City of Oak Harbor

City Council Meeting
Agenda for

December 6, 2011
6:00 p.m.

Oak Harbor City Council
REGULAR MEETING
Tuesday, December 6, 2011, 6:00 p.m.

Welcome to the Oak Harbor City Council Meeting

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

CALL TO ORDER

INVOCATION Pastor Dave Templin, Whidbey Presbyterian Church

ROLL CALL

MINUTES 11/15/11 Regular Meeting, 11/28/11 Special Meeting

NON-ACTION COUNCIL ITEMS:

1. Wreath Presentation – From Boy Scout Troop No. 59.
2. Planning Award Presentation – From the Washington Chapter of the American Planning Association and the Planning Association of Washington.
3. Proclamation – National Impaired Driving Prevention Month.
4. Public Comments.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS:

5. Consent Agenda:

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a. Excused Absence Request – Councilmember Rick Almberg from the 12/20/11 and 1/3/2012 Council Meetings.

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b. Library Board Re-appointment – Susan Norman.

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c. Marina Advisory Committee Re-appointment – Chris Skinner.

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d. Planning Commission Re-appointment – Keith Fakkema.

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e. Lease Renewal – Big Brothers Big Sisters.

f. Approval of Accounts Payable Vouchers (Pay Bills).

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6. Per Motion from 11/28/11 Meeting: Public Hearing on Property Tax Ordinance for 2012.

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7. Public Hearing – OHMC Code Revisions, Low Impact Development.

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8. Public Hearing – Work Plan and Extension for Sign Code Amendment, Political and Other Temporary Signs.

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9. Authorization to Advertise for Bids – Safe Routes to School.

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10. Per Motion from 11/28/11 Meeting: Impose a six-month freeze on any hiring and firing decisions until City Council has had the opportunity to consider the budgetary and operational impacts.
11. City Administrator's Comments.
12. Council Members' Comments.
    - Standing Committee Reports
13. Mayor's Comments.

ADJOURN

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

There's no such thing as bad weather, only unsuitable clothing.
~Alfred Wainwright

City Council Meeting
Tuesday, November 15, 2011, 6:00 p.m.
City Hall – Council Chambers

CALL TO ORDER Mayor Slowik called the meeting to order at 6:00 p.m.

INVOCATION Councilmember Jim Campbell

ROLL CALL

Mayor Jim Slowik
Five Members of the Council,
Jim Campbell
Scott Dudley
Danny Paggao, Mayor Pro Tem
Jim Palmer
Bob Severns

Councilmembers Rick Almberg and Beth Munns were absent and formally excused from this meeting.

Paul Schmidt, City Administrator
Bill Hawkins, Assistant City Attorney
Doug Merriman, Finance Director
Steve Powers, Development Services Director
Cathy Rosen, Public Works Director
Eric Johnston, City Engineer
Larry Cort, Project Manager
Rick Wallace, Chief of Police
Mark Soptich, Fire Chief
Mike McIntyre, Senior Services Director
Renée Recker, Executive Assistant to the Mayor

MINUTES

Councilmember Campbell moved to approve the 11/1/11 regular meeting minutes. The motion was seconded by Councilmember Palmer and carried unanimously.

NON-ACTION COUNCIL ITEMS

Employee Recognition – OHPD Officer Cedric Niiro, Twenty Years of Service

Chief of Police Rick Wallace introduced Officer Niiro and talked about his extensive background with the Police Department. Officer Niiro began in the patrol division, moved to crime prevention including neighborhood block watches and neighborhood meetings, became a defensive tactical instructor, was assigned to the detective division in 1998, investigates computer crimes and conducts data recovery, and has acted as the Department's K-9 officer. Officer Niiro has also been the OHPD Explorer Scout Coordinator for eighteen years. In 2009, he received a life saving award for service to one of the City's employees. Recently, Officer Niiro conducted parameter containment and apprehended an armed suspect wanted for a double homicide. The suspect was taken into custody without incident. Last year, Officer Niiro responded to a woman who was confronted on her porch by a man with a handgun whom he located and took into custody. Officer Niiro also participates in many community events and is recognized and thanked by community members.

At the Mayor's request, Officer Niiro introduced his family and thanked the Council for this evening's recognition – it is a pleasure to work with everyone for the past 20 years and I look forward to many more years here.

Mayor Slowik responded that it has been a real pleasure to work with Officer Niiro and to be associated with him over these last 4 years. From our staff and the people of Oak Harbor, thank you very much for all you have done; you have done a great job.

Break
Mayor Slowik called for a break at 6:10 p.m. to allow Council to personally congratulate Officer Niiro. The meeting reconvened at 6:15 p.m.

Public Comments
Larry Eaton, 429 SW Dyer, Oak Harbor. When we look at environmental issues, whether local, national or global, Oak Harbor is a microcosm of the larger whole. Mr. Eaton had these questions about Freund Marsh:

- When we decided to divert storm water into Freund Marsh, was there a study, what level of toxicity is going into the marsh, and what are the toxicity levels from runoff.
- The Freund family has been good to the City, is there a quid pro quo that the Freund family would allow us to use that marsh which could be ruined down the line.

Mayor Slowik asked City Engineer Eric Johnston to contact Mr. Eaton regarding these concerns.
Bob Olson, Owner, Whidbey Wild Birds, Oak Harbor. First, congratulations to those who ran and won and condolences to those who didn't make it. I am here tonight to say thank you to Chief Wallace and one officer in particular. I have been a homeowner since 1971 and I have seen changes in streets and speed limits. I have seen school zones with full coverage, then with coverage when children are present, and now when lights are flashing. At Midway and Whidbey, I was behind a vehicle with exempt license plates that ran through the intersection (a school zone). Officer Carter happened to see this and the car was pulled over; thank you Officer Carter. Exempt vehicles (state, county, city) should not ignore the speed zones. I would hope that you would retain Paul Schmidt. He has done a great job as the City Administrator for both Mayor Slowik and Mayor Cohen. And finally, November 26th is National Shop Small Day, so please support small businesses.
Barbara Berry-Jacobs and Sally Jacobs, Oak Harbor. We encourage Council to revisit the fire works ordinance. I would like to see it addressed prior to the fire works permitting time frame in January. Shop Oak Harbor.
Paul Brewer, 225 NE Ernst, Oak Harbor. Congratulations to Mayor-Elect Dudley and to those who have been re-elected. I also congratulate Tara Hizon; she ran an excellent campaign and will bring youth onboard, she has ability with social media, and will do a fantastic job.

With no other public comments coming forth, Mayor Slowik closed this portion of the meeting.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS
Consent Agenda

A. Approval of Accounts Payable Vouchers

MOTION: **Councilmember Palmer moved to approve Consent Agenda Item A paying Accounts Payable check number 147939 in the amount of $4,327.01, Accounts Payable check numbers 147940 – 148101 in the amount of $952,067.25, and Payroll Check numbers 95146 – 95157 in the amount of $412,067.04. The motion was seconded by Councilmember Severns and carried unanimously.**

RFP/RFQ – Professional Services Agreement for Special Benefit Analysis – Dillard's Addition

City Engineer Eric Johnston presented this agenda bill which proposed adoption of a resolution directing staff to proceed with procurement of professional real estate appraisal services to conduct a special benefits analysis. At the June 28, 2011 City Council meeting, a motion was passed that the City proceed with the development of a preliminary special benefit report in phases:

Phase 1: An RFQ to identify qualified firms
Phase 2: A Request for Proposal for Council Consideration and award of Contract

In October of 2011, staff circulated for comment a combined draft request for proposals and qualifications allowing for solicitation of the necessary professional services. The request for proposal sets forth the minimum qualifications for firms interested in performing the work and requires submittal of a proposal to the City in which the qualifications of the respondent are described. After the submittal date, the proposals and qualifications of the respondents will be reviewed and ranked by staff. If desired, the Council could direct that a committee comprised of staff, Council members and possibly community members be formed for the review and ranking of the proposals. Based on the rankings, the proposal best matching the needs of the City will then be presented to the City Council for consideration and award of a contract.

