or more for every 25 feet horizontal, with a total vertical relief greater than 10 feet. A slope is delineated by establishing its toe and top. Existing slopes modified with engineering oversight or in accordance with standard construction industry techniques are not considered steep slopes.
 - (67) "Stream" means an area where open surface water produces a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices or other entirely artificial watercourses, unless they are used by salmonids or are used to convey a watercourse naturally occurring prior to construction. A channel or bed need not contain water year-round, provided there is evidence of at least intermittent flow during years of normal rainfall.
 - (68) "Topping, tree" means the severing of the main stem of a tree in order to reduce its overall height; provided, that no more than 40 percent of the live crown shall be removed.
 - (69) "Trimming, tree" means the pruning or removal of limbs; provided, that the main stem is not severed and no more than 40 percent of the live crown is removed.
 - (70) "Unavoidable" means adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.
 - (71) "Unstable slope" means a naturally occurring slope with a gradient between 15 and 39 percent (dividing the vertical rise by the horizontal extent), with a total vertical relief greater than 10 feet, where springs or ground water seepage is present on the slope. Existing slopes modified with

- engineering oversight or in accordance with standard construction industry techniques are not considered unstable slopes.
- (72) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.
- (73) "Wetland mitigation bank" means a site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing advance mitigation to compensate for future, permitted impacts to similar resources.
- (74) "Wetland mosaic" means an area with a concentration of multiple small wetlands, in which each patch of wetland is less than one acre; on average, patches are less than 100 feet from each other; and areas delineated as vegetated wetland are more than 50 percent of the total area of the entire mosaic, including uplands and open water. (Ord. 1440 § 1, 2005).

Chapter 20.04
STATE ENVIRONMENTAL POLICY ACT

Sections:

- 20.04.010 Policies and authority.**
- 20.04.020 General requirements – WAC.**
- 20.04.030 Definitions – WAC provisions adopted.**
- 20.04.040 Additional definitions.**
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- 20.04.227 Critical areas.**
- 20.04.230 Agency compliance – WAC provisions adopted.**

20.04.240 Fees.

20.04.250 Adoption by reference.

20.04.010 Policies and authority.

- (1) The city of Oak Harbor adopts by reference the policies of the State Environmental Policy Act as expressed in RCW 43.21C.010 and 43.21C.020 both as now in effect or as hereafter amended or otherwise modified.
- (2) The city possesses the authority to deny or condition actions so as to mitigate or prevent adverse environmental impacts. This authority applies to all city activities including actions as defined in this chapter as well as activities which are categorically exempt or excluded from the definition of action whether or not such activities are considered to be ministerial in nature. (Ord. 1141 § 2, 1998).

20.04.020 General requirements – WAC.

The city adopts by reference the following sections or subsections of Chapter 197-11 WAC (State Environmental Policy Act Rules adopted by the State of Washington Department of Ecology):

WAC

- 197-11-040 Definitions.
- 197-11-050 Lead agency.
- 197-11-055 Timing of the SEPA process.
- 197-11-060 Content of environmental review.
- 197-11-070 Limitations on actions during SEPA process.
- 197-11-080 Incomplete or unavailable information.
- 197-11-090 Supporting documents.
- 197-11-100 Information required of applicants.
- 197-11-210 SEPA/GMA integration.
- 197-11-220 SEPA/GMA definitions.
- 197-11-228 Overall SEPA/GMA integration procedures.
- 197-11-230 Timing of an integrated GMA/SEPA process.
- 197-11-232 SEPA/GMA integration procedures for preliminary planning, environmental analysis, and expanded scoping.
- 197-11-235 Documents.
- 197-11-250 SEPA/Model Toxics Control Act integration.
- 197-11-253 SEPA lead agency for MTCA actions.
- 197-11-256 Preliminary evaluation.
- 197-11-259 Determination of nonsignificance for MTCA remedial actions.
- 197-11-262 Determination of significance and EIS for MTCA remedial actions.
- 197-11-265 Early scoping for MTCA remedial actions.
- 197-11-268 MTCA interim actions.

(Ord. 1141 § 3, 1998).

20.04.030 Definitions – WAC provisions adopted.

The city adopts by reference the following sections or subsections of Chapter 197-11 WAC (State Environmental Policy Act Rules as adopted by the State of Washington Department of Ecology):

WAC

- 197-11-700 Definitions.
- 197-11-702 Act.
- 197-11-704 Action.
- 197-11-706 Addendum.

197-11-708	Adoption.
197-11-710	Affected tribe.
197-11-712	Affecting.
197-11-714	Agency.
197-11-716	Applicant.
197-11-718	Built environment.
197-11-720	Categorical exemption.
197-11-721	Closed record appeal.
197-11-722	Consolidated appeal.
197-11-724	Consulted agency.
197-11-726	Cost-benefit analysis.
197-11-728	City.
197-11-730	Decisionmaker.
197-11-732	Department.
197-11-734	Determination of nonsignificance (DNS).
197-11-736	Determination of significance (DS).
197-11-738	EIS.
197-11-740	Environment.
197-11-742	Environmental checklist.
197-11-744	Environmental document.
197-11-746	Environmental review.
197-11-750	Expanded scoping.
197-11-752	Impacts.
197-11-754	Incorporation by reference.
197-11-756	Lands covered by water.
197-11-758	Lead agency.
197-11-760	License.
197-11-762	Local agency.
197-11-764	Major action.
197-11-766	Mitigated DNS.
197-11-768	Mitigation.
197-11-770	Natural environment.
197-11-772	NEPA.
197-11-774	Nonproject.
197-11-776	Phased review.
197-11-778	Preparation.
197-11-780	Private project.
197-11-782	Probable.
197-11-784	Proposal.
197-11-786	Reasonable alternative.
197-11-788	Responsible official.
197-11-790	SEPA.
197-11-792	Scope.
197-11-793	Scoping.
197-11-794	Significant.
197-11-796	State agency.

- 197-11-797 Threshold determination.
- 197-11-799 Underlying governmental action.

(Ord. 1141 § 4, 1998).

20.04.040 Additional definitions.

In addition to those definitions contained within WAC 197-11-700 through 197-11-799, when used in this chapter, the following terms shall have the following meanings unless the context indicates otherwise:

- (1) “Department” means any division, subdivision or organizational unit of the city of Oak Harbor established by ordinance, rule or order.
- (2) “Early notice” means the city of Oak Harbor’s response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant’s proposal. (Mitigated DNS procedures.)
- (3) “Ordinance” means the ordinance, resolution or the procedure used by the City of Oak Harbor to adopt regulatory requirements.
- (4) “SEPA Rules” means Chapter 197-11 WAC adopted by the Department of Ecology. (Ord. 1141 § 5, 1998).

20.04.050 Responsible official.

- (1) For those proposals for which the city is the lead agency the responsible official shall be the city supervisor. An alternate designation may be a permanent or temporary transfer of the duties and may include one or more cases.
- (2) For all proposals for which the city is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required EIS and perform any other functions assigned to the “lead agency” or “responsible official” by those sections of the SEPA Rules that were adopted by reference in WAC 173-806-020.
- (3) The city shall retain all documents required by the SEPA Rules (Chapter 197-11 WAC) and make them available in accordance with Chapter 42.17 RCW.
- (4) Public information concerning SEPA documents may be obtained from the Planning Office, City Hall, 865 S.E. Barrington Drive, Oak Harbor, Washington 98277, phone (360)679-5551. (Ord. 1141 § 6, 1998).

20.04.060 Lead agency determination and responsibilities.

- (1) The department within the city receiving an application for or initiating a proposal that involves a nonexempt action shall determine the lead agency for that proposal under WAC 197-11-050 and 197-11-922 through 197-11-940 as now in effect or as hereafter amended or otherwise modified unless the lead agency has been previously determined or the department is aware that another department or agency is in the process of determining the lead agency.
- (2) When the city is the lead agency for a proposal, the department receiving the application shall notify the responsible official, who shall supervise compliance with the threshold determination requirements and, if an EIS is necessary, shall supervise preparation of the EIS.
- (3) When the city is not the lead agency for a proposal, all departments of the city shall use and consider as appropriate either the MDNS, DNS or the final EIS of the lead agency in making decisions on the proposal. No city department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency unless required under WAC 197-11-600.
- (4) If the city or any of its departments receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-922 through 197-11-940 the department shall notify the responsible official. The city may object to the determination. Any objection must be made to the agency originally making the determination and resolved within 15 days of receipt of the determination, or the city must petition to the Department of Ecology for the lead agency determination under WAC 197-11-946 within the 15-day time period. Any such petition on behalf of the city may be initiated by the responsible official.

- (5) Departments of the city are authorized to make agreements as to lead agency status or share lead agency duties for a proposal under WAC 197-11-942 and 197-11-944; provided, that the responsible official and any department that will incur responsibilities as the result of such agreement must approve the agreement.
- (6) Any department making a lead agency determination for a private project shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal.
- (7) When the city is lead agency for a Model Toxics Control Act (MTCA) remedial action, the Department of Ecology shall be provided an opportunity under WAC 197-11-253(5) to review the environmental documents prior to public notice being provided. If the SEPA and MTCA documents are issued together with one public comment period under WAC 197-11-253(6), the city shall decide jointly with Ecology who receives the comment letters and how copies of the comment letters will be distributed to the other agency. (Ord. 1141 § 7, 1998).

20.04.070 Transfer of lead agency status to a state agency.

For any proposal for a private project where the city would be the lead agency and for which one or more state agencies have jurisdiction, the responsible official may elect to transfer the lead agency duties to the state agency. The state agency, the jurisdiction appearing first on the priority listing in WAC 197-11-936, shall be the lead agency, and the city shall be an agency with jurisdiction. To transfer lead agency duties, the responsible official must transmit a notice of the transfer together with any relevant information available on the proposal to the appropriate state agency with jurisdiction. The responsible official shall also give notice of the transfer to the private applicant and any other agencies with jurisdiction over the proposal. (Ord. 1141 § 8, 1998).

20.04.080 City action – Timing considerations.

For nonexempt proposals, the declaration of nonsignificance or the draft EIS for the proposal shall accompany the city staff recommendation to any appropriate advisory body such as the planning commission. (Ord. 1141 § 9, 1998).

20.04.090 Categorical exemptions and threshold determinations – WAC provisions adopted.

The city adopts by reference the following sections or subsections of Chapter 197-11 WAC (State Environmental Policy Act Rules as adopted by the State Department of Ecology) as now in effect or as hereafter amended or otherwise modified:

WAC

- 197-11-300 Purpose of this part.
- 197-11-305 Categorical exemptions.
- 197-11-310 Threshold determination required.
- 197-11-315 Environmental checklist.
- 197-11-330 Threshold determination process.
- 197-11-335 Additional information.
- 197-11-340 Determination of nonsignificance (DNS).
- 197-11-350 Mitigated DNS.
- 197-11-355 Optional DNS process.
- 197-11-360 Determination of significance (DS)/ Initiation of scoping.
- 197-11-390 Effect of threshold determination.

(Ord. 1141 § 10, 1998).

20.04.100 Thresholds for categorical exemptions.

- (1) The following exempt levels for minor new construction under WAC 197-11-800(1)(b)(i) shall apply to meet the local conditions:
 - (a) For residential dwelling units in WAC 197-11-800(1)(b)(i), up to four dwelling units;

- (b) For agricultural structures in WAC 197-11-800(1)(b)(ii), up to 10,000 square feet;
 - (c) For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800(1)(b)(iii), up to 4,000 square feet and up to 20 parking spaces;
 - (d) For parking lots in WAC 197-11-800 (1)(b)(iv), up to 20 parking spaces;
 - (e) For landfills and excavations in WAC 197-11-800(1)(b)(v), up to 100 cubic yards throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a Class I, II or III forest practice under RCW 76.09.050.
- (2) Whenever the city establishes new exempt levels under this section, it shall send them to the Department of Ecology Headquarters Office, Olympia, Washington, under WAC 197-11-800(1)(c). (Ord. 1382 § 1, 2004; Ord. 1141 § 11, 1998).

20.04.110 Use of exemptions.

- (1) Each department within the city that receives an application for a license or, in a case of governmental proposals, the department initiating the proposal shall determine whether the license and/or the proposal is exempt. The department's determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this chapter apply to the proposal. The city shall not require completion of an environmental checklist for an exempt proposal.
- (2) In determining whether or not a proposal is exempt, the department shall make certain the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-060). If a proposal includes exempt and nonexempt actions, the department shall determine the lead agency, even if the license application that triggers the department's consideration is exempt.
- (3) If a proposal includes both exempt and nonexempt actions, the city may authorize exempt actions prior to compliance with the procedural requirements of this chapter, except that:
- (a) The city shall not give authorization for:
 - (i) Any nonexempt action,
 - (ii) Any action that would have an adverse environmental impact, or
 - (iii) Any action that would limit the choice of alternatives;
 - (b) A department may withhold approval of an exempt action that would lead to modification of the physical environment when such modification would serve no purpose if nonexempt action or actions were not approved; and
 - (c) A department may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action or actions were not approved. (Ord. 1141 § 12, 1998).

20.04.120 Environmental checklist procedure.

- (1) **Except as provided in subsection (3) below, a completed environmental checklist in the form provided in WAC 197-11-960 shall be filed at the same time as an application for permit, license, certificate or other approval not specifically exempted in this chapter, except a checklist is not needed if the city and applicant agree an EIS is required, SEPA compliance has been completed or SEPA compliance has been initiated by another agency. The city shall use the environmental checklist to determine the lead agency and, if the city is the lead agency, for making the threshold determination.**
- (2) **For private proposals, the city will require the applicant to complete the environmental checklist, providing assistance as necessary. For city proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.**
- (3) **For projects submitted as planned actions under WAC 197-11-164, the city shall use its exist-**

ing environmental checklist form or may modify the environmental checklist form as provided in WAC 197-11-315. The modified environmental checklist form may be prepared and adopted along with or as

part of a planned action ordinance, or developed after the ordinance is adopted. In either case, a proposed modified environmental checklist form must be sent to the Department of Ecology to allow at least a 30-day review prior to use. (Ord. 1141 § 13, 1998).

20.04.130 DNS/mitigated DNS.

- (1) As provided in this section and in WAC 197-11-350, the responsible official may issue a determination of nonsignificance (DNS) based on conditions attached to the proposal by the responsible official or on changes to or clarifications of the proposal made by the applicant.
- (2) An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. The request must:
 - (a) Follow the submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and
 - (b) Precede the city's actual threshold determination for the proposal.
- (3) The responsible official should respond to the request for early notice within 10 working days. The response shall:
 - (a) Be written;
 - (b) State whether the city considers issuance of a DS likely and, if so, indicate the general or specific area or areas of concern that are leading the city to consider a DS; and
 - (c) State that the applicant may change or clarify the proposal to mitigate the indicated impacts revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.
- (4) As much as possible, the city should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.
- (5) When an applicant submits a changed or clarified proposal along with a revised environmental checklist, the city shall base its threshold determination on the changed or clarified proposal and should make the determination within 15 days of receiving the changed or clarified proposal:
 - (a) If the city indicated specific mitigation measures in its response to the request for early notice and the applicant changed or clarified the proposal to include those specific mitigation measures, the city shall issue and circulate a determination of nonsignificance under WAC 197-11-340(2);
 - (b) If the city indicated the areas of concern but did not indicate specific mitigating measures that would allow it to issue a DNS, the city shall make the threshold determination issuing a DNS or DS as appropriate;
 - (c) The applicant's proposed mitigation measures must be in writing and must be specific. For example, proposal to "control noise" or "prevent storm water runoff" are inadequate whereas proposals to "muffle machinery to X number of decibels" or "construct a 200-foot storm water retention pond at Y location" are adequate;
 - (d) Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.
- (6) A mitigated DNS is issued under WAC 197-11-340(2) requiring a 14-day comment period and public notice.
- (7) Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit or enforced in any manner specifically prescribed by the city.
- (8) If the city's tentative decision on the permit or approval does not include mitigation measures that were incorporated in the mitigated DNS for approval, the city should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).
- (9) The city's written response under subsection (2) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal as opposed to a written request for early notice shall not bind the city to consider the clarifications or changes in its threshold determination.

- (10) Anyone violating or failing to comply with any mitigation measure imposed under this section shall, upon conviction thereof, be subject to a civil penalty not exceeding \$250.00. Each day of violation shall be a separate offense. Anyone who shall continue to violate or fail to comply with such measure after receiving notice of the violation shall be guilty of a gross misdemeanor punishable by a fine of up to \$5,000 or 365 days in jail or both such fine and jail time. In addition, any permits authorizing work which are subject to the mitigation measures imposed under this section may be suspended or revoked pending restoration or settlement of claims resulting from the violation of the mitigation measures.
- (a) Responsibility. The person primarily responsible for SEPA compliance shall be the person obtaining the permit. A person other than the permittee may be held liable under this the penalty provision of this chapter if he/she has notice of the SEPA conditions.
 - (b) Notice and Correction. It is directed that when feasible, a notice to correct shall be used in lieu of filing citations or complaints. It is recognized that a correction notice process may not be feasible (appropriate or workable) where an action cannot be corrected such as the protection of unique or special natural vegetation, species habitat, air and noise pollution standards and restrictions on time or duration of construction or other work or where the violation is wilful.

The correction notice process shall have the following elements:

- (i) The city attorney shall give written notice describing the violation and directing the person cease violation or to correct and giving a reasonable time limit to correct.
 - (ii) Notice may be served in person, by certified mail or by posting the notice at a visible location on or near the property; provided, that when posting the property, the permittee shall be personally served or sent a letter by certified mail.
 - (iii) The city and permittee may enter into an agreement to meet the SEPA conditions within the time specified by notice or agreement.
 - (iv) If the permittee cannot achieve compliance with the SEPA condition, the city attorney or his or her designee may file a citation or complaint for each day of violation under this section.
- (c) Definitions for This Section.
- (i) "Permittee" includes the property owner or other person who obtains the development permit.
 - (ii) "Person" includes natural persons, corporations and other legal entities having independent power to act with regard to property or persons.
- (d) The civil and criminal liability under this subsection is supplemental to other remedial authority under SEPA and the ordinances and codes of the city of Oak Harbor. (Ord. 1271 § 1, 2001; Ord. 1141 § 14, 1998).

20.04.140 Environmental impact statement (EIS) – WAC provisions adopted.

The city of Oak Harbor adopts by reference the following sections or subsections of Chapter 197-11 WAC (State Environmental Policy Act Rules adopted by the State of Washington Department of Ecology):

WAC

- 197-11-400 Purpose of EIS.
- 197-11-402 General requirements.
- 197-11-405 EIS types.
- 197-11-406 EIS timing.
- 197-11-408 Scoping.
- 197-11-410 Expanded scoping.
- 197-11-420 EIS preparation.
- 197-11-425 Style and size.

197-11-430	Format.
197-11-435	Cover letter or memo.
197-11-440	EIS contents.
197-11-442	Contents of EIS on nonproject proposals.
197-11-443	EIS contents when prior nonprojects EIS.
197-11-444	Elements of the environment.
197-11-448	Relationship of EIS to other considerations.
197-11-450	Cost-benefit analysis.
197-11-455	Issuance of DEIS.
197-11-460	Issuance of FEIS.

(Ord. 1141 § 15, 1998).

20.04.145 Integrated SEPA process and GMA.

The city adopts by reference the following sections of Chapter 197-11 WAC as now in effect or hereafter adopted or amended:

WAC

197-11-210	SEPA/GMA integration.
197-11-220	SEPA/GMA definitions.
197-11-228	Overall SEPA/GMA integration procedures.
197-11-230	Timing of an integrated GMA/ SEPA process.
197-11-232	SEPA/GMA integration procedures for preliminary planning, environmental analysis and expanded scoping.
197-11-235	Documents.
197-11-250	SEPA/Model Toxics Control Act (MTCA) integration.
197-11-253	SEPA lead agency for MTCA actions.
197-11-256	Preliminary evaluation.
197-11-259	Determination of nonsignificance for MTCA remedial action.
197-11-262	Determination of significance and EIS for MTCA remedial actions.
197-11-265	Early scoping for MTCA remedial actions.
197-11-268	MTCA interim actions.

(Ord. 1141 § 16, 1998).

20.04.150 Preparation of EIS – Additional considerations.

- (1) Preparation of draft and final EISs and SEISs is the responsibility of the city staff under the direction of the responsible official. Before the city issues an EIS, the responsible official shall be satisfied that it complies with this chapter and Chapter 197-11 WAC.
- (2) The draft and final EIS or SEIS shall be prepared by the city staff, the applicant, or a consultant selected by the city or the applicant. If the responsible official requires an EIS for a proposal and determines that someone other than the city will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the city's procedure for EIS preparation, including approval of the draft and final EIS prior to distribution.
- (3) The city may require an applicant to provide information the city does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this chapter or that is being requested from another agency. This does not apply to information the city may request under another ordinance or statute. (Ord. 1141 § 17, 1998).

20.04.160 Commenting – WAC provisions adopted.

The city adopts by reference the following sections or subsections of Chapter 197-11 WAC (State Environmental Policy Act Rules as adopted by the State Department of Ecology):

WAC

197-11-500	Purpose of this part.
197-11-502	Inviting comment.
197-11-504	Availability and cost of environmental documents.
197-11-508	SEPA register.
197-11-510	Public notice.
197-11-535	Public hearings and meetings.
197-11-545	Effect of no comment.
197-11-550	Specificity of comments.
197-11-560	FEIS response to comments.
197-11-570	Consulted agency costs to assist lead agency.

(Ord. 1141 § 18, 1998).

20.04.170 Public notice requirements.

- (1) Whenever possible, the city shall integrate the public notice required under this section with existing notice procedures for the city's nonexempt permit(s) or approval(s) required for the proposal.
- (2) Whenever possible, when the city issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3) the city shall give public notice as follows:
 - (a) If an environmental document is issued concurrently with the notice of application, the public notice requirements for the notice of application in RCW 36.70B.110(4) will suffice to meet the SEPA public notice requirements in WAC 197-11-510(1).
 - (b) If no public notice is otherwise required for the permit or approval, the city shall give notice of the DNS or DS by (Note: Select at least one of the following):
 - (i) Posting the property, for site-specific proposals;
 - (ii) Publishing notice in a newspaper of general circulation in the city, or general area where the proposal is located;
 - (iii) Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;
 - (iv) Notifying the news media;
 - (v) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and/or
 - (vi) Publishing notice in agency newsletters and/or sending notice to agency mailing lists (either general lists or lists for specific proposals for subject areas).
 - (c) Whenever the city issues a DS under WAC 197-11-360(3), the city shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.
- (3) If a DNS is issued using the optional DNS process, the public notice requirements for a notice of application in RCW 36.70B.110(4) as supplemented by the requirements in WAC 197-11-355 will suffice to meet the SEPA public notice requirements in WAC 197-11-510(b).
- (4) Whenever the city issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by indicating the availability of the DEIS in any public notice required for a nonexempt license, and at least one of the following:
 - (a) Posting the property, for site-specific proposals;
 - (b) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located;
 - (c) Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;
 - (d) Notifying the news media;
 - (e) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and/or
 - (f) Publishing notice in agency newsletters and/or sending notice to agency mailing lists (general mailing list kept by the city).

- (5) Public notice for projects that qualify as planned actions shall be tied to the underlying permit as specified in WAC 197-11-172(3).
- (6) The city may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense. (Ord. 1141 § 19, 1998).

20.04.180 Responsible official to perform consulted agency responsibilities.

- (1) The responsible official shall be responsible for preparation of written comments for the city in response to a consultation request prior to a threshold determination, participation in scoping, and reviewing a draft EIS.
- (2) The responsible official shall be responsible for the city's compliance with WAC 197-11-550 whenever the city is a consulted agency and is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the city. (Ord. 1141 § 20, 1998).

20.04.190 Existing environmental documents – WAC provisions adopted.

The city adopts by reference the following sections or subsections of Chapter 197-11 WAC (State Environmental Policy Act Rules as adopted by the State Department of Ecology):

WAC

- 197-11-164 Planned actions – Definition and criteria.
- 197-11-168 Ordinances or resolutions designating planned actions –Procedures for adoption.
- 197-11-172 Planned actions – Project review.
- 197-11-600 When to use existing environmental documents.
- 197-11-610 Use of NEPA documents.
- 197-11-620 Supplemental environmental impact statement procedures.
- 197-11-625 Addenda – Procedures.
- 197-11-630 Adoption – Procedures.
- 197-11-635 Incorporation by reference – Procedures.
- 197-11-640 Combining documents.

(Ord. 1141 § 21, 1998).

20.04.200 SEPA and agency decisions – WAC provisions adopted.

The city adopts by reference the following sections or subsections of Chapter 197-11 WAC (State Environmental Policy Act Rules as adopted by the State Department of Ecology):

- | | | | | |
|----------------|---------------------------------------|------------|-----------------|------------|
| WAC 197-11-650 | Purpose of this part. | 197-11-655 | Implementation. | 197-11-660 |
| | Substantive authority and mitigation. | 197-11-680 | Appeals. | |

(Ord. 1141 § 22, 1998).

20.04.210 Substantive authority.

- (1) The policies and goals set forth in this chapter are supplementary to those in the existing authorization of the city of Oak Harbor.
- (2) The city may attach conditions to a permit or approval for a proposal so long as:
 - (a) Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this chapter; and
 - (b) Such conditions are in writing; and
 - (c) The mitigation measures included in such conditions are reasonable and capable of being accomplished; and
 - (d) The city has considered whether other local, state or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
 - (e) Such conditions are based on one or more policies in OHMC 20.04.212 and cited in the license or other decision document.

- (3) The city may deny a permit or approval for a proposal on the basis of SEPA so long as:
 - (a) A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a final EIS or final supplemental EIS prepared pursuant to this chapter; and
 - (b) A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and
 - (c) The denial is based on one or more policies identified in OHMC 20.04.212 and identified in writing in the decision document. (Ord. 1382 § 2, 2004; Ord. 1141 § 23, 1998).

20.04.212 Substantive policies.

The city designates and adopts the following policies as the basis for the city's exercise of authority to this section:

- (1) The city shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs and resources so that the state, the city and its citizens may:
 - (a) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
 - (b) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
 - (c) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
 - (d) Preserve important historic, cultural and natural aspects of our national heritage;
 - (e) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;
 - (f) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities;
 - (g) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources; and
 - (h) The city recognizes that each person has a fundamental and inalienable right to a healthful environment as well as a responsibility to contribute to the preservation and enhancement of the environment.
- (2) The city adopts by reference the policies, in the following laws, codes, ordinances, resolutions, agreements and plans as now existing or hereinafter amended, as a possible basis for the exercise of substantive authority in the conditioning or denying of proposals:
 - (a) Chapter 43.21C RCW, State Environmental Policy Act;
 - (b) Chapters 36.70A through 36.70C RCW, State Growth Management Act;
 - (c) OHMC Title 11, Streets and Sidewalks;
 - (d) OHMC Title 12, Storm Water;
 - (e) OHMC Title 13, Water;
 - (f) OHMC Title 14, Sewers;
 - (g) OHMC Title 15, Garbage and Refuse;
 - (h) OHMC Title 16, Mobile Homes;
 - (i) OHMC Title 17, Buildings;
 - (j) OHMC Title 18, Planning;
 - (k) OHMC Title 19, Zoning;
 - (l) OHMC Title 20, Environment;
 - (m) OHMC Title 21, Subdivisions;
 - (n) Chapter 3.63 OHMC, Impact Fees;
 - (o) Chapter 3.64 OHMC, Fee Schedule;
 - (p) City of Oak Harbor Comprehensive Plan;
 - (q) City of Oak Harbor Comprehensive Water Plan;

- (r) City of Oak Harbor Comprehensive Sewer Plan;
- (s) City of Oak Harbor Comprehensive Storm Water Plan;
- (t) City of Oak Harbor Comprehensive Plan Transportation Element;
- (u) City of Oak Harbor Capital Facilities Plan;
- (v) City of Oak Harbor Comprehensive Plan Woodlands Area Map;
- (w) City of Oak Harbor Commercial and Industrial Design Guidelines;
- (x) City of Oak Harbor General Rules and Regulations for the Prevention and Control of Fires and Fire Hazards;
- (y) Landscape Policy Manual;
- (z) Oak Harbor Comprehensive Parks and Recreation Plan, Freund Marsh Master Plan, City Beach Park Master Plan, and other adopted park and recreation plans;
- (aa) Drainage, storm water, transportation, development guidelines and other engineering plans or documents governing development within the city;
- (bb) Transportation Improvement Program (TIP);
- (cc) All intergovernmental and/or interlocal agreements between the city of Oak Harbor and surrounding jurisdictions, including federal, state and local agencies, special purpose districts, or other municipal, governmental or public entities, including without limitation all such agreements concerning transportation, education, parks and recreation, fire services, or other infrastructure elements, including, but not limited to, the interlocal agreement between Island County and the city of Oak Harbor pertaining to joint land use policies for unincorporated areas of urban growth area, countywide planning policies, coordinated water system plan;
- (dd) Washington State Department of Ecology Criteria for Sewage Works Design “Orange book” (Chapter 14.03 OHMC);
- (ee) Washington State Department of Ecology Stormwater Management Manual for the Puget Sound Basin (OHMC 12.30.010), 1992 version for capacity and design standards and current version for water quality and best practice standards;
- (ff) Washington State Department of Health Water system design manual (Chapter 246-290 WAC);
- (gg) Washington State DOT/APWA standard Specifications for road and bridge construction (OHMC 21.40.020);
- (hh) Washington State DOT/APWA Standard Plans (OHMC 21.40.020);
- (ii) Washington State Department of Transportation Local Agency Guidelines Manual;
- (jj) American Association of State and Highway Transportation Officials (AASHTO), A Policy on Geometric Design of Highways and Streets Fourth Edition 2001 (sometimes referred to as the “Green Book”);
- (kk) Institute of Transportation Engineers trip generation manual (OHMC 11.32.040);
- (ll) Standard Methods for the Examination of Water and Waste Water, 19th Edition, 1992; Section 5520 (OHMC 14.09);
- (mm) Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title 11 commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act;
- (nn) Section 307(c) of the Clean Water Act;
- (oo) Manual on Uniform Traffic Control Devices, Millennium Edition;
- (pp) 1997 Uniform Sign Code published by the International Conference of Building Officials;
- (qq) 1997 Uniform Code for the Abatement of Dangerous Buildings published by the International Conference of Building Officials;
- (rr) 1997 Uniform Housing Code published by the International Conference of Building

Officials;

- (3) Effective July 1, 2004, the city adopts by reference the additional policies, in the following codes, as now existing or hereinafter amended, as a possible basis for the exercise of substantive authority in the conditioning or denying of proposals:
- (a) The 2003 Edition of the International Building Code, including Sections 101 through 106 of Appendix E, Appendix I and Appendix J, published by the International Code Council as amended by the Washington State Building Code Council on November 21, 2003, and published as Chapter 51-50 WAC;
 - (b) The 2003 Edition of the International Residential Code, excepting Chapters 11 and 25 through 42, and including Appendices H and J, as published by the International Code Council as amended by the Washington State Building Code Council on November 21, 2003, and published as Chapter 51-51 WAC;
 - (c) The 2003 Edition of the International Mechanical Code, published by the International Code Conference as amended by the Washington State Building Code Council on November 21, 2003, and published as Chapter 51-52 WAC;
 - (d) The 2003 Edition of the Uniform Plumbing Code, Plumbing Code Standards and appendices published by the International Association of Plumbing and Mechanical Officials as amended by the Washington State Building Code Council on November 21, 2003, and published as Chapters 51-56 and 51-57 WAC;
 - (e) The 2003 Edition of the International Fire Code, Fire Code Standards and appendices, published by the International Code Council as amended by the Washington State Building Code Council on November 21, 2003, and published as Chapters 51-54 and 51-55 WAC;
 - (f) 2003 Washington State Energy Code, as amended by the Washington State Building Code Council on November 21, 2003, and published as Chapter 51-11 WAC;
 - (g) 2003 Washington State Ventilation and Indoor Air Quality Code, as amended by the Washington State Building Code Council on November 21, 2003, and published as Chapter 51-13 WAC. (Ord. 1382 § 3, 2004).