Staff will publish the appropriate notices in the Whidbey News Times and Daily Journal of Commerce making the request for proposal open for response. The cost of publication of these types of notices is typically around $1,000. The cost for the publication will be funded through the existing wastewater division budget. The cost for the special benefits analysis is estimated to range between $25,000 and $35,000. This cost is not included in the wastewater fund 2011-2012 budget and a funds authorization will be required prior to award of a contract.

Steve DiJulio was asked to speak about the special benefits process:
The key point in an LID process – it is about financing not construction. Ultimately, an assessment is used to secure the finance for public infrastructure and the statutes regarding LIDs describe different methods for assessment; mathematical or special benefits analysis. The mathematical process is based on an engineering analysis; a unit basis (per lot or per parcel basis). City Council asked staff for the more defensible

approach – a special benefits analysis. The appraiser would conduct a study to find the value of properties with or without sewer system improvements. The next step is to issue an RFP/RFQ for proposals from professional real estate appraisers. There are probably only three or four firms that can meet the needed qualifications:

- Experience working with municipal entities.
- Demonstrated experience with residential and multi-family residential real estate markets.
- Demonstrated experience conducting at least three LID special benefit analyses with 25 or more parcels.
- Ability to meet required deadlines as demonstrated by prior project history.
- MAI certification.

Mayor Slowik called for public comments.
Robin Kolaitis, 2141 SW Dillard Lane, Oak Harbor. I have nothing prepared tonight but looking at page 33 in the agenda packet and the third "Whereas" – *Whereas based on input from legal counsel and the community an analysis of the special benefits is appropriate before initiating the LID formation process…* that is all we need to know. We have been waiting a long time for this; thank you Mayor Slowik.
Paul Brewer, 225 NE Ernst, Oak Harbor. The Dillard problem started years ago, and the lesson for staff and Council, do the job right the first time and then you do not have to come back. Now we have to revisit this. Listen to the people; the other system was a failure.

Council Discussion
City Engineer Johnston was asked about the timeframe for proposals (they will be due on 12/31/11 as shown in the request – should be corrected to Friday, 12/30/11). Discussion followed which encouraged forming a committee comprised of staff, Council members and community members to review and rank the proposals. Since the cost for a special benefits analysis is estimated to range between $25,000 and $35,000, and the Mayor's approval authority is $30,000, Council asked if this would return for Council approval and Mr. Johnston noted that it would return to Council since this cost is not included in the wastewater fund for 2011-2012 and a funds authorization would be required. Discussion followed with Mr. DiJulio about the assessment per parcel not exceeding the special benefit of improvement to that parcel, and, could the special benefit be the same for a $1,000,000 property and a $200,000 property (yes). However, unlike a property tax basis, ad valorum, an assessment is not a tax; the costs could be the same for each property. Council asked if, an assessment is too high, could it exclude parts where the LID would work or not, or not work for the entire area. Mr. DiJulio responded that there is always the potential that with the costs of the improvements, the subject parcel would not have the value to sustain that capital obligation; the property could not manage that assessment. Discussion followed about taking the best-suited bid (not necessarily the lowest bid) noting again the handful of appraisers who will be able to qualify for this bid. This will not be a general commercial appraiser, and as stated among the needed qualifications, will require a MAI certification.

Discussion continued about funding to complete the special benefit analysis, estimated costs for an LID, and if all 37 parcels will be assessed. Mr. DiJulio noted that one of the purposes of a special benefit analysis is to decide what properties it would be attributed to, the cost of the project, and then determination if a special benefit can support the project financing. Mr. DiJulio talked about Freeland and their special benefit analysis which did not support the community going forward at that time. Council asked about the emails which had been received and if staff was comfortable that their suggestions had been included. Mr. Johnston responded that the City had received emails from two individuals and had addressed comments related to the RFP. Other comments were separate from the RFP. Returning to a selection committee make-up, discussion continued in support of the blended committee with the provision that community membership be limited to a representative from the Dillard's Neighborhood.

MOTION: **Councilmember Dudley moved to adopt Resolution No. 11-17 and the motion was seconded by Councilmember Campbell.**

Councilmember Paggao asked if Ms. Kolaitis' email had been addressed (her concern was addressed in the last Public Works Standing Committee meeting).

VOTE ON THE MOTION: **The motion carried unanimously.**

Tourism Promotion Agreement Amendment

The original agreement was executed in September 2000 between Island County, Oak Harbor, Langley, and Coupeville and followed the participating entities approving imposition of the additional 2% hotel/motel tax authorized by the State Legislature in 1998. This authorized amount allowed the County, Cities, and Town to impose a total of 4% hotel/motel tax if they wished. The intent of the Joint Tourism Agreement was to impose the additional 2% and pool the funds for the dedicated purpose of a county-wide tourism promotion agreement. The interlocal agreement between the agencies is also referred to as the "Joint Administration Board Interlocal Agreement." The agreement has been amended twice before revising the pooled funds and the basic two percent lodging tax. In the summer of 2010, the Island County Council of Governments formed a subcommittee to review the existing agreement and recommend any amendments thought necessary. Amendment No. 3 reflects the work of the subcommittee and revises the agreement as follows:

Section II B: A 1% minimum allocation is expected from incorporated areas except for Oak Harbor, whose contribution remains at the level set in Amendment No. 2 ($20,000 per year).

Section III A: The makeup of the Joint Administration Board is expanded by one voting member and the Director of the Island County Economic Development Council is granted formal status as an ex officio, non-voting member.

Section III B: New language establishes that one of the elected officials will be selected as the Chair of the Joint Board.

Section III D: The Executive Committee, which previously was formed through the Joint Board's by-laws, is formed through the interlocal agreement.

Section IV: Adds administrative and multimedia services to those that will be contracted out by the Joint Board.
Section V A: Adds certain intellectual property to the list of personal property.
Section V C: Revises the term of the agreement to be for perpetuity unless terminated by the terms of Section V D.

Mayor Slowik called for public comments.
Paul Brewer, 225 NE Ernst, Oak Harbor. Mr. Brewer reminded Council that Oak Harbor became part of this interlocal agreement for the additional 2% but with very little say. Go by the money contributed from each community and not with each community having the same vote. Oak Harbor provides more. This whole process was reconsidered last time. Make sure that Oak Harbor benefits equally from the amount of dollars we bring in.
Jill Johnson-Pfeiffer, Executive Director, Oak Harbor Chamber of Commerce. Ms. Johnson-Pfeiffer also expressed concern about the representation allocation from each participating agency. She distributed a chart showing the allocation from North Whidbey – Oak Harbor; Central Whidbey – Coupeville; South Whidbey – Langley, Freeland, Clinton; Camano; and Island County (attached to these minutes as exhibit A). Oak Harbor's participation is up against the "culture" of this board which does not represent Oak Harbor's values and there is a potential disparity. Right now, the group is working well but the allocation is off. The only way Oak Harbor was heard was through the City's reduction in funding. Hold true to the $20,000 structure, but this does not allow us control of the board.

There were no other public comments.

Council Discussion
Discussion followed about the dollar value of 1% (about $40,000), that the City reduced its contribution because it was not receiving its fair promotion share but with today's marketing staff, the City is promotionally well-represented. Councilmember Campbell is the City's representative on this board and would like to see a discussion of the 1% come back to Council at the second meeting in January. Councilmember Paggao concurred (not a formal motion). Discussion continued about the use of the word "perpetuity" for the term of the agreement (the City still has the ability to leave the agreement), and Section III A 1 – the representative count and agreement that Oak Harbor is under-represented and that Ms. Johnson-Pfeiffer's concerns are legitimate. Continue with the minimum of $20,000 and reassess the return on investment in the future.

MOTION: **Councilmember Campbell moved to have a full discussion about $20,000 versus 1% at the second Council meeting in January. The motion was seconded by Councilmember Dudley.**

No vote is needed to place an item on the agenda.

MOTION: **Councilmember Campbell moved to approve Amendment No. 3 to the Island County, Oak Harbor, Langley, and Coupeville Interlocal Agreement (Tourism Promotion Agreement). The motion was seconded by Councilmember Dudley and carried unanimously.**

Introduction – Property Tax Ordinance for 2012
Finance Director Doug Merriman presented an agenda bill introducing an ordinance to increase the 2012 City of Oak Harbor property tax levy by 1%. This was introductory only with no action this evening. A public hearing and consideration of the ordinance will be held during City Council's Special Meeting on Monday, November 28, 2011 at 6:00 p.m.

There were no public comments.

Executive Session
At 7:10 p.m., Mayor Slowik announced that City Council was moving into executive session for 45 minutes to discuss:
A.
Pending Litigation.
RCW 42.30.110(1)(I))
The city council will hold an executive session to discuss pending litigation with legal counsel representing the city because public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the city.

B.
(1) Real Estate Site Selection or Acquisition.
RCW 42.30.(110)(1)(B):
(2) Potential Litigation
RCW 42.30.110 (1)(L)
The city council will hold an executive session to consider the selection of a site or the acquisition of real estate by lease or purchase since public knowledge regarding such consideration would cause a likelihood of increased price, and to discuss with legal counsel representing the city potential litigation to which the city is likely to become a party, when public knowledge regarding the discussion is likely to result in adverse legal or financial consequence to the city.

For A., Paul Schmidt, Bill Hawkins, Arne Hedeen and Brian Caditz (Hedeen & Caditz), and Eric Johnston would join Mayor and Council in the Executive Session.
For B., Paul Schmidt and Bill Hawkins would join Mayor and Council in the Executive Session.

At 7:55 p.m. Mayor Slowik extended the executive session for another half hour.

With the conclusion of the executive session, the Council meeting reconvened at 8:25 p.m.

MOTION: **Councilmember Campbell moved to authorize the Mayor to execute an amendment to the contract for legal services with Hedeen & Caditz increasing the maximum amount payable to $70,000 for defense of litigation. The motion was seconded by Councilmember Palmer and carried unanimously.**

City Administrator's Comments

City Administrator Paul Schmidt talked about the November 28, 2011 City Council Special Meeting at 6:00 p.m. which is being held to hear the waste water treatment facility plan presentation and resolution along with a public hearing for the 2012 property tax ordinance. Mr. Schmidt also talked about the December 14, 2011 tour to Blaine's waste water treatment plant which will include City Council, Planning Commission, and the Parks Board. Mr. Schmidt asked Pioneer Way Project Manager Larry Cort for an update on the project.

Dr. Cort responded that staff has been fielding a number of questions, notably:

1. The latest information on the archaeological block between Ireland and Ilwaco: Strider Construction will return to the project after Thanksgiving (the week of 11/28/11), and it will take four to six weeks to complete the last portion of the project.
2. There have been questions about the punch list. It will include both the technical and aesthetic aspects of the project (concrete splash on walls, broken windows, and about 40 to 50 other items).
3. The most popular question is when are the utility poles coming down? The 90-day deadline for all property owners is now running. The first group's deadline is 11/28/11 and other properties are due to convert by early or mid-January. Patelco, PSE's construction group, along with Frontier and Comcast will pull their wires and Strider will patch the sidewalk.
4. Concerning archaeology, we are pleased that the fence came down within the southern lane of Pioneer Way. The City's talented public works crew moved into the enclosed area to lay the geo-fabric and gravel to create a temporary roadway. It is imperfect at best and this past weekend had a robust rainfall that landed on newly compacted roadway and City crew came out once on Friday, twice on Saturday, and once on Sunday to repair the potholes. We want to keep it as passable as possible.

For holiday and weekends, the public works staff number for call out will be publicized on Channel 10. And finally, the redesign consideration for the northern portion of roadway: Dr. Cort showed a slide of site and design revisions which will include a parking revision and the need to excavate the archaeological area. The parking level will be raised to the level of the sidewalk, can be built on top of the existing grade, and will gently slope away from the buildings. A textured area will be ADA-compliant to differentiate the sidewalk from the parking area, include the use of rolled angle curbing which directs storm water, and bollards to mark the parking area. This will reduce archaeological impact and present a pleasing design. The Department of Archaeology and Historical Preservation requires an amendment to the archaeological permit which was sent in today for review.

And finally, the Pioneer Way downtown staff is out of the Pioneer Way office as of Friday; it has been an honor to work with staff and to help the public.

Council Members' Comments
Council members gave their standing committee and board reports. Councilmember Dudley talked about the Veteran's Day celebration at Oak Harbor High School with thanks to Mayor Slowik for an outstanding speech and to Jim Riney for his great production. Mr. Dudley noted that Applebee's Restaurant thanked retired and active duty personnel by offering free meals; 900 were served which amounted to $13,000 in comped meals. Councilmember Dudley publicly thanked Mayor Slowik for making his transition as Mayor-elect so smooth; it is going well.

Mayor's Comments
Mayor Slowik talked about the art work displayed in Council Chambers: Anna Kolousek was born in Prague, Czech Republic but has resided in Washington State for most of her life. After retiring as an architect and urban planning (Ms. Kolousek has also been an Olympic skier), painting became the focus of her work. She has received numerous awards for her art work.

ADJOURN
With no other business coming before the City Council, Mayor Slowik adjourned the meeting at 8:55 p.m.

_____
Connie T. Wheeler
City Clerk

Exhibit A

Allocation of Representation

	Unc. Island County	Tourism Org.	elected officials	
North Whidbey-Oak Harbor	1	1	1	3
Central Whidbey - Coupeville	1	1	1	3
South Whidbey -Langley, Freeland, Clinton	1	3	1	5
Camano	1	1		2
Island County	3	1	1	5
	7	7	4	

City Council Special Meeting
Monday, November 28, 2011, 6:00 p.m.
City Hall – Council Chambers

CALL TO ORDER Mayor Slowik called the meeting to order at 6:00 p.m.

ROLL CALL

Mayor Jim Slowik
Five Members of the Council,
- Rick Almberg
- Jim Campbell
- Scott Dudley
- Jim Palmer
- Bob Severns

Councilmembers Danny Paggao and Bob Severns were absent and formally excused from this meeting.

Paul Schmidt, City Administrator
Margery Hite, City Attorney
Doug Merriman, Finance Director
Steve Powers, Development Services Director
Cathy Rosen, Public Works Director
Eric Johnston, City Engineer
Rick Wallace, Chief of Police
Mark Soptich, Fire Chief
Mike McIntyre, Senior Services Director
Renée Recker, Executive Assistant to the Mayor

Resolution – Waste Water Facility Plan

City Engineer Eric Johnston led this presentation which proposed adoption of a resolution authorizing and directing the project team to proceed with three candidate sites for a new waste water treatment facility. A City Council workshop had been held on July 27, 2011 to present and discuss the status of the waste water facility planning process and to present three sites for further consideration. A public forum was also held on August 24, 2011 and public input was sought. Information presented at both the public forum and Council workshop was made available via the project website and videos of both the forum and the workshop were broadcast on Channel 10.

By Council motion on September 20, 2011, this presentation and resolution was moved to the November 15, 2011 Council meeting. Recognizing that two Council members had requested excused absences from the November 15th meeting, a motion was approved on November 1, 2011 to hold this evening's meeting and include the waste water facility plan presentation and resolution on the agenda.

A PowerPoint presentation (attached to these minutes as Exhibit A) addressed these items:

<u>Project Need</u>
- Why does Oak Harbor need a new sewer system?
- When does the planning team need direction?