20.04.215 Appeal.

- (1) The following decisions are subject to administrative appeal:
 - (a) A final determination of DNS.
 - (b) When any proposal or action not requiring a decision of the city council is conditioned or denied on the basis of SEPA by a nonelected official.
 - (c) When both administrative appeal of the final DNS and the substantive determination by a nonelected official are allowed, the appeals must be consolidated.
- (2) Such appeal shall be in accordance with Chapter 1.24 OHMC and shall lie before the city council. Appeal must be perfected by giving notice within 15 days of the effective date of the decision of the responsible official.
- (3) The procedural determination by the city's responsible official shall carry substantial weight in any appeal proceeding.
- (4) The city shall give official notice under WAC 197-11-680(5) whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal. (Ord. 1141 § 24, 1998).

20.04.220 Categorical exemptions – WAC provisions adopted.

The city adopts by reference the following sections or subsections of Chapter 197-11 WAC (State Environmental Policy Act Rules as adopted by the State Department of Ecology):

WAC

197-11-800 Categorical exemptions.

197-11-880 Emergencies.

197-11-890 Petitioning DOE to change exemptions.
(Ord. 1141 § 25, 1998).

20.04.227 Critical areas.

- (1) The city determines that all categorical exemptions will not apply in the critical areas identified in the critical areas provisions of Chapter 20.20 OHMC and the city's comprehensive plan.
- (2) The scope of environmental review of actions within these areas which would otherwise be categorically exempt shall be limited to:
 - (a) Documenting whether the proposal is consistent with the requirements of the critical areas ordinance; and
 - (b) Evaluating potentially significant impacts on the critical area resources not adequately addressed by GMA planning documents and development regulations, if any, including any additional mitigation measures needed to protect the critical areas in order to achieve consistency with SEPA and with other applicable environmental review laws.
- (3) All categorical exemptions not listed in subsection (1) apply whether or not the proposal will be located in a critical area. (Ord. 1141 § 26, 1998).

20.04.230 Agency compliance – WAC provisions adopted.

The city adopts by reference the following sections or subsections of Chapter 197-11 WAC (State Environmental Policy Act Rules as adopted by the State Department of Ecology):

WAC

- 197-11-900 Purpose of this part.
- 197-11-902 Agency SEPA policies.
- 197-11-916 Application to ongoing actions.
- 197-11-920 Agencies with environmental expertise.
- 197-11-922 Lead agency rules.
- 197-11-924 Determining the lead agency.
- 197-11-926 Lead agency for governmental proposals.
- 197-11-928 Lead agency for public and private proposals.
- 197-11-930 Lead agency for private projects with one agency with jurisdiction.
- 197-11-932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a city.
- 197-11-934 Lead agency for private projects requiring licenses from a local agency, not a city, and one or more state agencies.
- 197-11-936 Lead agency for private projects requiring licenses from more than one state agency.
- 197-11-938 Lead agency for specific proposals.
- 197-11-940 Transfer of lead agency status to a state agency.
- 197-11-942 Agreements on lead agency status.
- 197-11-944 Agreements on division of lead agency duties.
- 197-11-946 DOE resolution of lead agency disputes.
- 197-11-948 Assumption of lead agency status.

(Ord. 1141 § 27, 1998).

20.04.240 Fees.

The city shall require the following fees for its activities in accordance with the provisions of this chapter as set out in the city's fee ordinance in Chapter 3.64 OHMC as now in effect or hereafter amended.

- (1) Environmental Impact Statement. The responsible official may determine that the city will contract directly with a consultant for preparation of an EIS, or a portion of the EIS, for activities initiated by some persons or entity other than the city and may bill such costs and expenses

directly to the applicant. Such consultants shall be selected by mutual agreement of the city and applicant after a call for proposals. The city may require the applicant to post bond or otherwise ensure payment of such costs.

- (2) The city may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this chapter relating to the applicant's proposal. (Ord. 1141 § 28, 1998).

20.04.250 Adoption by reference.

Sections of the Washington Administrative Code (WAC) adopted by reference shall be as now in effect or as hereby amended or otherwise modified.

A copy of the Washington Administrative Code adopted by reference is on file with the city clerk's office. It is further directed that the city clerk shall keep a copy of the referenced Washington Administrative Code sections and shall make a copy of the sections of the Washington Administrative Code adopted by reference available for public inspection. (Ord. 1141 § 29, 1998).

Chapter 20.12
GENERAL CRITICAL AREAS REGULATIONS

Sections:

- 20.12.010 Purpose.**
- 20.12.020 Relationship to other regulations.**
- 20.12.030 Jurisdiction.**
- 20.12.040 Exempt activities.**
- 20.12.050 Public agency and utility exceptions.**
- 20.12.060 Reasonable use.**
- 20.12.070 Critical area identification form and report.**
- 20.12.080 Density calculation.**
- 20.12.090 Mitigation sequencing.**
- 20.12.100 Mitigation plan requirements.**
- 20.12.110 Determination.**
- 20.12.120 Variances.**
- 20.12.130 Enforcement and penalties.**
- 20.12.140 Signs and fencing.**
- 20.12.150 Building setbacks.**

20.12.010 Purpose.

- (1) The purpose of the critical areas regulations in this chapter is to designate and classify ecologically sensitive and hazardous areas and to protect them and their functions and values, while also allowing for reasonable use of private property.
- (2) Critical areas regulations in this chapter implement the goals, policies, guidelines, and requirements of the city comprehensive plan and the Growth Management Act as they relate to critical areas.
- (3) The city finds that critical areas provide a variety of valuable and beneficial biological and physical functions that benefit the city and its residents, and/or may pose a threat to human safety or to public and private property. The beneficial functions and values provided by critical areas include, but are not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation of flood waters, ground water recharge and discharge, erosion control, wave attenuation, protection from hazards, historical, archaeological, and aesthetic value protection, and recreation. These beneficial functions and values are not listed in order of priority. (Ord. 1440 § 2, 2005).

20.12.020 Relationship to other regulations.

- (1) These critical areas regulations shall apply as an overlay and in addition to zoning and other regulations adopted by the city.
- (2) Any individual critical area adjoined by another type of critical area shall have the buffer and meet the requirements that provide the most protection to the critical areas involved. When any provision of this chapter or any existing regulation, easement, covenant, or deed restriction conflicts with this chapter, that which provides more protection to the critical areas shall apply.
- (3) These critical areas regulations shall apply concurrently with review conducted under the State Environmental Policy Act (SEPA), as locally adopted. Any conditions required pursuant to critical areas regulations in this chapter shall be included in the SEPA review and threshold determination and shall constitute compliance with SEPA with respect to critical areas.
- (4) The city shall not approve any permit or otherwise issue any authorization to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement in, over, or on a critical area or associated buffer, without first ensuring compliance with the requirements of

critical areas regulations in this chapter.

- (5) Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required. The applicant is responsible for complying with these requirements, apart from the process established in this chapter. (Ord. 1440 § 2, 2005).

20.12.030 Jurisdiction.

- (1) The city shall regulate all uses, activities, and developments within, adjacent to, or likely to affect one or more critical areas, consistent with the best available science and the provisions herein.
- (2) Critical areas regulated by this chapter include:
 - (a) Garry oak trees;
 - (b) Wetlands, as designated in Chapter 20.24 OHMC;
 - (c) Fish and wildlife habitat conservation areas, as designated in Chapter 20.25 OHMC;
 - (d) Geologically sensitive areas, as designated in Chapter 20.28 OHMC; and
 - (e) Critical aquifer recharge areas, as designated in Chapter 20.32 OHMC.
- (3) All areas within the city meeting the definition of one or more critical areas, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of critical areas regulations in this chapter.
- (4) The approximate location and extent of critical areas within the city are shown on the adopted critical area maps. The adopted maps do not include the location of all critical areas; therefore, it is the actual presence of critical areas that triggers the requirements of this chapter, whether or not the critical area is identified on the adopted maps. (Ord. 1440 § 2, 2005).

20.12.040 Exempt activities.

The following developments, activities, and associated uses shall be exempt from the provisions of this chapter and Chapter 20.16 OHMC, Oak Tree Protection; Chapter 20.24 OHMC, Wetlands; Chapter 20.25 OHMC, Fish and Wildlife Habitat Conservation Areas; Chapter 20.28 OHMC, Geologically Sensitive Areas; and Chapter 20.32 OHMC, Critical Aquifer Recharge Areas:

- (1) Emergencies. Those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventive action in a timeframe too short to allow for compliance with the requirements of this chapter. After the emergency, the person or agency undertaking the action shall report any impacts to the critical area to the director. The director may require submittal of a critical areas report to guide restoration or mitigation for these impacts. Final approval of the report, restoration and mitigation shall be in accordance with provisions of this chapter.
- (2) Operation, maintenance, repair, modification, addition to, or replacement of existing structures, infrastructure improvements, utilities, public or private roads, dikes, levees, or drainage systems, if the activity does not further alter or increase the impact to, or encroach further within, a critical area or buffer and there is no increased risk to life or property as a result of the action. Operation and maintenance includes vegetation management performed in accordance with best management practices; provided, that such management actions are part of regular and ongoing maintenance, do not expand further into the critical area, are not the result of an expansion of a structure or utility, and do not directly impact species or habitat protected under Chapter 20.25 OHMC.
- (3) Educational and research activities that do not degrade the functions and values of a critical area or buffer. (Ord. 1440 § 2, 2005).

20.12.050 Public agency and utility exceptions.

- (1) If the application of critical areas regulations in this chapter would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for an exception pursuant to this section.
- (2) Exception Request and Review Process. An application for a public agency and utility exception

shall be made to the city and shall include a critical area identification form; critical areas report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act. The director shall prepare a recommendation to the hearing examiner based on review of the submitted information, a site inspection, and the proposal's ability to comply with review criteria in subsection (4) of this section.

- (3) Hearing Examiner Review. The hearing examiner shall review the application and director's recommendation, and conduct a public hearing pursuant to the provisions of Chapter 18.40 OHMC. The hearing examiner shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the public agency and utility exception criteria in subsection (4) of this section.
- (4) Public Agency and Utility Review Criteria. The criteria for review and approval of public agency and utility exceptions are the following:
 - (a) There is no other practical alternative to the proposed development with less impact on critical areas and their buffers, including minimizing removal of native vegetation and significant trees;
 - (b) The application of this chapter would unreasonably restrict the ability to provide services to the public;
 - (c) The proposal does not pose a threat to the public health, safety, or welfare on or off the development proposal site;
 - (d) The proposal protects and mitigates impacts to the functions and values of the critical area to the greatest extent feasible, consistent with the best available science; and
 - (e) The proposal is consistent with other applicable regulations and standards.
- (5) The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application. (Ord. 1440 § 2, 2005).

20.12.060 Reasonable use.

- (1) If the application of critical areas regulations in this chapter would deny all reasonable economic use of the subject property, the city shall determine if compensation is an appropriate action, or the property owner may apply for an exception pursuant to this section.
- (2) Exception Request and Review Process. An application for a reasonable use exception shall be made to the city and shall include a critical area identification form; critical areas report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act. The director shall prepare a recommendation to the hearing examiner based on review of the submitted information, a site inspection, and the proposal's ability to comply with reasonable use exception criteria in subsection (4) of this section.
- (3) Hearing Examiner Review. The hearing examiner shall review the application and conduct a public hearing pursuant to the provisions of Chapter 18.40 OHMC. The hearing examiner shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the reasonable use exception review criteria in subsection (4) of this section.
- (4) Reasonable Use Review Criteria. Criteria for review and approval of reasonable use exceptions follow:
 - (a) The application of the normal standards of this chapter would deny all reasonable economic use of the property;
 - (b) No other reasonable economic use of the property has less impact on the critical area, allowing for a building footprint of up to 1,500 square feet for single-family residential development and up to 4,000 square feet for multifamily and nonresidential development. The actual floor area of buildings may be larger. Associated impervious surface for driveways, parking and other purposes shall be the minimum necessary to meet the usual

- and customary needs of the land use;
 - (c) The proposal protects and mitigates impacts to the functions and values of the critical area to the greatest extent feasible, consistent with the best available science, allowing for reductions in critical area buffers and setbacks of up to 50 percent, with mitigation;
 - (d) The inability of the applicant to derive reasonable economic use of the property is not the result of subdivision or other actions by the applicant after the effective date of the ordinance codified in this chapter, or its predecessor;
 - (e) The proposal does not pose a threat to the public health, safety, or welfare on or off the development proposal site; and
 - (f) The proposal is consistent with other applicable regulations and standards.
- (5) Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.
- (6) Variance Available. If the applicant is not satisfied with relief provided by this section, the applicant may apply for a variance, under the standards of OHMC 20.12.120. (Ord. 1440 § 2, 2005).