<u>Summary of Prior Work</u>
- What is the basis for the planning team's recommendation?

Requested Direction

- Eliminate two sites from consideration.
- Continue analysis of three remaining sites bases on the MBR process and Oak Harbor outfall.

City Engineer Johnston talked about these particular points in the proposed resolution:

1. That additional public input will be sought and incorporated in the analysis and development of all three alternative sites (number 5 in the resolution).
2. That, as appropriate, additional sites, outfall locations and processes may be considered (number 7 in the resolution).

Mr. Johnston led the discussion on pages 1 through 5 of the attachment which addressed the history of the project and Brian Matson, Carollo Engineers, talked about pages 6 through 11 of the attachment beginning with the slide titled, *Direction will Keep Project On-Schedule.* Mr. Matson's ending remarks covered the recommended final sites (Windjammer Park, Old City Shops, and Crescent Harbor and how recommendations were reached (TBL plus evaluation), why other sites were eliminated, the basis of the MBR recommendation and outfall recommendation, and the rigors of NPDES, Ecology and EPA requirements and timelines (Department of Ecology requires a facility plan for approval on/before 12/31/2012, and final design submittal on/before 12/31/2014).

Mr. Matson noted that environmental documentation needs to coincide with the schedule and planning; plan approval cannot be obtained without environmental documentation. Six months have been lost without knowing which sites to work toward along with a proposed final site, and again, the final design component can only be triggered by environmental documentation and Department of Ecology approval. Funding acquisition needs to start now and proceed to the engineering phase. 2017 seems a long way off, but there are a number of steps that drive the schedule and we are approaching milestones.

With discussion continuing to the MBR recommendation and rationale to continue discharging to Oak Harbor Bay, Mayor Slowik asked Mr. Matson to talk about the lowest costs for this discharge recommendation and the Department of Natural Resources (DNR) and outfall discussion from a prior Council meeting. Mr. Matson noted that DNR is charged with ensuring that use does not impact aquatic land use; the City could be fined if discharge impacts commercial viability. Gig Harbor's $4 million outfall is an example of a long outfall extension to avoid shellfish impact.

Mayor Slowik called for public comments at 6:45 p.m.

Marvin Reed, 270 SE Barrington Drive, Oak Harbor. Mr. Reed spoke with concern about the Old City Shops site and read a 6/15/11 letter which had been given to Mayor Slowik and Council members in June. That letter is attached to these minutes as Exhibit B.

Brian Jones, 2400 Zylstra Road, Oak Harbor. Representing Boy Scout Troop 59, which has a long-standing use of the Fleet Reserve building, Mr. Jones encouraged the Council to move forward with the Crescent Harbor site saying it does not make sense to choose a location in town when there is an alternative. Secondly, 3,000 families have been associated with this Troop. Focus on the property that does not place a plant in the middle of the City.

George Brown, President of Fleet Reserve, Oak Harbor. There are 593 active members of Fleet Reserve and this organization is an active branch in the community. Fleet Reserve has been at its location since 1948 – the year it was founded in Oak Harbor. Mr. Brown asked that the Old City Shops site be removed as a future site. Fleet Reserve is working toward have this building added to the historical registry.

Ferron Rice, Vice President of Fleet Reserve, Oak Harbor. Mr. Rice talked about the number and branches of military personnel represented by Fleet Reserve and Fleet Reserve's main office in Virginia. Fleet Reserve fights for military members to make sure they are well-represented in Congress. The Fleet Reserve property has been bought and paid for many times over by our members' military service. Mr. Dudley talked to us in October and that was the first time the Old City Shops site had been brought to our attention and that site would need to acquire our land. We have never been notified by the Council and Mayor. Thanks to Mr. Dudley for informing us about this process. We set up a meeting with the Mayor who provided us with letters that were sent to the community. The letters did not call out the Fleet Reserve property. How could we react if we were not aware this land would be taken for the Old City Shops site? We are proud of our service to the community, our variety of community service activities and meetings, and we were insulted. Even Mayor Slowik mentioned that the Old City Shops site would be a difficult site and would require pumps. It seems like there is major opposition to this site. Hopefully, the future Council can keep the public aware of what is going on.

Paul Brewer, 227 NE Ernst, Oak Harbor. Mr. Brewer reminded Council that many times over his twelve years with the Council, Council talked about the City Beach location being a mistake; remember that. You do have a population right next to it. You have condominiums and the park there. Windjammer Park is a terrible location, and I agree with what the Fleet Reserve representatives said. I hope that with the new administration and new Council everybody is notified. Joint Base Lewis/McChord is working on a joint venture for a new plant; why can't we work with the Navy to do the same. The other thing is the size of the plant. Our population projection is inadequate. We aren't growing; we are not expanding as fast as the recommendation. The rush may not be as important. Wait for the new Council and Mayor and allow for the full Council; they should all be here.

Mayor Slowik corrected that Oak Harbor's plant will be a joint plant and will serve both the community and the Navy.

Mel Vance, P.O. Box 2882, Oak Harbor. This is an attempt to correct an error. For several decades we have needed a new plant but now, we are under a time crunch due to discharge permits. Based on the tone of article in the paper about Fleet Reserve's response to the Old City Shops site, they have no interest in providing property, and this was new information to everyone. The Windjammer Park site has the same issues and is not viable either. In reality, we are narrowing this down to one site – Crescent Harbor with possibly two locations. We need to get this done within the time limits of the permits.

Hap Fakkema, 2427 Moss Lane, Oak Harbor. Speaking for Beachview Farm, I recommend looking seriously at Beachview Farm again. This location would have the same pumping scenario as Crescent Harbor. Keep the vision; Oak Harbor will continue to grow. When you grow, you will need the right facilities. Don't consider too small of a site; there is plenty of area at Beachview Farm with room to set aside area for the future. We can replenish the aquiver and 200 acres can be farmable. Not as much would have to be pumped back. Look at Brightwater and do what they did; there are miles of underground which pumps to the ocean. Look at vision more than anything else. In reviewing Mr. Matson's survey, the public is not worried about costs; they are worried about health and the environment. Put your vision toward expansion and the future of Oak Harbor.

Duane Dillard, 2150 SW Dillard Lane, Oak Harbor. I am a neighbor of Windjammer Park which you call "the gem of the City." The existing plant stinks. I agree with Hap. The survey said people were not concerned with the costs. The biggest concern with the Windjammer Park site is social; it is socially unacceptable. It has to be Crescent Harbor out of the three choices. It looks like this site has room to grow as well.

Gerry Pitsch, 2527 West Beach Road, Oak Harbor. I expressed my approval of Windjammer Park with new technology during a prior meeting (9/20/11 Council meeting) but now there is now concern with pollutants. I live just down from Beachview Farm. You will be looking at a major expense for the outfall and diffusal. I do not support the Beachview Farm location.

Chris Gomes, 533 SE Pasek, Oak Harbor. I also say "no" to Windjammer Park and Old City Shops as potential sites. I like Beachview Farm. It has a longer-term vision; the others are short-term in vision. It is not right to site a facility next to a neighbor's window. My suggestion is to agree with Mr. Fakkema and site this facility at Beachview Farm.

There were no other public comments.

Break

Mayor Slowik called for a break at 7:15 p.m. and the meeting reconvened at 7:25 p.m.

Council Discussion

Discussion followed about Council's annual lobbying trips to the Pentagon on behalf of Oak Harbor and the waste water treatment facility project is always discussed. The Navy understands the importance of this project but will not gift land to the City as long as another viable site exists. Mr. Johnston responded that this had been figured in and reiterated that property acquisition is much more complicated with the Navy's

involvement. The Navy cannot give the City the property; it would require an act of Congress to gain deed and title of ownership and the City would have to demonstrate that there is no other viable site. The Old City Shops and Windjammer Park sites may not be liked by the public, but the City may choose to show the Navy that opposition was so great, there is no other site and the Crescent Harbor site then becomes viable. We looked at other sites on Navy property, met with the Navy, and all of the Naval sites had the common element of difficulty in obtaining the property. The Navy is a financial partner in this process; they have no interest in their own waste water treatment plant. This discussion has been factored into the analysis. We need to refine the site selection which is the next step in the process and there is value in having three potential sites.

Discussion continued regarding health hazards and if the City had ever received a letter from a physician saying that a citizen has had to move from a downtown location, that the studies Mr. Reed noted can be 50/50 without a definitive side, and that the City cannot delay establishing a new waste water facility site. Mr. Matson addressed the public health issues: I am not aware of letters written regarding health as stated above. There is always a concern, but is common to have a treatment facility located adjacent to residential properties. Technology has changed since some of these studies were written.

Discussion followed about the positive tours that Council has taken to other facilities, how the facilities' air is scrubbed, and the needed due diligence in educating the public about this technology. Many of these plants offer multi-purpose areas for use by their communities (weddings and other activities). Discussion returned to the PowerPoint slide titled, *Oak Harbor Outfall Provides Cost, Regulatory Benefits* and particularly, the benefit of lowest cost. Mr. Matson responded that, of the three proposed sites, the outfall into Oak Harbor Bay offers the lowest cost. One cost component is getting treated water to the shoreline. Crescent Harbor is a straight line into an environmentally-sensitive area and construction would be needed around that issue. Discussion followed about past discussions regarding moving the facility out of Windjammer Park but Beachview Farm has always appeared too expensive. What public outcry has happened concerning Beachview Farm; it has always been about the cost. Mr. Johnston noted that both reasons exist - public outcry and costs. The PowerPoint slide titled, *Recommendation Based on TBS + Evaluation* was discussed again to illustrate the scoring values for these sites. Beachview Farm scores low in technology and financial evaluation and Council asked about the public perception in light of the social score. Mr. Matson did not bring social comments with him this evening, but they could be provided for this site. The majority preferred Crescent Harbor over Beachview Farm. Council asked for concrete reasons and costs at the next presentation. Mayor Slowik noted that Beachview Farm is not in the UGA and there are issues with the County. Mr. Johnston concurred that it is outside of the UGA but that would become just another permitting process. Council was concerned about the County's negative response to this area in the past and Mr. Johnston did not disagree.

Discussion followed about how to compare these potential sites with Beachview Farm being larger than the other sites. Mr. Johnston noted that the resolution is attempting to bring an "apples to apples" comparison, and Mr. Matson talked about the capacity of the present RBC plant (700,000 gallons per day) and that state-of-the-art plants are not like the current plant at Windjammer Park and can process far more capacity. Council was concerned that, even though the community may not say that cost is the driving issue, there is cost for piping back into town with both Beachview Farm and Crescent Harbor. Mr. Matson noted that the reason Windjammer Park and Crescent Harbor are comparable relates to treatment, the cost of conveyance and the offset of each site. Mr. Johnston talked about the rank equivalent of the three sites having a $5 million spread between them: $90 million at Windjammer, Crescent Harbor at $95 million, and Beachview Farm higher than that $95 million. We cannot take these figures and assume that these are the total costs; we are looking at total overall costs as a comparison of the sites. This does not say that the Navy pays one percentage and the City another percentage or how the Navy would define a viable site.

Discussion followed about Crescent Harbor and flooding (flooding would not affect it but there are existing wetlands on the property). Council asked if the Carollo Engineers' contract includes alternative designs, comparison of treatment plant process options, and an engineer's estimate for each site (yes, per Mr. Matson, once a site is selected).

Discussion followed about using only the MBR treatment process in the resolution (allows a comparison basis for each), the inclusion of the AS treatment process, going north of Crescent Harbor to eliminate the Navy analysis since the City does not know the terms the Navy will impose, and that consideration of another site does not change basic engineering functions for this project. The sites have pros and cons, and moving forward with these three sites allows us to move forward and seek further direction.

Council's concern returned to costs, the sewer rate study, and the need to support bonding. Mr. Johnston noted that the sewer rate study was based on a $70 million figure. Discussion followed about designing to affordability rather than the financial jeopardy other cities have incurred. This will be critical to site selection. Mr. Matson noted that the next meeting could differentiate between costs and process, and the flexibility to select a process. There is a 10 percent difference between MBR and AS with MBR being the higher, but it best meets the City's goals. Council asked that all process options be considered, with concern that the Old City Shops site is not a good option. Mr. Matson said he would seek, through the next step, to add definition to social aspects of each site. Windjammer is the least preferred, Crescent Harbor is the most preferred, and Old City Shops is in between. Council asked why Old City Shops would be left as a choice in light of this evening's comments. Mr. Johnston noted that it is always Council's choice and Council could narrow the choice to one site. At this level of review, the equivalency between the three sites occurred in July. The value in keeping Old City Shops on the list is to compare the "do nothing" option to another option.

Mr. Matson noted that he and staff would do their best to present an accurate picture if all three sites are left on the list. In the past, the cost of the Crescent Harbor outfall was a concern. The conceptual forecast is substantially more expensive than the $4 million that Gig Harbor incurred for their outfall. Council asked if leasing had been ruled out for the Crescent Harbor site (no, and Mr. Johnston noted that he will send a technical memorandum to Council).

Council's concern noted that Old City Shops is not viable, Windjammer Park is no better, Beachview Farm should come back to the list with mention that there is work to be done with Island County for that location, and these decisions should be made with a full Council.

MOTION: **Councilmember Dudley moved to table this resolution until City Council's January 17, 2011 meeting. The motion was seconded by Councilmember Palmer.**

City Attorney Margery Hite noted that this is a debatable motion.

Discussion followed about have a full Council for this decision, receiving more information about Crescent Harbor, how delaying a decision would affect the process, and Mr. Johnston added that Council needs to make a decision that is comfortable for Council but to not discount the Department of Ecology's requirement to have a facility plan submitted by December 2012. Council noted that extra meetings may be required to have this in place by December 2012, that this evening's decision was meant to narrow sites down to three choices and not to choose a final site, and that a hard look should be given to Beachview Farm (pumping, mitigation) yet it may not supersede Crescent Harbor in any form as presented.

VOTE ON THE MOTION: **The motion carried unanimously.**

Public Hearing – Property Tax Ordinance for 2012

MOTION: **Councilmember Munns moved to table the 2012 property tax ordinance until December 6, 2011 and continue the public hearing at that time. The motion was seconded by Councilmember Almberg.**

Finance Director Merriman was asked about State deadlines but State values have not yet been submitted so hearing this matter on December 6th will be acceptable.

VOTE ON THE MOTION: **The motion carried unanimously.**

Councilmember Almberg spoke with concern about the impact of major personnel changes on the City's budget and operations.

MOTION: **Councilmember Almberg moved to place on the agenda for December 6th, whether a six-month freeze on any hiring and firing decisions should be imposed until City Council has had the opportunity to consider the budgetary and operational impacts. The motion was seconded by Councilmember Munns.**

A vote is not needed to place an item on a future Council agenda.

ADJOURN

With no further business coming before the Council, Mayor Slowik adjourned the meeting at 8:25 p.m.