20.12.070 Critical area identification form and report.

- (1) Submittal. Prior to the city's consideration of any proposed activity not found to be exempt under OHMC 20.12.040, the applicant shall submit to the director a complete critical area identification form on forms provided by the city.
- (2) Review Process. The director shall review the critical area identification form and, as needed, conduct a site inspection and review other information available pertaining to the site and the proposal and make a determination as to whether any critical areas may be affected by the proposal. If the director finds that no critical areas are present on or adjacent to the project area or that the proposal will not impact a critical area in a manner contrary to the purpose, intent and requirements of critical areas regulations in this chapter, the director shall rule that the critical area review is complete and note on the identification form that no further review is required. If the director finds that a critical area may be affected by the proposal, the director shall notify the applicant that a critical areas report must be submitted prior to further review of the project, and indicate each of the critical area types that should be addressed in the report. A determination regarding the absence of one or more critical areas by the director is not an expert certification regarding the presence of critical areas and is subject to possible reconsideration and reopening if new information is received.
- (3) Critical Areas Report. Detailed requirements for critical areas reports are identified in the chapters for specific types of critical areas. Preparation of critical areas reports and their review by the city, which may include referral to independent qualified professionals, shall be at the applicant's expense. (Ord. 1440 § 2, 2005).

20.12.080 Density calculation.

- (1) Where development is partly prohibited due to the presence of critical areas, as defined in this title, an applicant may be permitted to transfer the density attributable to the undevelopable area of the property to another noncritical portion of the same site or property subject to the limitations of this section. Up to 100 percent of the density that could be achieved on the unbuildable portion of the site can be transferred to the noncritical area portion of the property, subject to:
- (a) The density limitation of the underlying zoning district;
 - (b) The minimum lot size of the underlying zoning district may be reduced by up to 25 percent; and
 - (c) Applicable setbacks may be reduced to 15 feet, and the lot coverage standards of underlying zoning regulations may be increased to 60 percent. (Ord. 1440 § 2, 2005).

20.12.090 Mitigation sequencing.

Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the following sequential order of preference:

- (1) Avoiding the impact altogether by not taking a certain action or parts of an action;
 - (2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
 - (3) Rectifying the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project;
 - (4) Minimizing or eliminating a hazard by restoring or stabilizing the hazard area through engineered or other methods;
 - (5) Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;
 - (6) Compensating for the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and
 - (7) Monitoring the hazard or other required mitigation and taking remedial action when necessary.
- Mitigation may include a combination of the above measures. (Ord. 1440 § 2, 2005).

20.12.100 Mitigation plan requirements.

When mitigation is required, the applicant shall submit for approval by the city a mitigation plan as part of the critical areas report. The mitigation plan shall include:

- (1) A written report identifying environmental goals and objectives of the compensation proposed, including:
 - (a) A description of the anticipated impacts to the critical areas and the mitigating actions proposed, including the site selection criteria; mitigation goals and objectives, in relation to the functions and values of the impacted critical area; and dates for beginning and completion of mitigation activities.
 - (b) A review of the best available science supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed; and
 - (c) An analysis of the likelihood of success of the compensation project.
- (2) Measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of critical areas regulations in this chapter have been met.
- (3) Details of the mitigation proposed, such as:
 - (a) The proposed construction method, sequence, timing, and duration;
 - (b) Grading and excavation details;
 - (c) Erosion and sediment control features;
 - (d) A planting plan specifying plant species, quantities, locations, size, spacing, and density; and
 - (e) Measures to protect and maintain plants until established.

These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

- (4) A program for monitoring construction of the mitigation project and for assessing the completed project against its goals and objectives. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years one, three, five, seven and 10 after site construction), and how monitoring data will be evaluated to determine if performance standards are being met. A monitoring report shall be submitted to document milestones,

successes, problems, and contingency actions of the compensation project. The mitigation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five years in the case of mitigation for buffer alterations and for not less than 10 years for mitigation of wetland alterations. If performance standards are being met after these minimum periods, requirements for additional monitoring may be waived, if the director determines they are unnecessary.

- (5) Identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.
- (6) Financial guarantees to ensure that the mitigation plan is fully implemented and meeting performance standards. Guarantees shall be in the form of a surety bond, performance bond, assignment of savings account, or an irrevocable letter of credit guaranteed by an acceptable financial institution with terms and conditions acceptable to the city. Guarantees shall remain in effect for a minimum of five years until the city determines, in writing, that the standards bonded for have been met, to ensure that the required mitigation has been fully implemented and demonstrated to function. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration. (Ord. 1440 § 2, 2005).

20.12.110 Determination.

- (1) Upon review of a critical areas report, if the director determines that a proposed activity complies with OHMC 20.12.090, 20.12.100 and requirements related to specific types of critical areas, the director shall prepare a written notice of determination and identify any required conditions of approval, which shall be attached to the underlying permit or approval. This determination shall be final concurrent with the final decision to approve, condition, or deny the development proposal or other activity involved.
- (2) If the director determines that a proposed activity does not adequately mitigate its impacts on critical areas, the director shall prepare written notice of the determination that includes findings of noncompliance. No proposed activity or permit shall be approved or issued if it is determined that the proposed activity does not comply with this chapter. Following notice of noncompliance, the applicant may request consideration of a revised critical areas report. If the revision is found to be substantial and relevant to the critical areas review, the director may reopen the review and make a new determination based on the revised report.
- (3) Any decision to approve, condition, or deny a development proposal or other activity based on the requirements of this chapter may be appealed according to, and as part of, the appeal procedure for the permit or approval involved. (Ord. 1440 § 2, 2005).

20.12.120 Variances.

- (1) Variances from the standards of critical areas regulations in this chapter may be authorized by the city in accordance with the procedures set forth in Chapter 19.66 OHMC. The hearing examiner shall review the request and make a written finding that the request meets or fails to meet the variance criteria.
- (2) Variance Criteria. A variance may be granted only if the applicant demonstrates that the requested action conforms to all of the criteria set forth as follows:
 - (a) Special conditions and circumstances exist that are peculiar to the land or lot that are not applicable to other lands in the same district;
 - (b) The special conditions and circumstances do not result from the actions of the applicant;
 - (c) A literal interpretation of the provisions of critical areas regulations in this chapter would deprive the applicant of reasonable economic uses and privileges permitted to other properties in the vicinity and zone of the subject property under the terms of this chapter, and the variance requested is the minimum necessary to provide the applicant with such rights;

- (d) Granting the variance requested will not confer on the applicant any special privilege that is denied by critical areas regulations in this chapter to other lands, structures, or buildings under similar circumstances;
 - (e) The granting of the variance is consistent with the general purpose and intent of critical areas regulations in this chapter, and with mitigation will not further degrade the functions or values of the associated critical areas or otherwise be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property;
 - (f) The decision to grant the variance includes the best available science and gives special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish habitat; and
 - (g) The granting of the variance is consistent with the general purpose and intent of the city comprehensive plan and adopted development regulations.
- (3) Conditions May Be Required. In granting any variance, the city may prescribe such conditions and safeguards as are necessary to secure adequate protection of critical areas from adverse impacts, and to ensure conformity with this chapter.
 - (4) Time Limit. The city shall prescribe a time limit within which the action for which the variance is required shall be begun, completed, or both. Failure to begin or complete such action within the established time limit shall void the variance.
 - (5) Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and upon which any decision has to be made on the application. (Ord. 1440 § 2, 2005).

20.12.130 Enforcement and penalties.

- (1) Inspections. Reasonable access to the site shall be provided to the city, state, and federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period. The director shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.
- (2) When a critical area or its buffer has been altered in violation of this chapter, all ongoing development work shall stop and the critical area or buffer shall be restored. The city shall have the authority to issue a stop work order to cease all ongoing development work and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of this chapter. All development work shall remain stopped until a restoration plan is prepared and approved by the city. Such a plan shall be prepared by a qualified professional using the best available science and shall describe how the actions proposed meet the minimum requirements described in subsection (3) of this section. The director shall, at the violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.
- (3) Minimum Performance Standards for Restoration.
 - (a) For alterations to critical aquifer recharge areas, wetlands, and habitat conservation areas, restoration shall return the affected environment to the historic conditions or the conditions existing at the time of the initiation of the project; if that is infeasible, restoration shall replace, enhance, or provide substitute resources or environments meeting the criteria for mitigation in OHMC 20.12.090 and 20.12.100.
 - (b) For alterations to flood and geological hazards, the following minimum performance standards shall be met for restoration:
 - (i) The hazard shall be reduced to a level equal to, or less than, the predevelopment hazard;
 - (ii) Any risk to public safety or other critical areas resulting from the alteration shall be eliminated or minimized; and
 - (iii) To the extent feasible, the hazard area and buffers shall be replanted with native

vegetation sufficient to minimize the hazard.

- (c) Restoration of oak trees shall be through a replacement ratio of at least five trees for every tree removed, topped or killed in violation of Chapter 20.16 OHMC. Replacement trees must be of a genetic stock from the Puget Sound/Georgia Strait ecoregion, unless such trees are not reasonably available. At least two trees must survive at least five years after planting and must grow to a height of at least eight feet.
- (4) Penalties. Any person convicted of violating any of the provisions of this chapter shall be guilty of a misdemeanor. Each day or portion of a day during which a violation of this chapter is committed or continued shall constitute a separate offense. Any development carried out contrary to the provisions of this chapter shall constitute a public nuisance and may be enjoined as provided by the statutes of the state of Washington. The city may levy civil penalties against any person, party, firm, corporation, or other legal entity for violation of any of the provisions of this chapter. The civil penalty shall be assessed at a maximum rate of \$1,000 dollars per day per violation. (Ord. 1440 § 2, 2005).

20.12.140 Signs and fencing.

- (1) Temporary Markers. The outer perimeter of buffers and the clearing limits identified by an approved permit or authorization shall be marked in the field with temporary "clearing limits" fencing in such a way as to ensure that no unauthorized intrusion will occur. The marking is subject to inspection by the director prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.
- (2) Permanent Signs. As a condition of any permit or authorization issued pursuant to critical areas regulations in this chapter, the director may require signs identifying postproject buffers and critical areas as "critical areas." If the buffers or critical areas have predominantly native vegetation or are so restored by the project, signs may use the term "native growth protection areas." Signs shall be made of an enamel-coated metal face and attached to a metal post or other nontreated material of equal durability. Signs must be posted at an interval of one per lot or every 50 feet, whichever is less, and must be maintained by the property owner in perpetuity. Signs shall be worded as follows or with alternative language approved by the director:

Critical Area (or Native Growth Protection Area, as appropriate)

Do Not Disturb

Contact City of Oak Harbor Regarding Uses, Restrictions, and Opportunities for Stewardship

- (3) Fencing. If the director determines fencing is necessary to protect the functions and values of the critical area, the director shall condition any permit or authorization issued pursuant to critical areas regulations in this chapter to require the applicant to install a permanent fence at the edge of the wetland buffer (e.g., split-rail fence). (Ord. 1440 § 2, 2005).

20.12.150 Building setbacks.

Unless otherwise provided, buildings and other structures shall be set back a distance of 10 feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are required. The following may be allowed in the building setback area:

- (1) Landscaping;
- (2) Uncovered decks;
- (3) Building overhangs, if such overhangs do not extend more than 18 inches into the setback area; and
- (4) Impervious ground surfaces, such as driveways and patios; provided, that such improvements may be subject to water quality regulations. (Ord. 1440 § 2, 2005).

Chapter 20.14
SEPA ENVIRONMENTAL REVIEW PROCESS

Sections:

- 20.14.010 Overview – Intent.**
- 20.14.020 Cumulative effects.**
- 20.14.030 Parking and traffic.**
- 20.14.040 Landscaping.**
- 20.14.050 Drainage.**
- 20.14.060 Light and glare.**

20.14.010 Overview – Intent.

- (1) Policy Intent. It is the intent of the city that the SEPA environmental review process be implemented by integrating the consideration of environmental impacts with existing planning and decision-making processes. To the greatest extent possible, the mechanism for mitigating or preventing adverse impacts to the environment will be incorporated into present and future city ordinances relating to the affected element of the environment. The SEPA review process and the measures necessary to minimize or prevent adverse impacts are, therefore, not to be treated as a separate review or permitting process, but rather are to be employed as an integral element of the existing decision-making process.
- (2) Policies. In assessing the environmental impacts of a proposal and in determining the need for conditioning or denial, the responsible official or his designee shall utilize SEPA, all policies, guidelines and regulations adopted pursuant to SEPA, and shall use other environmentally related policies adopted by the city council in the form of resolutions, codes, ordinances, regulations or plans identified in appendix A which is attached to the ordinance codified in this chapter and on file in the SEPA public information center, and federal and state and regional environmental quality standards. (Ord. 575 § 1, 1980).

20.14.020 Cumulative effects.

- (1) Policy Intent. Recognizing that:
 - (a) Comprehensive land use controls and other regulations cannot always anticipate or eliminate adverse impacts upon public facilities and services, natural systems or the surrounding area; and
 - (b) A single development, use or modification, though otherwise consistent with zoning regulations, may create adverse impacts upon facilities and services, natural systems or the surrounding area when aggregated with the impacts of prior development; and a single development may induce, due to a casual relationship, other developments, which ultimately will adversely affect public facilities and service, natural systems or the surrounding area;

It is the policy of the city to condition or deny proposals to minimize or prevent such adverse environmental impacts from occurring.

- (2) Policies.
 - (a) The analysis of cumulative effects shall include a reasonable assessment of the present and planned capacity of such public facilities as sewers, storm drains, solid waste disposal, parks, schools, streets, utilities and parking areas to serve the area affected by the proposal.
 - (b) The analysis of cumulative effects shall include a reasonable assessment of the adequacy of the present and planned public services such as health, police and fire protection and social services to serve the area affected by the proposal.
 - (c) The analysis of cumulative effects shall include a reasonable assessment of the capacity

of natural systems, i.e. air, water, light and land, to absorb the direct and reasonably anticipated impacts of the proposal.

- (d) Based in part upon such analysis, a project may be modified to lessen its demand for support services and facilities or its impact on natural systems. Modification may also be required to provide for subsequent projects which can be expected to share the need for support services and facilities or use of the natural systems' capacity. (Ord. 575 § 2, 1980).

20.14.030 Parking and traffic.

- (1) Policy Intent. Recognizing that new development and some modifications will generate travel and parking demands, with resultant adverse impacts on the surrounding areas relative to parking and traffic flow, it is the policy of the city to:
 - (a) Modify off-street parking requirements to mitigate adverse impacts;
 - (b) Make other requirements as necessary to assure reasonable access and flow.
- (2) Policies.
 - (a) The responsible official or his designee shall examine the proposed building occupants' likely vehicle use patterns and guest and service parking needs.
 - (b) In determining the necessary off-street parking, the responsible official or his designee shall weigh these needs against factors such as:
 - (i) Availability of on-street parking;
 - (ii) Existing traffic conditions;
 - (iii) Trend in local area development;
 - (iv) Parking characteristics of the proposed building in the immediate area;
 - (v) Availability of goods, services, and recreation within reasonable pedestrian distance.
 - (c) The responsible official or his designee may require measures to mitigate adverse parking impacts.
 - (d) The responsible official or his designee may require curb cuts, construction of sidewalks and other pedestrian access amenities or deeding of street right-of-way.
 - (e) Any condition or mitigating measure must be continuously met by the property owner. (Ord. 575 § 3, 1980).