_____

Connie T. Wheeler
City Clerk

Agenda

- Project Need
  - Why does Oak Harbor eed a new sewer system?
  - When does the planning team need direction?
- Summary of Prior Work
  - What is the basis for the planning team's recommendation?
- Requested Direction
  - El minate 2 sites from consideration
  - Continue analysis of 3 remaining sites based on MBR process and Oak Harbor outfall

Existing Rotating Biological Contactor (RBC) Facility

- Served the City for over 50-years
- Major parts and equipment starting to fail
- Meets current permit, but will not meet future standards for clean water

Existing Seaplane Base Lagoon Facility

- System nearing capacity; must now handle 100% of City's wastewater
- Meets current permit, but will not meet future standards for clean water
- Options for expansion and/or improvement limited by surrounding wetlands

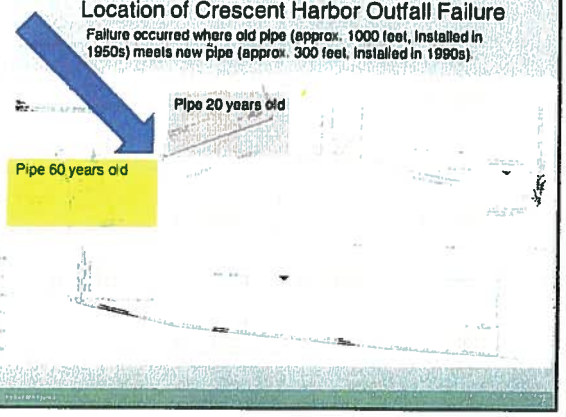
Project Timeline Spans 7 Years To-Date

Date	Action
Mid 2005	Sewer Comprehensive Plan Commissioned
Sep 2006	Ad Hoc Sewer Committee Formed
Nov 2007	Ad Hoc Cmt. recommends new facility at Sea Plane Base
Mar 2008	Crescent Harbor Lagoon Outfall Failure

Crescent Harbor Outfall Failure

Location of Crescent Harbor Outfall Failure

Failure occurred where old pipe (approx. 1000 feet, installed in 1950s) meets new pipe (approx. 300 feet, installed in 1990s).



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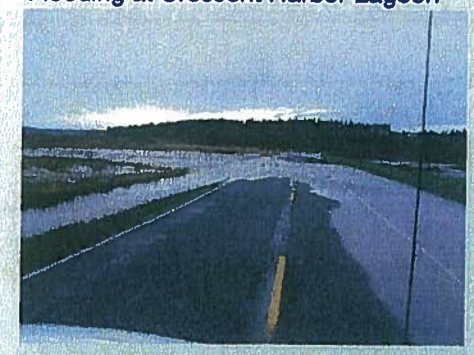
Sep 2009	Crescent Harbor Restoration Project

Flooding at Crescent Harbor Lagoon



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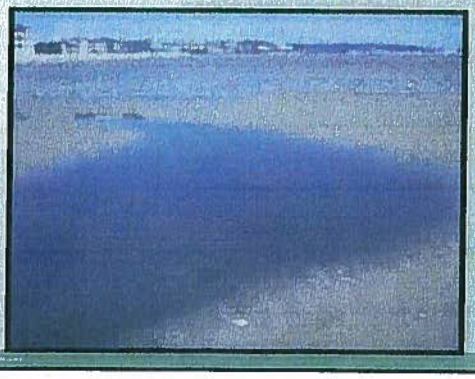
Sep 2009	Crescent Harbor Restoration Project
Sep 2009	RFQ for WWTP Design Advertised
Feb 2010	Carollo, Inc. Selected
May 2010	RBC Outfall Failure

Excerpts from Outfall Inspection



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May 2010	RBC Outfall Failure
Aug 2010	City Approval to Start Clean Water Facility Planning Project
Aug 2011	New NPDES Permit- Facility Plan Submittal Req'd by 12/2012

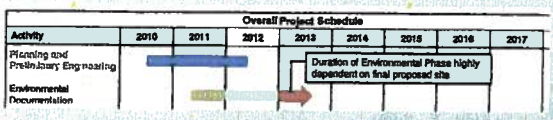
Direction Will Keep Project On-Schedule

Planning Phase has been Extended 6 months to collect additional input

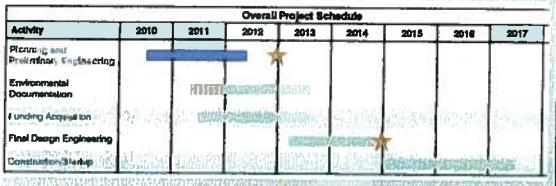
Overall Project Schedule

Activity	2010	2011	2012	2013	2014	2015	2016	2017
Planning and Preliminary Engineering								

Direction Will Keep Project On-Schedule



Direction Will Keep Project On-Schedule

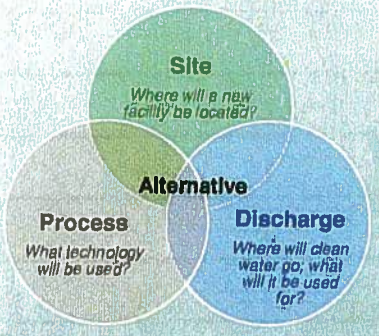


- Schedule required by Department of Ecology
  - Submit Facilities Plan for approval on/before 12/31/12
  - Submit Final Design Documents for approval on/before 12/31/14

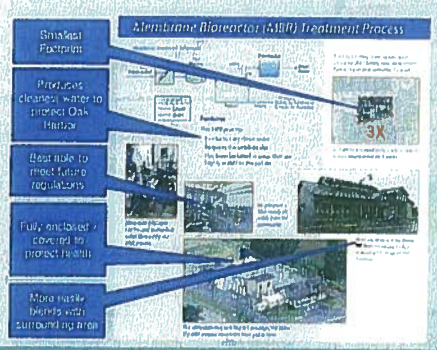
Activities Leading to Current Recommendation

Date	Action
Oct 2010	City meets with Navy to discuss siting options on Navy Base
Dec 2010	Over 20 potential sites identified by community members
Jan 2011	Planning team recommends narrowing initial list to 13 sites
Feb 2011	Additional technical and cost analysis completed
Mar 2011	Planning team recommends further narrowing list to 5 sites
Apr 2011	Additional community input gathered through meetings, survey
Jun 2011	City meets with Navy to discuss short-listed sites
Jul 2011	Planning team presents refined analysis of 5 sites to Council
Aug 2011	Additional community input gathered through meetings, web
Sep 2011	Planning team recommends further narrowing list to 3 sites

Wastewater Alternative Components



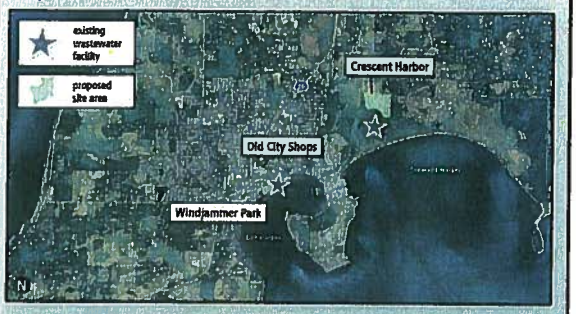
MBR Process Best Reflects Public Input



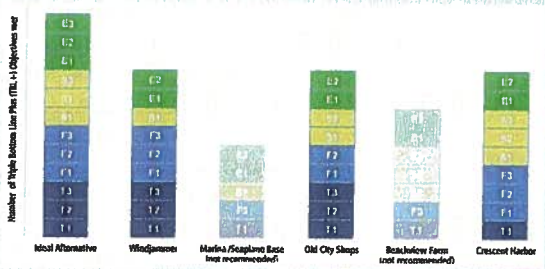
Oak Harbor Outfall Provides Cost, Regulatory Benefits

- Mixing/dilution protects water quality
- New outfall can be installed within/near the existing outfall alignment
- No impact to shellfish harvesting
- Lowest cost

Recommended Final Sites
September 20, 2011



Recommendation Based on TBL+ Evaluation



NOTE:
- Comparison based on MBR Process with clean water outfall to Oak Harbor

Reasons to Eliminate Sites From Consideration

- Marina/Seaplane Base Site
  - Wetland impacts on open space
  - Other areas not favored by US Navy
  - Listed advantages found at other sites for lower cost
- Beachview Farm Site
  - Social advantages questionable based on public feedback
  - Listed advantages found at other sites for lower cost

Reasons to Consider 3 Remaining Sites

- Updated and refined information will help City make the best decision
  - Key differentiators have yet to be identified
    - Ability to phase project, rec aimed water benefits, etc.
  - Public input will aid in evaluating ways to address site-specific challenges
  - Cost information will improve for the shortened list of alternatives
  - Cost analysis will identify rate impacts based on phasing scenarios
- Ecology, EPA require rigorous evaluation of alternatives for plan approval and future funding

Summary

- Project needed to replace aged and failing system
- Direction on final sites will keep project on regulatory schedule
- Current recommendation reflects significant input from community, stakeholders, and technical team
- Requested direction:
  - Eliminate 2 sites rom consideration
  - Continue analysis of 3 remaining sites based on MBR process and Oak Harbor outfall

Questions?