20.14.040 Landscaping.

- (1) Policy Intent. Recognizing that certain developments, although consistent with zoning, may require separation from adjacent uses or modification if they are to exist in harmony with the surrounding area, the responsible official or his designee may require foliage and greenery to promote the aesthetic and natural qualities of Oak Harbor. Also, recognizing that vegetation can sometimes mitigate adverse environmental impacts, the responsible official or his designee may require new landscaping or preservation of existing landscaping to reduce stormwater runoff, erosion, and acoustical and aesthetic incompatibility with the surrounding area.
- (2) Policies.
 - (a) Landscaping may be required when it can provide a buffer between incompatible land uses or zones such as between parking areas and pedestrian ways.
 - (b) Landscaping may be required when it can reduce the potential for erosion or excessive storm water runoff.
 - (c) Landscaping may be required for new development to reduce the site coverage by impervious surfaces and to add to the beauty of the city.
 - (d) Preference shall be given for special landscaping compatible with surrounding flora.
 - (e) The responsible official or his designee may require existing vegetation to be retained.
 - (f) Maintenance of landscaped areas and replacement of dying or dead plants shall be the responsibility of the property owner. (Ord. 575 § 4, 1980).

20.14.050 Drainage.

- (1) Policy Intent. Recognizing that property development and redevelopment usually contribute to increased rates and volumes of stormwater runoff, it is the policy of the city to:
 - (a) Prevent stormwater flooding and related property damage, safety hazards, nuisance problems and water quality degradation from increasing as a result of property development and redevelopment;
 - (b) Preserve and enhance the aesthetic quality of the water and water courses;
 - (c) Preserve and enhance the suitability of waters for recreation and wildlife habitat.
- (2) Policies.
 - (a) On or off-site control of stormwater, in conjunction with property development and redevelopment, shall be required throughout the city.
 - (b) The peak stormwater runoff discharge rate from property development or redevelopment involving more than 2,000 square feet of impervious surface shall not exceed 0.2 cubic feet per second per acre under an appropriate design storm condition. For purposes of this section, property development shall include demolition of an existing building, structure or impervious surface and subsequent construction of a new building, structure or impervious surface.
 - (c) Drainage control plan shall accompany or be included with the application and/or request for any city action on a proposed project.
 - (d) Approval of the most suitable method of drainage control shall be made by the responsible official or his designee on a case by case basis. (Ord. 575 § 5, 1980).

20.14.060 Light and glare.

- (1) Policy Intent. Recognizing that development and redevelopment sometimes include lighting and/or reflective surface materials which can adversely affect the surrounding area, and that such adverse impacts may be mitigated by alternative lighting techniques and surface materials, it is the policy of the city to consider the adverse impacts and the effectiveness of mitigating measures, and to weigh the costs of conditioning or denying the proposal against the benefits to be gained.
- (2) Policies.
 - (a) If the responsible official or his designee finds a significant potential for adverse impacts due to light and glare, the responsible official or his designee shall assess the impacts and need for mitigation.
 - (b) The responsible official or his designee may mitigate adverse impacts of lighting and glare by measures including, but not limited to:
 - (i) Limiting the reflective qualities of surface materials that can be used in the development;
 - (ii) Limiting the area and intensity of illumination;
 - (iii) Limiting the location or angle of illumination;
 - (iv) Limiting the hours of illumination. (Ord. 575 § 6, 1980).

Chapter 20.16
OAK TREE PROTECTION^{ii*}

Sections:

- 20.16.010 Harm prohibited.**
- 20.16.020 Permits for removal, topping and trimming.**
- 20.16.030 Variances.**

20.16.010 Harm prohibited.

- (1) No person shall remove, top, damage, destroy, break, injure, mutilate or kill any oak tree or permit any animal under his control to do so or to permit any toxic chemicals to seep, drain or empty onto or about any oak tree, except as allowed by this chapter.
- (2) During building or construction operations, suitable protective barriers shall be erected around oak trees and shrubs which may be subject to injury.
- (3) No paving or hard surface area shall be allowed within the drip line of an oak tree to the maximum extent possible. An administrative variance may allow paving or hard surface on up to 25 percent of the area within the drip line when there is no practical alternative. (Ord. 1441 § 1, 2005).

20.16.020 Permits for removal, topping and trimming.

Permits for removal or trimming of an oak tree may be granted by the director when the following conditions are determined to exist:

- (1) Removal or Topping. A permit for removal or topping may be granted when it is determined by the director that the oak tree is so diseased or damaged that it presents a danger to the public or adjacent property and trimming is inadequate to ameliorate the danger. Wherever feasible, dead oak trees shall be left as snags, for their habitat value.
- (2) Trimming. A permit for trimming shall be granted when it is determined:
 - (a) That trimming is needed for safety or public welfare or to remove diseased or dead branches; or
 - (b) That branches hang over an existing building or interfere with utility lines or right-of-way access.
- (3) The director shall respond to a request for a permit within 10 days of application. No fee shall be charged for a permit. Appeal of a decision by the director shall be to the hearing examiner and shall be made in writing within 10 days of the decision. (Ord. 1441 § 1, 2005).

20.16.030 Variances.

In order to ameliorate the impact of this chapter, the following variances may be allowed under the zoning code:

- (1) Setbacks. A variance may be granted to allow intrusion of a building into a setback yard by 10 feet to preserve an oak tree located elsewhere on the property.
- (2) Parking. Parking requirements may be reduced by two vehicles per oak tree preserved on the property.
- (3) Landscaping. A credit of one and one-half square feet for landscaping requirements under the city zoning code shall be given for every square foot of area devoted to oak tree use. (Ord. 1441 § 1, 2005).

**Chapter 20.24
WETLANDS**

Sections:

- 20.24.010 Identification and rating.**
- 20.24.020 Exemptions.**
- 20.24.030 Wetland buffers.**
- 20.24.040 Critical areas reports.**
- 20.24.050 Compensatory mitigation.**

20.24.010 Identification and rating.

- (1) Identification and Delineation. Wetlands shall be identified and delineated by a qualified wetland professional in accordance with the Washington State Wetlands Identification and Delineation Manual (Washington Department of Ecology Publication No. 96-94, or as revised and approved by Ecology), using the criteria in the definition of wetland in OHMC 20.02.020. Wetland delineations are valid for three years; after such date the city shall determine if a revision or additional assessment is necessary.
- (2) Rating. Wetlands shall be rated according to the Washington Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Western Washington (Ecology Publication No. 04-06-025, or as revised and approved by Ecology), which contains the definitions and methods for determining if the criteria below are met.
 - (a) Category I wetlands include:
 - (i) Relatively undisturbed estuarine wetlands larger than one acre;
 - (ii) Wetlands identified by scientists of the Washington Department of Natural Resources Natural Heritage Program as high-quality wetlands;
 - (iii) Bogs larger than one-half acre;
 - (iv) Mature forested wetlands larger than one acre;
 - (v) Wetlands in coastal lagoons; or
 - (vi) Wetlands that perform many functions well (scoring at least 70 points under the Department of Ecology's rating system).
 - (b) Category II wetlands include:
 - (i) Estuarine wetlands smaller than one acre, or disturbed estuarine wetlands larger than one acre;
 - (ii) Wetlands identified by the Washington State Department of Natural Resources as containing "sensitive" plant species;
 - (iii) Bogs between one-fourth and one-half acre in size; or
 - (iv) Wetlands with a moderately high level of functions (scoring between 51 and 69 points under the Department of Ecology's rating system).
 - (c) Category III wetlands have a moderate level of functions (scoring between 30 and 50 points under the Department of Ecology's rating system).
 - (d) Category IV wetlands have a relatively low level of functions (scoring less than 30 points under the Department of Ecology's rating system).
- (3) Illegal Modifications. Wetland rating categories shall not change due to illegal modifications made by the applicant or with the applicant's knowledge. (Ord. 1440 § 3, 2005).

20.24.020 Exemptions.

All isolated Category III and IV wetlands less than 1,000 square feet that are not associated with riparian areas or buffers, not part of a wetland mosaic, and do not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife or species of local importance identified in Chapter 20.25 OHMC are exempt from provisions contained in

this chapter. All such wetlands between 1,000 and 2,500 square feet are exempt from the normal mitigation sequencing process (i.e., can be filled) if impacts are fully mitigated based on provisions in OHMC 20.24.050. (Ord. 1440 § 3, 2005).

20.24.030 Wetland buffers.

(1) Standard Buffer Widths. Wetland buffers shall be measured perpendicular from the wetland boundary as surveyed in the field, with the following standard widths:

(a) Category I. Buffer widths for Category I wetlands are based on habitat function scores (derived from the 2004 Wetland Rating System for Western Washington) in accordance with the following graduated scale:

Points for Habitat from Wetland Rating Form	≤21	22	23	24	25	≥26
Wetland Buffer Width	100	120	140	160	180	200

(b) Category II. Buffer widths for Category II wetlands are based on habitat function scores (derived from the 2004 Wetland Rating System for Western Washington) in accordance with the following graduated scale:

Points for Habitat from Wetland Rating Form	≤21	22	23	24	25	≥26
Wetland Buffer Width	100	110	120	130	140	150

(c) Category III. Wetland buffer widths for Category III wetlands are based on habitat function scores (derived from the 2004 Wetland Rating System for Western Washington) in accordance with the following graduated scale:

Points for Habitat from Wetland Rating Form	≤15	16	17	18	19	20	≥21
Wetland Buffer Width	70	75	80	85	90	95	100

(d) Category IV. The wetland buffer width for Category IV wetlands shall be 50 feet.

(2) Increased Buffer Widths. When a larger buffer is necessary to protect wetland or other critical area functions and values based on site-specific characteristics, the director shall require increased buffer widths in accordance with the recommendations of a qualified professional. Examples include when a wetland buffer provides habitat for a species protected under Chapter 20.25 OHMC, or if the buffer or adjacent uplands are susceptible to erosion and standard erosion control measures may not prevent adverse impacts to the wetland.

(3) Buffer Reductions Incentives. Standard buffer widths may be reduced under the following conditions; provided, that functions of the post-project wetland are equal to or greater after use of these incentives:

(a) Lower Impact Land Uses. Standard buffer widths assume high-intensity land use is occurring adjacent to the wetland, as is characteristic of an urban area. These widths may be reduced up to 25 percent if measures to minimize the impacts of the land use adjacent to the wetlands are applied, such as infiltration of stormwater, retention of as much native vegetation and soils as possible, direction of noise and light away from the wetland, and other measures that may be suggested by a qualified wetlands professional. Buffer widths may also be reduced up to 25 percent for lower impact land uses such as agriculture, at the discretion of the director and if best management practices are applied. If proposed future land uses are more intense, they are not eligible to maintain this reduction.

(b) Restoration. Buffer widths may be reduced up to 25 percent if the buffer is restored or enhanced from a preproject condition that is disturbed (e.g., dominated by invasive species), so that functions of the postproject wetland and buffer are equal or greater. The restoration plan must meet requirements in OHMC 20.12.100 for a mitigation plan and

- OHMC 20.24.040 for a critical areas report.
- (c) Combined Reductions. Buffer width reductions allowed under subsections (3)(a) and (b) of this section may be added. However, the total reduction may be no more than 25 percent when the director determines that the soils or other conditions of a wetland are particularly sensitive to nutrient or pollutant loading. This exception applies to the wetlands known commonly as Freund Marsh and Seventh Avenue Wetland, and other wetlands the director may identify.
- (4) Buffer Averaging. The director shall have the authority to average buffer widths on a case-by-case basis, where a qualified wetlands professional demonstrates to the director's satisfaction that all of the following criteria are met:
- (a) The total area contained in the buffer after averaging is no less than that contained within the buffer prior to averaging;
 - (b) Decreases in width are generally located where wetland functions may be less sensitive to adjacent land uses and increases are generally located where wetland functions may be more sensitive to adjacent land uses, to achieve no net loss or a net gain in functions; and
 - (c) The averaged buffer, at its narrowest point, shall not result in a width less than 75 percent of that allowed under other provisions of this section; provided, that minimum buffer widths shall never be less than 75 feet for Category I wetlands and Category II wetlands identified under subsection (3)(c) of this section, 50 feet for other Category II wetlands, 35 feet for Category III wetlands and 25 feet for Category IV wetlands.
 - (d) Effect of Mitigation. If wetland mitigation occurs such that the rating of the wetland changes, the requirements for the category of the wetland after mitigation shall apply.
- (5) Signage. Signs shall identify postproject wetland buffers as critical areas or native growth protection areas, in accordance with OHMC 20.12.140(2).
- (6) Allowed Uses. The following uses may be permitted within a wetland buffer, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize negative impacts to the buffer and adjacent wetland:
- (a) Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.
 - (b) Passive recreation facilities designed and in accordance with an approved critical areas report, including:
 - (i) Wildlife viewing structures; and
 - (ii) Walkways and trails, provided pathways minimize adverse impacts on water quality. They should generally be parallel to the perimeter of the wetland, located in the outer 25 percent of the wetland buffer area, and avoid removal of significant trees. They should be limited to pervious surfaces no more than five feet in width. Raised boardwalks utilizing nontreated pilings may be acceptable.
 - (c) Stormwater management facilities, limited to stormwater dispersion outfalls and bioswales, may be allowed within the outer 25 percent of the buffer of Category III or IV wetlands only; provided, that:
 - (i) No other location is feasible; and
 - (ii) Their location, with mitigation, will not degrade the functions or values of the wetland. (Ord. 1440 § 3, 2005).

20.24.040 Critical areas reports.

If required by the director in accordance with OHMC 20.12.070(2), a critical areas report shall be prepared by a qualified wetlands professional and shall include the following:

- (1) A site plan for the project containing the following:
 - (a) Maps (to scale) depicting delineated and surveyed wetlands and required buffers on-site, as well as buffers for off-site wetlands that extend onto the project site or that might be impacted by the proposed activity; the proposed development; grading and clearing

- limits; and areas of proposed impacts to wetlands and/or buffers (include square footage estimates).
- (b) A depiction of the proposed stormwater management facilities and outlets (to scale) for the development, including estimated areas of intrusion into the buffers of any critical areas.
- (2) A written report for the project containing the following:
- (a) Identification of all the local, state, and/or federal wetland-related permit(s) required for the project;
 - (b) A vicinity map for the project;
 - (c) Documentation of any fieldwork performed on the site, including field data sheets for delineations, function assessments, baseline hydrologic data, etc.;
 - (d) A description of the methodologies used to conduct the wetland delineations, function assessments, or impact analyses, including references and all assumptions made and relied upon;
 - (e) For all wetlands on the subject property and all off-site wetlands that could be impacted by the proposed action (using best available information if adjacent property access is denied) provide the following: hydrogeomorphic and Cowardin classification; characterization of vegetation, soils, and hydrology indicators; wetland rating (OHMC 20.24.010); wetland buffer width (OHMC 20.24.030); and wetland acreage estimates;
 - (f) Description of the proposed activity and assessment of cumulative impacts to wetlands and buffers from development of the site, including a discussion of the potential impacts to the wetland(s) associated with anticipated hydroperiod and water quality alterations;
 - (g) Evaluation of existing and postproject functions of the wetland and adjacent buffer using a functional assessment method recognized by local or state agency staff (e.g., Methods for Assessing Wetland Functions, Ecology Publication No. 99-115) and including all data sheets and references for the method used; and
 - (h) An analysis of site development alternatives, including a no development alternative.
- (3) If compensatory mitigation is proposed, a mitigation plan is required that includes the information identified in OHMC 20.24.050(6).
- (4) Unless otherwise provided, a critical areas report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the director. (Ord. 1440 § 3, 2005).

20.24.050 Compensatory mitigation.

- (1) All significant adverse impacts to wetlands and buffers as determined by the director shall be mitigated in accordance with the standards in OHMC 20.12.090, 20.12.100 and this section, and with reference to the Department of Ecology's Guidance on Wetland Mitigation in Washington State, Part 2 (Ecology Publication No. 04-06013B) and Appendix 8-C of the Department of Ecology's Wetlands in Washington – Volume 2: Guidance for Protecting and Managing Wetlands (Ecology Publication No. 05-06-008), or updated guidance by Ecology.
- (2) If impacts to wetlands are unavoidable, mitigation to achieve compensation for wetland functions shall be approached in the following order of preference:
- (a) Reestablishment of natural or historic functions to a former wetland through restoration of physical, chemical or biological processes (e.g., removing fill, plugging ditches, breaking drain tiles, breaching dikes, etc.).
 - (b) Rehabilitation of natural or historic functions of a degraded wetland through restoration of physical, chemical or biological processes (e.g., removing fill, plugging ditches, breaking drain tiles, breaching dikes, etc.).
 - (c) Creation of wetlands on disturbed upland sites, where the postproject hydrologic regime can demonstrably support the proposed wetland plant community.

- (d) Enhancement of vegetation or other characteristics of a wetland site to improve specific functions, such as filtration of pollutants or wildlife habitat.
- (e) Preservation or protection of a wetland that would not be adequately accomplished through existing regulations.
- (3) Mitigation shall be on-site, where feasible. Where this is infeasible, off-site mitigation shall be in the same drainage basin or subbasin as the altered wetland, unless a higher level of ecological functioning would result from an alternate approach, as determined by the director. Where feasible, mitigation shall prioritize the preservation and restoration of contiguous wildlife habitat corridors to minimize the isolating effects of development on habitat areas.
- (4) It is preferred that compensatory mitigation projects be completed prior to activities that will disturb wetlands. If that is infeasible, compensatory mitigation shall be completed immediately following disturbance and prior to use or occupancy of the action or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.
- (5) Wetland Replacement Ratios.
 - (a) When an applicant proposes to alter a wetland, the affected wetland acreage shall be replaced through wetland restoration, creation, enhancement or preservation, according to the ratios established in the table below. The ratios apply to mitigation that is on-site, timed prior to or concurrent with alteration, having a high probability of success, and in-kind (i.e., losses of wetland acreage shall be replaced by creation or restoration of new acreage; degradation of wetland functions shall be replaced by restoration or enhancement of new wetland functions, etc.). Where these conditions do not hold, ratios shall be adjusted accordingly, as determined by the director.
 - (b) Ratios for remedial actions resulting from unauthorized alterations shall be greater than set forth in the table, as determined by the director.
 - (c) Ratios in the table are based on the assumption that the wetland category, based on OHMC 20.24.010(2) and hydrogeomorphic (HGM) class/subclass of the wetland proposed as compensation are the same as the category and HGM class/subclass of the wetland impacted. Ratios for projects in which the wetland category and HGM class/subclass of wetlands proposed as compensation is not the same as that of the wetland impacted will be determined on a case-by-case basis using the recommended ratios as a starting point.

Category and Type of Wetland	Creation or Reestablishment	Rehabilitation	Enhancement	Preservation
Category I – Estuarine, Bog, Coastal Lagoon, Natural Heritage Site	Not considered possible	6:1	Case-by-case	10:1
Category I – Mature Forested	6:1	12:1	24:1	24:1
Category I – Based on functions	4:1	8:1	16:1	20:1
Category II – Estuarine	Case-by-case	4:1	Case-by-case	20:1
Category II – Based on functions	3:1	6:1	12:1	20:1
Category III	2:1	4:1	8:1	15:1
Category IV	1.5:1	3:1	6:1	10:1

- (6) If compensatory mitigation is proposed, the wetlands critical areas report must contain a mitigation plan prepared by a qualified wetlands professional, including the following information in addition to that required by OHMC 20.12.100 and 20.24.040:
 - (a) A baseline study that analyzes the existing functions of the wetland and wetland buffer, functions that will be lost, and functions after mitigation;

- (b) Description of how lost functions will be replaced;
 - (c) Description of when mitigation will occur relative to project construction;
 - (d) Provisions for adequate monitoring to ensure success of the mitigation plan. The monitoring plan shall outline the approach for monitoring construction of the mitigation project, and for assessment of the completed project, and shall include a monitoring schedule. A monitoring report shall be submitted to the department annually for a period of up to five years unless a more frequent time period is required by the director, and shall document successes, problems and contingency actions of the mitigation project. Monitoring activities may include, but are not limited to:
 - (i) Establishing vegetation monitoring plots to track changes in plant species composition and density over time;
 - (ii) Measuring base flow rates and storm water runoff to model and evaluate hydrologic predictions;
 - (iii) Sampling fish and wildlife populations to determine habitat utilization, species abundance and diversity; and
 - (iv) Sampling surface and subsurface waters to determine pollutant loading, and changes from the natural variability of background conditions.
 - (e) A contingency plan specifying what corrective actions will be taken should the mitigation not be successful.
- (7) Wetland Mitigation Banks. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:
- (a) The bank is certified under state law;
 - (b) The director determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
 - (c) The proposed use of credits is consistent with the terms and conditions of the bank's certification.

Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification. (Ord. 1440 § 3, 2005).

Chapter 20.25
FISH AND WILDLIFE HABITAT CONSERVATION AREAS

Sections:

- 20.25.010 Designation of fish and wildlife habitat conservation areas.**
- 20.25.020 Designation of habitats and species of local importance.**
- 20.25.030 Mapping.**
- 20.25.040 Riparian buffers.**
- 20.25.050 Critical areas reports.**
- 20.25.060 Approval of activities.**

20.25.010 Designation of fish and wildlife habitat conservation areas.

Fish and wildlife habitat conservation areas include:

- (1) Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association. The Washington State Department of Fish and Wildlife, U.S. Fish and Wildlife Service, and the National Marine Fisheries Service should be consulted for current listing status;
- (2) State priority habitats and areas associated with state priority species, as identified by the Washington State Department of Fish and Wildlife;
- (3) Garry oak (*Quercus garryana*) stands and individual trees;
- (4) Other habitats and species of local importance, as identified by the city in accordance with OHMC 20.25.020;
- (5) Commercial and recreational shellfish areas, including all public and private tidelands or bedlands suitable for shellfish harvest as well as shellfish protection districts established pursuant to Chapter 90.72 RCW;
- (6) Geoduck concentration areas, including all public and private bedlands suitable for geoduck colonization;
- (7) Eelgrass beds;
- (8) Forage fish spawning areas;
- (9) Lakes or ponds that provide fish or wildlife habitat, except artificial ponds created for a nonwildlife purpose such as stormwater detention facilities, wastewater treatment facilities, farm ponds, and temporary construction ponds; and
- (10) Areas of rare plant species or high-quality ecosystems identified by the Washington State Department of Natural Resources through the Natural Heritage Program under Chapter 79.70 RCW. (Ord. 1440 § 4, 2005).

20.25.020 Designation of habitats and species of local importance.

- (1) Habitats and species of local importance are those identified for protection by the city. Habitats may include a seasonal range or habitat element with which a species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.
- (2) The city shall accept and consider nominations for habitat areas and species to be designated as locally important on an annual basis. Habitats and species may be nominated for designation by any person.
- (3) Habitats and species to be designated shall exhibit at least one of the criteria in subsections (3)(a) through (3)(c) of this section and shall meet the criteria in subsections (3)(d) through (3)(f) of this section.
 - (a) Local populations of native species are vulnerable or declining or are likely to become threatened or endangered based on existing or predictable threats;
 - (b) The species or habitat has recreational, commercial, game, tribal, or other special value;

- (c) Long-term persistence of a species within the urban growth area of Oak Harbor is dependent on the protection, maintenance and/or restoration of the nominated habitat;
 - (d) Protection by county, state, or federal policies, laws, regulations, or nonregulatory tools is not adequate to prevent degradation of the species or habitat in the city; and
 - (e) Without protection, there is likelihood that the species or habitat will decline over the long term.
 - (f) Nominated areas must represent high-quality native habitat or habitat that either has a high potential to recover to a suitable condition and is of limited availability or provides landscape connectivity contributing to conservation of the designated species or habitat.
- (4) A petition to nominate an area or a species to this category shall contain all of the following, using best available science:
- (a) A statement demonstrating that nomination criteria are met;
 - (b) A proposal for whether specific habitat features should be protected (for example, nest sites, breeding areas, and nurseries), or whether the habitat or ecosystem is being nominated in its entirety;
 - (c) Proposed management strategies for the species or habitats. Where restoration of habitat is proposed, a conceptual plan for restoration must be provided as part of the nomination;
 - (d) Signatures of all petitioners.
- (5) The director shall determine whether the nomination proposal is complete, and if complete, shall evaluate it according to the characteristics enumerated in subsection (3) of this section and make a recommendation to the planning commission based on those findings.
- (6) The planning commission shall hold a public hearing for proposals found to be complete and make a recommendation to the city council based on the characteristics enumerated in subsection (3) of this section.
- (7) Following the recommendation of the planning commission, the city council shall hold an additional public hearing and shall determine by ordinance whether the designation criteria in this section have been met. Designation of a habitat or species of local importance shall be by ordinance.
- (8) Approved nominations shall be specified in OHMC 20.25.010 and shall be subject to the provisions of the critical areas regulations in this title. (Ord. 1440 § 4, 2005).

20.25.030 Mapping.

The following, in addition to critical areas maps available through the city, may be used as a guide for locating fish and wildlife habitat conservation areas:

- (1) Washington State Department of Fish and Wildlife priority habitat and species maps;
- (2) Maps developed by the Island County marine resources committee, including the location of eelgrass and forage fish spawning areas;
- (3) Maps developed by the Water Resources Inventory Area 6 (Whidbey and Camano Islands) Salmon Technical Advisory Group, including the distribution of salmon species;
- (4) Washington State Department of Natural Resources Natural Heritage Program maps and mapping data;
- (5) Washington State Department of Health inventory of shellfish harvest areas.

These sources are to be used as references for the city, project applicants and property owners, but may be superseded by new data. (Ord. 1440 § 4, 2005).

20.25.040 Riparian buffers.

- (1) Standard Buffer Widths. Aquatic fish and wildlife habitat conservation areas shall be protected with vegetated buffers, which also provide riparian wildlife habitat. These buffers shall have the following standard widths, measured perpendicular from the ordinary high water mark of the waterbody:
 - (a) Salmonid-bearing streams: 100 feet throughout all reaches used by salmonids at any life

- stage at any time of the year, including reaches likely to be used by salmonids after foreseeable downstream restoration, as determined by the director;
- (b) Other streams and stream reaches, including seasonal streams: 50 feet;
 - (c) Marine shorelines identified as fish and wildlife habitat conservation areas: 100 feet.
- (2) Reductions for Lower Impact Land Uses. Buffer widths in subsection (1) of this section assume high-intensity land use is occurring adjacent to the waterbody, as is characteristic of an urban area. These widths may be reduced up to 25 percent if measures to minimize the impacts of the land use adjacent to the waterbody are applied, such as infiltration of stormwater, retention of as much native vegetation and soils as possible, direction of noise and light away from the waterbody, and other measures that may be suggested by a qualified professional. Buffer widths may also be reduced up to 25 percent for lower impact land uses such as agriculture, at the discretion of the director and if best management practices are applied. If proposed future land uses are more intense, they are not eligible to maintain this reduction.
- (3) Reductions for Restoration. Buffer widths may be reduced up to an additional 25 percent if the buffer is restored or enhanced from a preproject condition that is disturbed (e.g., dominated by invasive species), so that functions of the postproject buffer are equal or greater. The restoration plan must meet requirements in OHMC 20.12.100 for a mitigation plan and OHMC 20.25.050 for a critical areas report. This reduction may be added to reductions for lower impact land uses.
- (4) Buffer Averaging. The director shall have the authority to average buffer widths on a case-by-case basis, where a qualified professional demonstrates to the director's satisfaction that all of the following criteria are met:
- (a) The total area contained in the buffer after averaging is no less than that contained within the buffer prior to averaging;
 - (b) Decreases in width are generally located where riparian functions may be less sensitive to adjacent land uses, and increases are generally located where riparian functions may be more sensitive to adjacent land uses, to achieve no net loss or a net gain in functions; and
 - (c) The averaged buffer, at its narrowest point, shall never be less than 25 feet.
- (5) Signage. Signs shall identify postproject riparian buffers as critical areas or native growth protection areas, in accordance with OHMC 20.12.140(2).
- (6) Allowed Uses. The following uses may be permitted within a riparian buffer, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize negative impacts to the buffer and adjacent waterbody:
- (a) Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.
 - (b) Passive recreation facilities consistent with an approved critical areas report, including:
 - (i) Wildlife-viewing structures; and
 - (ii) Walkways and trails, provided pathways minimize adverse impacts on water quality. They should generally be parallel to the perimeter of the waterbody, located in the outer 25 percent of the riparian buffer area, and avoid removal of significant trees. They should be limited to pervious surfaces no more than five feet in width.
 - (c) Stream crossings, if necessary to provide access to property and if impacts are fully mitigated consistent with an approved critical areas report.
 - (d) Stormwater management facilities, limited to stormwater dispersion outfalls and bioswales, may be allowed within the outer 25 percent of riparian buffers; provided, that:
 - (i) No other location with less impact is feasible; and
 - (ii) Mitigation for impacts is provided to achieve no net loss or a net gain in functions.
 - (e) Marine Shoreline Erosion Control Measures. New, replacement, or substantially improved marine shoreline erosion control measures may be permitted, consistent with all necessary state and federal permits and in accordance with an approved critical areas

report that demonstrates the following:

- (i) No feasible alternative would provide adequate protection to upland property;
 - (ii) Bioengineering or soft armoring shall be employed to the greatest extent feasible;
 - (iii) Mitigation measures shall ensure there is no net loss of the functions or values of intertidal or riparian habitat, allowing for off-site mitigation if necessary.
- (f) Streambank Stabilization. Streambank stabilization to protect structures from future channel migration is not permitted except when achieved through bioengineering or soft armoring techniques in accordance with an approved critical areas report and all necessary state and federal permits.
- (g) Public Flood Protection Measures. New public flood protection measures and expansion of existing ones may be permitted, subject to the director's review and approval of a critical areas report and all necessary state and federal permits. (Ord. 1440 § 4, 2005).

20.25.050 Critical areas reports.

If required by the director in accordance with OHMC 20.12.070(2), a critical areas report for fish and wildlife habitat conservation areas shall meet the requirements of this section.