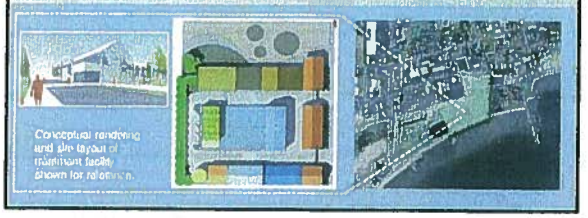
Windjammer Park Site

Distinguishing Advantages

1. Lowest initial cost (F1)
2. Lowest annual cost (F2)
3. No commercially zoned property (F3)
4. No private property acquisition (T2)
5. Most efficient use of infrastructure (T3)

Distinguishing Challenges

1. Impact on amenities (S2)
2. Impact on neighborhood (S3)
3. *Potential cultural resources (E2)*



Old City Shops Site

Distinguishing Advantages

1. Low initial cost (F1)
2. Low annual cost (F2)
3. Private property currently for sale (T2)
4. Efficient use of infrastructure (T3)
5. Preserves amenities (S2)

Distinguishing Challenges

1. Impact on neighborhood (S3)
2. *Potential cultural resources (E2)*

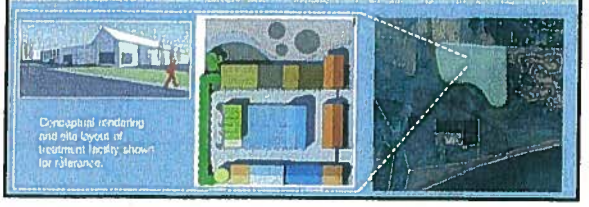
Crescent Harbor Site

Distinguishing Advantages

1. Preserves amenities (S2)
2. Little neighborhood impact (S3)
3. Low initial cost (F1)
4. Low annual cost (F2)
5. No commercially zoned property (F3)

Distinguishing Challenges

1. Potentially lengthy acquisition (T2)
2. Least efficient use of infrastructure (T3)
3. *High potential cultural resources and wetlands (E2)*



Basis of MBR Recommendation

- MBR offers a number of advantages:
  - Better effluent quality
  - Smaller footprint
    - Only feasible option at 2 proposed sites
  - Better ability to control odors
  - Better ability to blend with surrounding environment
  - Better ability to meet future regulations
  - Enhanced opportunities for reuse
- Primary disadvantage:
  - Cost is approximately 8 to 10% ($5 to $6 million) higher than AS

Basis of Outfall Recommendation

- Oak Harbor offers a number of advantages:
  - Good mixing to protect water quality
  - Least cost option
  - Limited risk of shellfishing impact
- Primary disadvantage:
  - Although Oak Harbor offers good mixing, slightly better mixing at Crescent Harbor

Exhibit B

June 15, 2011

To: Mayor Jim Slowik
and Whom It May Concern:

From: Marvin and Jill Reed
270 S.E. Barrington Dr. #304-B
Oak Harbor, WA

Re: New Wastewater Treatment Facility, Placement Consideration
and Potential Health Hazards for populated areas

Using the "Old City Shops" area as an option for the new treatment facility will create serious health issues for those living in the many multiple dwellings and neighborhoods that surround that area. A simple internet search brings up many University and EPA studies, health surveys, articles and anecdotal testimonies to support this concern.

Comprehensive studies conducted by Cornell University and the National Small Flows Clearing House, funded by the EPA, cite multiple health hazards for those living within 400 meters of wastewater facilities. Think about the dense population that lives, works and shops within the radius surrounding the "City Shops" area. Many retired residents occupy the surrounding apartments, condos and older neighborhoods that makeup much of this area. It is important to remember that chronic illness and respiratory disease will be more prevalent in an older population, making them more susceptible to any new pollutants.

Airborne hazards: chemicals, organisms, pesticides, molds, contaminants from house flies, Coli Form bacteria and viruses find their way into the air where they are subsequently inhaled or swallowed. Moist night air, windy conditions and humidity above 35% exacerbate the hazard. This describes our year round conditions here on Whidbey Island.

Most common health hazards named in studies associated to living within the 400meters:

- Severe Respiratory and Gastrointestinal Irritation / Infection
- Development of Asthma and lung disease and serious exacerbation of existing conditions
- Upper respiratory irritation, sinus infection, eye irritations
- Weakened immune system
- Headaches
- Pain in chest or when deep breathing
- Central nervous system damage
- Multiple Sclerosis
- Vomiting, diarrhea, general weakness
- Depression
- Systemic Poisoning

We moved into Bayview West Condominiums for medical reasons, in 1987. The pressing severity of a Lung and Immune disorder necessitated essentially giving away our house in Coupeville and finding housing high off the ground, near the water to assure good air flow. Here we set up a "safe" environment with large air filters and replaced carpets with wood and tile floors. **The 'City Shop' area is approximately 30 meters from my bedroom window**...and others in our complex who have chronic lung and Immune disorders.

Following our letter are two letters from physicians who write their concerns about this location.

Moving forward with the "Old City Shops" area as an option poses such a serious health hazard, that if not stopped, could precipitate legal action. The thought is devastating to me and many others who have moved to our beautiful island for health reasons or simply for the pleasure of it's beauty and PURE AIR. It seems unconscionable to place a sewage treatment facility in the middle of our city. Even the birds know better than to soil their own nest.

Thanks for your attention,

Marvin + Jill

Marvin and Jill Reed

City of Oak Harbor

OFFICE OF THE MAYOR
JIM SLOWIK
MAYOR

PROCLAMATION IN RECOGNITION OF

NATIONAL IMPAIRED DRIVING PREVENTION MONTH
DECEMBER 2011

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, throughout December, we ask each citizen to make a conscious effort to ensure a safe and healthy holiday season for everyone by not driving impaired, by being a responsible party host, and by intervening when someone you know attempts to get behind the wheel after drinking or taking drugs; and

WHEREAS, the Impaired Driving Impact Panel of Island County, Oak Harbor Police Department, Oak Harbor High School's Students Against Destructive Decisions and Whidbey General Hospital Emergency Medical Services join forces this year to remind citizens of the hazards of driving under the influence.

NOW, THEREFORE WE, Jim Slowik, Mayor and Councilmembers of the City of Oak Harbor, do hereby designate **December 2011** as **National Impaired Driving Prevention Month**. We further ask all motorists to observe **Lights on for Life Day** on **Friday, December 16** and drive with their vehicle headlights on throughout the day as a memorial for the victims of impaired driving and as a reminder of the dangers of driving under the influence of alcohol or other impairing drugs this holiday season as well as throughout the coming year, thereby helping to make our roads safe for all.