- (1) A critical areas report shall be required for all development within 300 feet of any stream or marine fish and wildlife habitat conservation area; within areas designated by the city to protect bald eagles and great blue herons or, if undesignated on city maps, within 800 feet of a bald eagle nesting site or 1,000 feet of a great blue heron colony; or within distances determined by the director for other fish and wildlife habitat conservation areas. Proposed activities that may affect oak trees must comply with Chapter 20.16 OHMC.
- (2) At a minimum, the report shall contain the following:
- (a) The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;
 - (b) A copy of the site plan for the development proposal including:
 - (i) A map to scale depicting fish and wildlife habitat conservation areas, wetlands, buffers, the development proposal, and any areas to be cleared or graded; and
 - (ii) A description of the proposed stormwater management plan for the development and consideration of impacts from drainage alterations.
 - (iii) The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site.
- (3) Proposals shall be exempt from further report requirements under the following conditions:
- (a) They are consistent with riparian buffer requirements in OHMC 20.25.040(1) or allowed uses in OHMC 20.25.040(6);
 - (b) They cut no significant trees within areas identified in subsection (1) of this section to protect bald eagles and great blue herons, and avoid land clearing and the use of heavy machinery between January 1st and August 31st in areas protected for bald eagles and between February 15th to July 31st in areas protected for great blue herons; and
 - (c) They comply with Chapter 20.16 OHMC and will not affect other fish and wildlife habitat conservation areas, following criteria established by the director.
- (4) Reports not exempt under subsection (3) of this section shall be prepared by a qualified biologist with experience preparing reports for the relevant type of habitat.
- (5) Critical areas reports for fish and wildlife habitat conservation areas shall address the following geographic areas:
- (a) The land parcel of the proposed activity;
 - (b) All fish and wildlife habitat conservation areas, including riparian buffers identified in OHMC 20.25.040(1), within 300 feet of the project area; and
 - (c) All wetlands and geologically sensitive areas within 300 feet of the project area.
- (6) A critical areas report for a fish and wildlife habitat conservation area shall contain an assessment of habitats, including the following information at a minimum:

- (a) A detailed description of vegetation throughout the areas identified in subsection (5) of this section;
 - (b) Identification of any species of local importance, priority species, or endangered, threatened, sensitive, or candidate species that have a primary association with habitat in these areas, and an assessment of potential project impacts on the species;
 - (c) A discussion of any federal, state, or local special management recommendations, including Washington State Department of Fish and Wildlife habitat management recommendations, that have been developed for habitats located in these areas or the species identified in subsection (6)(b) of this section. The Washington State Department of Fish and Wildlife must approve habitat management plans relating to bald eagles or great blue herons;
 - (d) A detailed discussion of the direct and indirect potential cumulative impacts on habitat from development of the site, including potential impacts to water quality;
 - (e) Documentation of any fieldwork performed on the site, and a description of the methodologies used to conduct habitat assessments and impact analyses, including references and all assumptions made or relied upon;
 - (f) An analysis of site development alternatives, including a no development alternative;
 - (g) A discussion of proposed mitigation, consistent with OHMC 20.12.090, Mitigation sequencing, and OHMC 20.12.100, Mitigation plan requirements; and
 - (h) A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.
- (7) When appropriate, due to the type of habitat or species present or the project area conditions, the director may also require the habitat management plan to include:
- (a) An evaluation by an independent qualified professional regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate;
 - (b) A request for consultation with the Washington State Department of Fish and Wildlife or the local Native American Indian tribe or other appropriate agency; and
 - (c) Detailed surface and subsurface hydrologic features both on and adjacent to the site.
- (8) Unless otherwise provided, a critical areas report may be supplemented by or composed of, in whole or in part, any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the director. (Ord. 1440 § 4, 2005).

20.25.060 Approval of activities.

The director shall condition approval of activities allowed within or adjacent to a habitat conservation area, or its buffers, as necessary to minimize or mitigate any potential adverse impacts. Conditions shall be based on the best available science and may include, but are not limited to, the following:

- (1) Establishment of buffer zones;
- (2) Preservation or restoration of critically important vegetation and/or habitat features such as snags and downed wood;
- (3) Preservation or restoration of contiguous wildlife habitat corridors, to minimize the isolating effects of development on habitat areas;
- (4) Limitation of access to the habitat area, including fencing to deter unauthorized access;
- (5) Seasonal restriction of construction activities;
- (6) Establishment of a duration and timetable for periodic review of mitigation activities; and
- (7) Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation. (Ord. 1440 § 4, 2005).

Chapter 20.28
GEOLOGICALLY SENSITIVE AREAS

Sections:

- 20.28.010 Designation of geologically sensitive areas.**
- 20.28.020 Critical areas report.**
- 20.28.030 Building setback.**
- 20.28.040 Modifications and flexibility.**
- 20.28.050 Repair of slope instabilities.**
- 20.28.060 Seasonal restriction and best management practices.**

20.28.010 Designation of geologically sensitive areas.

- (1) Geologically sensitive areas include areas susceptible to erosion, sliding, earthquake, or other geologic events and conditions. Improper and incompatible development sited in these areas can pose a threat to the health and safety of citizens, placing not only itself at risk, but also potentially creating or increasing hazards to surrounding development and land uses. Areas susceptible to one or more of the following types of hazards shall be designated as a geologically sensitive area:
 - (a) Areas mapped on the city of Oak Harbor geologically sensitive areas map;
 - (b) Unstable slopes, as defined in OHMC 20.02.020;
 - (c) Steep slopes, as defined in OHMC 20.02.020; and
 - (d) Areas of moderate to high liquefaction due to soil type and/or location or seismically induced ground disturbance such as surface rupture, fissuring, and lateral spreading.
- (2) As the city is not impacted by mine or volcanic hazards and the current tsunami data is inconclusive, development in the city shall comply with standard International Building Code requirements with respect to these potential hazards. (Ord. 1440 § 5, 2005).

20.28.020 Critical areas report.

All single-family residential development within 100 feet of a designated geologically sensitive area and all commercial, industrial, or multifamily developments within 200 feet of a designated geologically sensitive area shall be considered "adjacent" to the geologically sensitive area and required to submit a critical areas report, as described in this section. The director shall approve the critical areas report only if it demonstrates that the proposed development will not increase the risk of harm to public safety or neighboring properties or critical areas. To determine if a critical areas report is required on slopes between 15 and 39 percent, the director may require the applicant to provide a letter prepared by a certified geologist or engineer that determines whether springs or ground water seepage is present on the subject slope.

- (1) Geotechnical Analysis. Except as provided in subsections (2) and (3) of this section, all development proposals within or adjacent to a designated geologically sensitive area shall submit a site assessment, geotechnical report, grading and erosion control plan and landscape/revegetation plan. This analysis shall contain the following information:
 - (a) Site Assessment. Along with the standard site plan requirements, the following information shall be provided for the subject property, prepared by a licensed land surveyor:
 - (i) Topography map at two-foot contour intervals for the entire site, including abutting public rights-of-way, private roads, or access easements;
 - (ii) Location of all significant trees;
 - (iii) Location of all manmade drainage structures or features including pipes, drains, catch basins, drainage structures, culverts, and underdrain pipes;
 - (iv) Location of all frequently flooded areas, as defined in Chapter 17.20 OHMC, and all other critical areas, as defined in this title, including: oak trees, wetlands, fish

and wildlife habitat conservation areas, critical aquifer recharge areas, and geologically sensitive areas;

- (v) Location of all existing site improvements and the amount of existing impervious surface area; and
- (vi) Location of all utilities, both above and below ground.

The site plan shall also include a vicinity map, showing the location of the property in relationship to surrounding lots and other critical areas.

- (b) Geotechnical Report. The report, prepared by a qualified professional, shall include an assessment of the geologic characteristics of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis shall be prepared in accordance with accepted classification systems in use in the region. The assessment shall include, but not be limited to:
 - (i) Data regarding underlying geology, slope gradients, soil types, and subsurface information, including boring and/or test pit logs describing soil stratification and results of soil tests conducted;
 - (ii) Identify any previous landslide activity in the vicinity of the project and provide an assessment of the overall slope stability and the effect the development will have on the slope and adjacent properties over time;
 - (iii) Recommendations for grading procedures, fill placement, and compaction criteria, temporary and permanent slope inclinations and support, and design criteria for corrective measures and opinions and recommendations regarding the capabilities of the site;
 - (iv) Evaluation of the seismic stability of the site in drained and saturated conditions, including a statement that the design criteria of proposed structures consider a seismic event with a 10 percent probability of being exceeded in 50 years;
 - (v) Potential for liquefaction and proposed mitigation measures;
 - (vi) A description of the hydrology (both surface and subsurface) of the site, including locations of any wetlands, streams, springs, seeps, and ground water along with recommendations consistent with the city's critical areas regulations for addressing any impacts;
 - (vii) A recommendation on building site location, foundation type and depths, minimum building setbacks, minimum deck and accessory building setbacks, and if necessary the minimum no-disturbance setback from any geologically sensitive area based upon the geotechnical analysis. The report shall also include recommendations on the design of temporary and permanent retaining structures if any are proposed;
 - (viii) An estimate of bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a 100-year storm event; and
 - (ix) Recommendations and requirements for handling contaminated soils and materials if encountered on the site.
- (c) Grading and Erosion Control Plan. The plan shall be prepared by a qualified professional and shall include:
 - (i) A schedule showing when each stage of the project will be completed, and estimate starting and completion dates, limiting the time that soil is exposed and unprotected to the shortest possible period.
 - (ii) Measures to be taken for slope stabilization and erosion control, using best management practices as contained in the Washington State Department of Ecology's 2005 Stormwater Management Manual for Western Washington: Volume II, Construction Stormwater Pollution Prevention (Publication No. 05-10-032), or future updated publications or other methodology as approved by

- the director.
- (d) Landscape/Revegetation Plan. A revegetation plan shall be prepared which:
 - (i) Shows measures to be taken for protection and replacement of the natural vegetative cover;
 - (ii) Includes a note stating that vegetation trimming debris shall be removed from slopes in such a fashion as to not disturb existing vegetation; and
 - (iii) Includes a schedule showing when each stage of the project will be revegetated with estimated starting and completion dates.
 - (2) Geotechnical Letter Requirements. For the following small development applications, a letter prepared by a qualified professional may be prepared in lieu of the full geotechnical reporting requirements:
 - (a) Building additions less than 30 percent of their entire structure.
 - (b) Additions to a building's height where the footprint of the existing structure is not changed.
 - (c) Earth retaining walls less than 10 feet in height and set back more than 50 feet from the top of a steep slope.
 - (d) Detached auxiliary buildings such as garages and sheds with no living spaces.
- A geotechnical letter shall include an assessment of the existing geologic and geotechnical site conditions, including surface water runoff, ground water, soil types, erosion, and slope stability. The qualified professional shall prepare conclusions and recommendations on the suitability of the proposed development and any mitigation necessary to address existing site conditions that may need to be modified due to the proposed development.
- (3) Exceptions. For the following single-family and multifamily residential development applications, the director may waive the requirements for geotechnical analysis or letter, if the development is unlikely to have any impact on a geologically sensitive area:
 - (a) Additions to a single-family residence less than 200 square feet in size, located so that the existing structure is between the addition and a steep or unstable slope.
 - (b) Detached auxiliary buildings such as garages and sheds that are 50 feet or more away from a steep or unstable slope.
 - (c) Decks attached to single-family and multifamily structures where no additional load-bearing weight is added to an adjacent steep or unstable slope. (Ord. 1440 § 5, 2005).

20.28.030 Building setback.

- (1) New structures and additions to existing structures within or adjacent to a geologically sensitive area shall be set back a minimum of 25 feet from the top of a steep or unstable slope unless a larger setback is recommended in a geotechnical analysis. In no case shall the setback be less than 25 feet from a steep or unstable slope unless allowed through the "reasonable use" provisions of OHMC 20.12.060 and supported by a geotechnical report and approved by the director. Decks which add no substantial loading weight to the sensitive area and accessory buildings 120 square feet or less may extend into the setback area to within 10 feet of the top or toe of a steep or unstable slope.
- (2) Signage. After completion of the project, the top of the steep or unstable slope shall be identified with signs as a critical area or native growth protection area, in accordance with OHMC 20.12.140(2). (Ord. 1440 § 5, 2005).

20.28.040 Modifications and flexibility.

Minor alterations on steep or unstable slopes or associated setbacks may be allowed by the director where all of the following standards have been met:

- (1) A site assessment has been submitted showing that the proposal will have no adverse impact on the stability or erosion susceptibility of the slope;
- (2) The impacted area totals no more than 20 percent of the entire site;

- (3) The modification will not increase surface water discharge or sedimentation to adjacent properties or critical areas beyond predevelopment conditions;
- (4) The activity will not adversely impact other critical areas;
- (5) The development will not decrease slope stability on adjacent properties; and
- (6) Stormwater runoff from any new impervious surface shall be collected in a detention system and directed to an enclosed drainage system. Where minor additions of less than 1,000 square feet of new impervious areas are proposed to existing developed properties that do not have detention facilities, the stormwater runoff shall be directed to the city's storm drainage system or be designed for natural infiltration or dispersion. At no time shall concentrated stormwater runoff be allowed to flow directly over a steep or unstable slope or impact a neighboring property. (Ord. 1440 § 5, 2005).

20.28.050 Repair of slope instabilities.

Repair of slope instabilities and slope failures on an emergency basis shall be allowed by the director as needed to correct an immediate danger to the public health, welfare and safety. The director shall use the guidance of this chapter when evaluating the necessary repairs and add mitigation measures as appropriate to ensure that the intent of this chapter has been met. (Ord. 1440 § 5, 2005).

20.28.060 Seasonal restriction and best management practices.

Clearing and grading within the wet weather months (October through April) shall be allowed in or adjacent to geologically sensitive areas only with the approval of the director. The developer shall fully implement a wet weather construction plan using at a minimum the current best management practices as contained in the Washington State Department of Ecology's 2005 Stormwater Management Manual for Western Washington: Volume II, Construction Stormwater Pollution Prevention (Publication No. 05-10-032), or future updated publication. If the wet weather construction plan is not implemented or turbid water leaves the site, construction shall be stopped immediately until proper erosion control devices are implemented and established. Best management practices include, but are not limited to:

- (1) Exposed soils shall be protected from the forces of rain and flowing water within two days during the winter season and seven days during the summer season.
- (2) Erosion control devices shall include as appropriate silt fences, straw mats, bay bails, filter fabrics, plastic sheeting, mulch, retention of vegetative buffers, and soil stabilization plant materials.
- (3) Development shall be phased to limit the area of exposed soils to no more than two acres at a time.
- (4) Water flows shall be directed away from steep or unstable slopes. At no time shall water be allowed to flow freely over steep or unstable slopes.
- (5) Vegetation removal or planting on steep slopes shall be conducted by hand or by nonimpacting procedures as approved by the director. Heavy equipment shall not be allowed on steep or unstable slopes. (Ord. 1440 § 5, 2005).

Chapter 20.32
CRITICAL AQUIFER RECHARGE AREAS

Sections:

20.32.010 Designation of critical aquifer recharge areas.

20.32.020 Regulated activities.

20.32.030 Critical areas report.

20.32.010 Designation of critical aquifer recharge areas.

- (1) Critical aquifer recharge areas (CARAs) are those areas with a critical recharging effect on aquifers used for potable water. CARAs have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water. These include aquifer recharge areas moderately or highly susceptible to degradation, as identified by the Island County aquifer recharge area map or other study using criteria established by the Washington State Department of Ecology for soil permeability, geologic matrix, infiltration and depth to water.
- (2) The approximate location and extent of CARAs are shown on the city's adopted critical areas maps. These maps are to be used as a reference for the city, project applicants and property owners and may be superseded by new data. (Ord. 1440 § 6, 2005).

20.32.020 Regulated activities.

The following permitted activities or land uses are subject to the requirements of this chapter, when conducted within 200 feet of a CARA:

- (1) Above or below ground storage tanks for hazardous substances or hazardous wastes.
- (2) Commercial, industrial, institutional or other facilities that include: automobile washers, chemical treatment storage and disposal facilities, dry cleaners, hazardous waste generators, junk yards and salvage yards, oil and gas drilling, on-site sewage systems, pesticide storage and use, petroleum transmission facilities and/or storage tanks, solid waste handling and recycling facilities, vehicle repair and services, wastewater application to land surfaces, and other activities that create a significant risk of contaminating CARAs.
- (3) Residential sewage disposal systems that serve two or more residences or that have a density greater than one system per acre.
- (4) Stormwater management facilities that infiltrate the majority of water they manage. (Ord. 1440 § 6, 2005).

20.32.030 Critical areas report.

- (1) For all regulated activities, the applicant shall submit a report describing the best management practices to be used to minimize the risk of aquifer contamination. At a minimum, these practices shall include those recommended by the Washington State Department of Ecology in its 2005 Stormwater Management Manual for Western Washington: Volume IV, Source Control BMPs (Publication No. 05-10-032) or future updated publications, as applicable, and shall comply with requirements in the Washington Administrative Code for the proposed activity.
- (2) The following general development standards shall apply to all regulated activities:
 - (a) Floor drains shall be connected to an approved sanitary sewer system;
 - (b) Vehicle washing facilities must be self-contained and connected to an approved sanitary sewer system;
 - (c) Underground tanks shall be installed in accordance with Chapter 173-360 WAC, Underground Storage Tanks;
 - (d) Vehicle repair and service areas shall be conducted over impermeable pads and located within an enclosed structure;

- (e) Chemicals shall be stored in a manner that is protected from the weather and located within containment areas; and
 - (f) Additional protective measures may be required if deemed necessary by the city of Oak Harbor.
- (3) The applicant shall also submit a spill prevention plan that identifies equipment being used or any structures that could fail and contaminate CARAs. The plan shall include provisions for regular inspection, repair, replacement, clean-up methods to be used, and methods to dispose of all spilled materials.
- (4) If the director determines that additional precautions may be necessary to protect against ground water contamination, a hydrogeologic site evaluation prepared by a qualified professional may be required. The city may engage an independent qualified professional to review the evaluation, at the applicant's expense. The evaluation shall address some or all of the following, as specified by the director:
- (a) Hydrogeologic Setting.
 - (i) Description of the geologic setting of the site, illustrated with geologic and soil maps;
 - (ii) Discussion of geologic features which may influence ground water movement, such as faults, landforms, etc.;
 - (iii) Description of the occurrence and movement of groundwater in the area, including a general discussion of aquifer recharge and discharge, depth of groundwater and groundwater flow patterns; and
 - (iv) General discussion of groundwater quality in the area.
 - (b) Site-Specific Hydrogeologic Data.
 - (i) Scaled map showing the location of wells (in use or inactive) and springs within 1,000 feet of the site or as required by the director;
 - (ii) Depth to groundwater layer in the immediate vicinity;
 - (iii) Hydrogeological cross-sections through the site and immediate vicinity with references to information used to prepare the cross-sections;
 - (iv) Description of groundwater movement beneath the site with considerations for the following:
 - (A) Areal distribution, stratification and hydraulic conductivity of the water-bearing formations;
 - (B) Probable migration pathways for contaminants;
 - (C) An estimate of the probable times of travel through the soil horizontally and vertically from a potential contaminant source;
 - (v) Description of how the contaminants of concern will be attenuated within the saturated zone; and
 - (vi) Estimate of the quantity and/or quality of water recharged to the saturated zone under anticipated operation.
- (5) A mitigation plan shall be required to address groundwater impacts identified in the hydrogeologic site evaluation, consistent with OHMC 20.12.090 and 20.12.100. The director may require that the plan include monitoring, process controls, remediation and discussion of alternatives. (Ord. 1440 § 6, 2005).

Chapter 20.50
SEPA POLICIES FOR REVIEW OF SEPA CHECKLISTS

Sections:

- 20.50.010 Distribution.**
- 20.50.020 Responses to checklist.**
- 20.50.030 Notice of completion – Time limit.**

20.50.040 Information requested – Time limit.

20.50.050 Completed checklist.

20.50.010 Distribution.

After receipt of the SEPA checklist, the building department shall route copies to the appropriate department heads for their written comments. Department heads shall return their written comments to the SEPA official within two weeks. (Ord. 934 § 1, 1992).

20.50.020 Responses to checklist.

Within 30 days of receipt of an application and environmental checklist, the responsible environmental official shall:

- (1) Issue a threshold determination (determination of significance or determination of nonsignificance); or
- (2) Respond to the applicant, in writing, with a notification of completeness; or
- (3) Request, in writing, any additional information reasonably related to whether or not the proposal is likely to have significant adverse environmental impacts. (Ord. 934 § 2, 1992).

20.50.030 Notice of completion – Time limit.

If a notification of completeness is provided to the applicant, the SEPA official shall make a threshold determination in an expeditious manner, not to exceed 90 days from the notification of completeness. (Ord. 934 § 3, 1992).

20.50.040 Information requested – Time limit.

In the event additional information is requested, and upon written response of the applicant to such request, either by providing the information or indicating an inability to provide it, the responsible official shall:

- (1) Issue a threshold determination within 90 days from the receipt of the applicant's response; or
- (2) Notify the applicant that a determination of significance is likely and indicate the areas of likely impact (WAC 197-11-350). A final determination shall be made within 90 days from the receipt of the applicant's response for additional information, unless the applicant requests an additional 30 days for the responsible SEPA official to evaluate mitigation measures proposed by the applicant. The responsible SEPA official shall grant such extension, if requested;
- (3) The responsible official may request further information or clarification after review of the initial response for additional information. The threshold determination must then be made within 90 days from receipt of any response to the request for information. (Ord. 934 § 4, 1992).

20.50.050 Completed checklist.

- (1) A completed checklist shall consist of at least the following items and additional information as set out in subsection (2) of this section:
 - (a) Detailed description of the proposed action;
 - (b) Detailed description of the site including site plan vicinity map and certified list of all property owners and their addresses within 300 feet of the project. Soil data should include drainage characteristics and types;
 - (c) Traffic data that will indicate any adverse environmental concerns and/or satisfy the Washington State Department of Transportation requirements;
 - (d) Identification of all wetlands and other critical areas such as wildlife-habitat and the effect the proposal will have on them;
 - (e) Identify any detrimental effects the proposal will have on the environment.
- (2) In addition, at the time of submittal or within 30 days of the original submittal, the responsible official may ask for additional information on other subjects consistent with the goals of SEPA and for which additional information is needed. (Ord. 934 § 5, 1992).

ⁱSee Chapter 19.56 OHMC for shoreline management provisions.

ⁱⁱPrior legislation: Ords. 898 and 1275.

**Oak Harbor Shoreline Master Program
Department of Ecology Comment Summary**

April 16, 2013

Comment # & Topic	Commenter	Specific Comment	City of Oak Harbor Response
1. SMP Sec. 3.b.6. Suggested policy change	Gretchen Kaehler Assistant State Archaeologist Dept. of Archeology & Historic Preservation P.O. Box 48343 Olympia, WA 98504	SMP Sec. 3.b.6 (Archeological & Historic Resources Policies): Suggest changing policy #6 language (see DAHP) comment #1.	See response below to comment number 4 regarding the DAHP model language.
2. SMP Sec. 3.c.1.b.1. Suggested regulation change	Gretchen Kaehler Assistant State Archaeologist	SMP Sec. 3.c.1.b.1 (Archeological & Historic Resources Regulations): Suggest changing regulation 1.b.1. vi & vii. These sections should make reference to DAHP database site inventory and forms. (See DAHP comment #2).	See response below to comment number 4 regarding the DAHP model language.
3. SMP Sec. 3.c.1.b.1. Suggested regulation change	Gretchen Kaehler Assistant State Archaeologist	SMP Sec. 3.c.1.b.1 (Archeological & Historic Resources Regulations): Suggest changing regulation 1.b.1. x by clarifying that other mitigation measures may be appropriate. (See DAHP comment #3)	See response below to comment number 4 regarding the DAHP model language.
4. SMP Sec. 3.c.	Gretchen Kaehler Assistant State Archaeologist	Replace Chapter 3 Sec. B.3 Archaeology and Historical Resources with State DAHP provided model language. Note: State DAHP confirmed that addressing this comment will negate DAHP comments 1-3.	Per agreements reach with with Gretchen Kaehler, DAHP, in e-mail correspondence dated April 18, June 28, July 2, July 29 and August 5, 2013, the City is proposing to use the DAHP model language with exceptions noted below. <ul style="list-style-type: none"> • The City is proposing to insert a definition of “Area of known historic/archaeological resources.” That term would be defined in the SMP as: “that area lying

			<p>within 500 feet of an historic or prehistoric property or location identified by the Washington State Department of Archaeology and Historic Preservation’s GIS layer of archaeological historic sites (City of Oak Harbor Datasharing MOU 2010-44).</p> <ul style="list-style-type: none"> • The City is proposing to replace the model language in the “Archaeological-Historic-Cultural Sites—Regulations: Known Historic, Cultural or Archaeological Sites” section of the model language (page 2, lines 22-31) with the following language: <i>“Upon receipt of application for a shoreline or demolition permit on sites where archaeological, historic, and cultural resources are known to be present or request for a statement of exemption for development on properties within 500 feet of a site known to contain an historic, cultural or archaeological resource(s), the City shall require a cultural resource site assessment; provided that, the provisions of this section may be waived if the Shoreline Administrator determines that the proposed development activities do not include any ground disturbing activities and will not impact a known historic, cultural or archaeological site. The</i>
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			<p><i>site assessment shall be conducted by a professional archaeologist or historic preservation professional, as applicable, to determine the presence of significant historic or archaeological resources."</i></p> <p>The City will use DAHPs model language as provided to the City by DAHP, with the above exceptions noted.</p>
<p>5: Freund Marsh East Ditch Tide Gate Check Valve</p>	<p>Dan Dillard Oak Harbor, WA threed3.comcast.net</p>	<p>Feels that if the East Ditch tide gate had a proper check valve there would be no salt water intrusion into the ditch, which would remove bordering properties from shoreline jurisdiction.</p>	<p>The check valve in Mr. Dillard’s e-mail is commonly called a “tide gate.” It is placed on the downstream end of a culvert, hinged at the top and made of metal. As the tide rises, the gate is forced closed. As the tide recedes, storm water behind the gate forces it back open. Occasionally, debris in the storm water can keep the tide gate from completely closing. To ensure proper operation, the city regularly inspects the tide gate and removes any debris. A new tide gate (check valve) would be susceptible to similar debris and require the same inspection and maintenance.</p>

City of Oak Harbor City Council Agenda Bill

Bill No. J.A.
Date: December 3, 2013
Subject: Resolution 13-36: Elected
officials health care benefits.

FROM: Doug Merriman, Finance Director 

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

Scott Dudley, Mayor

 Larry Cort, City Administrator

 Grant Weed, Interim City Attorney, as to form

PURPOSE

A resolution establishing a policy regarding medical benefits for the City's elected officials.

FISCAL IMPACT DESCRIPTION

Funds required: \$ Not Applicable

SUMMARY STATEMENT

At their November 19, 2013 meeting, City Council approved a motion that "no elected official be eligible to participate in the City's High Deductible Healthcare Plan, and for other health care plans, elected officials shall pay for their dependents that they elect to have on the City's plan". City Council further directed that a resolution reflecting this motion be brought forward on December 3, 2013 "for review and possible approval".

The attached proposed Resolution 13-36 establishes the directives of the motion. The first section resolves that elected officials will be ineligible to participate in the City's High Deductible Healthcare Plan. The second section resolves that payment for the medical insurance premiums for dependents of elected officials will be the financial responsibility of the elected official.

The City currently has one elected official who has enrolled in the City's High Deductible Healthcare Plan, effective the applicable open enrollment date for the plan year ending December 31, 2013. Furthermore, as a requirement to participate in the 2013 plan year, any participants selecting the High Deductible Healthcare Plan option for the plan year ending December 31, 2013 were required to remain in the plan through December 31, 2014. Accordingly, the elected official selecting this option is eligible to remain in the plan through December 31, 2014. Section 3 addresses how the application of Resolution 13-36 will be applied in this case.

The City currently has one elected official who is currently authorized dependent premium coverage to be funded 75% by the City. Accordingly, Section 4 addresses how the application of Resolution 13-36 will be applied in this case.

City of Oak Harbor City Council Agenda Bill

RECOMMENDED ACTION

1. Adopt Resolution 13-36.

ATTACHMENTS

1. Draft Resolution 13-36
2. Copy of December 19, 2013 motion.

RESOLUTION NO. 13-36

A RESOLUTION OF THE CITY OF OAK HARBOR TO ESTABLISH A POLICY MAKING ELECTED OFFICIALS INELIGIBLE FOR PARTICIPATION IN THE CITY'S HIGH DEDUCTIBLE HEALTHCARE PLAN (HDHP), AND MAKING THE PAYMENT OF MEDICAL INSURANCE PREMIUMS FOR THE DEPENDENTS THE FINANCIAL RESPONSIBILITY OF THE ELECTED OFFICIAL.

WHEREAS, on November 19, 2013 the City Council of the City of Oak Harbor approved a motion that no elected official be eligible to participate in the City's High Deductible Healthcare Plan; and

WHEREAS, in the same approved motion, the City of Council of the City of Oak Harbor directed that elected officials shall personally pay for the healthcare premium attributable to any qualified dependent they elect to participate in any of the City's healthcare plans; and

WHEREAS, the City Council directed that a resolution be brought forward on December 3, 2013 for review and possible passage.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. No elected officials will be eligible to sign up for participation in the City's High Deductible Healthcare Plan.
2. The payment for the medical insurance premium cost for the qualified dependents of elected officials will be the financial responsibility of the elected official.
3. For any elected officials currently participating in the City's High Deductible Healthcare Plan, the application of the rule making any such elected official ineligible for participation in the City's HDHP will be effective January 1, 2015.
4. For any elected officials who currently have dependent care coverage under any of the City's healthcare plans, the application of the rule making the payment of medical insurance premiums the responsibility of the elected official will be effective January 1, 2015.

PASSED by the City Council this 3rd day of December 2013.

CITY OF OAK HARBOR

SCOTT DUDLEY, MAYOR

ATTEST:

Valerie J. Loffler, City Clerk

APPROVED AS TO FORM:

Grant Weed, Interim City Attorney

Motion

I move that no elected official be eligible to participate in the City's High Deductible Health Care Plan, and for the other health care plans, elected officials shall pay for their dependents that they elect to have on the City's plan.

Further, staff shall bring forward a new resolution, reflecting this motion, for Council review and possible approval at the Dec. 3, 2013 Council Meeting.

A handwritten signature in black ink, appearing to read 'Rick Almberg', with a stylized flourish at the end.

**Rick Almberg
November 19, 2013**