Signed this 6th day of December, 2011

Jim Slowik, Mayor

City of Oak Harbor
City Council Agenda Bill

Bill No. 4

Date: DECEMBER 6, 2012

Subject: **PUBLIC COMMENTS**

FROM: **Jim Slowik, Mayor**

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

SUMMARY STATEMENT

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

City of Oak Harbor
City Council Agenda Bill

Bill No. N/A 5A
Date: December 6, 2011
Subject: Excused Absence Request
Councilmember Rick Almberg

FROM: Jim Slowik
Mayor

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

PURPOSE

The purpose of this agenda bill is to present and approve Councilmember Rick Almberg's excused absence request for the December 20, 2011 and January 3, 2012 City Council meetings.

AUTHORITY

Per RCW 35A.12.060: *...A council position shall become vacant if the councilmember fails to attend three consecutive regular meetings of the council without being excused by the council.*

SUMMARY STATEMENT

Councilmember Almberg has submitted an excused absence request for the December 20, 2011 and January 3, 2012 City Council meetings.

STANDING COMMITTEE REPORT

N/A

RECOMMENDED ACTION

Approve Councilmember Almberg's excused absence for the December 20, 2011 and January 3, 2012 City Council meetings.

ATTACHMENTS

None

City of Oak Harbor
City Council Agenda Bill

Bill No. C/A 5B
Date: December 6, 2011
Subject: Library Board Re-Appointment

FROM: **Jim Slowik**
Mayor

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:
Paul Schmidt, City Administrator
Doug Merriman, Finance Director
Margery Hite, City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to recommend the re-appointment of Susan Norman to the Library Board.

AUTHORITY

The Library Board is a five-member Board appointed for a five-year term in accordance with OHMC 2.31.020. No member shall serve more than two consecutive terms. Board members are appointed by the Mayor, and confirmed by the City Council.

FISCAL IMPACT DESCRIPTION

Funds Required: $0.00
Appropriation Source: n/a

SUMMARY STATEMENT

Ms. Norman was first appointed to the Library Board in 2006 and is completing her first term on the Board. The members of the Library Board recommend the re-appointment of Ms. Norman. If re-appointed, Ms. Norman's term would expire December 2016.

STANDING COMMITTEE REPORT

None.

RECOMMENDED ACTION

Mayor Slowik recommends that Ms. Norman be re-appointed to the Library Board for a five-year term.

ATTACHMENTS

Correspondence from Oak Harbor Library Managing Librarian Mary Campbell.

SNO-ISLE
LIBRARIES

7312 35th Avenue NE
Marysville, WA 98270

(360) 651-3700
(877) SNO-ISLE
(360) 651-7151 FAX

10-17-11 RR

October 14, 2011

Mayor Jim Slowik
City of Oak Harbor
865 SE Barrington Drive
Oak Harbor, WA 98277

Dear Mayor Slowik,

The members of the Oak Harbor Library Board have notified me that they recommend reappointment of Susan Norman to the Library Board. Ms. Norman has expressed her willingness to be reappointed. The board recommends that Ms. Norman, who currently serves as Library Board President, be reappointed to the Library Board for another five-year term, to expire December 2016.

Thank you for your ongoing support of the library and our community.

Sincerely,

Mary Campbell
Managing Librarian
Oak Harbor Library
675-5115 x 6020
mcampbell@sno-isle.org

cc: Susan Norman, Oak Harbor Library Board
Becky Bolte, West District Manager

OK

City of Oak Harbor
City Council Agenda Bill

Bill No. CA 5e
Date: December 6, 2011
Subject: Marina Advisory Committee Re-Appointment

FROM: **Jim Slowik**
Mayor

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:
PS Paul Schmidt, City Administrator
DM Doug Merriman, Finance Director
MH Margery Hite, City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to recommend the re-appointment of Chris Skinner to Position 5 on the Marina Advisory Committee.

AUTHORITY

Per Oak Harbor Municipal Code **Chapter 2.39 Marina Advisory Committee:**

2.39.090 Composition of the marina advisory committee.
The Marina Advisory Committee shall consist of five members, who shall meet the following qualifications:

1. At least four of the marina advisory committee members shall reside in or own businesses within the Oak Harbor city limits and the fifth member shall reside in the state of Washington.
2. Four of the members of the marina advisory committee shall be customers of the marina facility (Position Nos. 1, 3, 4 and 5). One of the marina advisory committee members (Position No. 2) shall be a member of the public who need not be a customer of the moorage facility. For the purpose of this provision, a "customer of the moorage facility" shall mean a boat owner/lessee or storage lessee of the marina facility. Use of guest moorage only shall not constitute being "a customer of the moorage facility." (Ord. 1541 § 2, 2008).

FISCAL IMPACT DESCRIPTION

Funds Required: $0.00
Appropriation Source: n/a

SUMMARY STATEMENT

Mr. Skinner was first appointed to the Marina Advisory Committee to fill a vacancy in March 2011. Mr. Skinner meets the qualifications for Position 5 as he is a resident of Oak Harbor and a Marina customer. If re-appointed, Mr. Skinner's term would expire December 2014.

STANDING COMMITTEE REPORT

None.

RECOMMENDED ACTION

Mayor Slowik recommends that Mr. Skinner be re-appointed to the Marina Advisory Committee for a three-year term.

ATTACHMENTS

None.

City of Oak Harbor
City Council Agenda Bill

Bill No. JA 5D
Date: December 6, 2011
Subject: Planning Commission Re-Appointment of Keith Fakkema

FROM: **Jim Slowik**
Mayor

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:
PM Paul Schmidt, City Administrator
DS Doug Merriman, Finance Director
Margery Hite, City Attorney, as to form

PURPOSE

The purpose of this agenda bill is to recommend the re-appointment of Keith Fakkema to the Planning Commission.

AUTHORITY

The Planning Commission is a seven-member commission appointed for a three-year term in accordance with OHMC 18.04.020.

FISCAL IMPACT DESCRIPTION

None.

SUMMARY STATEMENT

Mr. Fakkema was first appointed to the Planning Commission November 2005. He has confirmed that he will serve another term if re-appointed. If re-appointed, his term will expire in November 2014. Mr. Fakkema is an active, valued member of the commission. Mayor Slowik recommends that Mr. Fakkema be re-appointed to the Planning Commission.

STANDING COMMITTEE REPORT

None.

RECOMMENDED ACTION

Approve the recommendation to re-appoint Mr. Fakkema to the Planning Commission.

ATTACHMENTS

None.

City of Oak Harbor
City Council Agenda Bill

Bill No. 11A 58
Date: December 6, 2011
Subject: **Lease Renewal – Big Brothers Big Sisters**

FROM: **Paul Schmidt, City Administrator**

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

PURPOSE

The purpose of this agenda bill is to seek approval of City Council to renew the property lease for Big Brothers Big Sisters located at 913 East Whidbey Avenue, Oak Harbor.

AUTHORITY

RCW 39.34.080 states that any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform: PROVIDED, that such contract shall be authorized by the governing body of each party to the contract. Such contract shall set forth fully the purposes, powers, rights, objectives, and responsibilities of the contracting parties.

FISCAL IMPACT DESCRIPTION

Funds Required: N/A

Appropriation Source: N/A

SUMMARY STATEMENT

On April 17, 2001, the City of Oak Harbor and BIG BROTHERS BIG SISTERS (BBBS) entered into a lease agreement for the premises owned by the City at 913 East Whidbey Avenue, Oak Harbor, in exchange for youth services provided by BBBS. On May 18, 2004, the lease was extended until December 31, 2011.

This proposal again provides for an extension of the same arrangement that began in 2001, was extended in 2004, and now is proposed to be extended under the same terms until December 31, 2016.

At present, there currently appear to be no problems with use of the City's property for the purposes described. The new proposed lease agreement with BBBS does have an annual reporting requirement for the City Council to be briefed on BBBS's status.

STANDING COMMITTEE REPORT

This agenda bill was discussed at the General Governmental Standing Committee on November 8, 2011, at the Finance Standing Committee on November 9, 2011, and at the Public Safety Standing Committee meeting on November 17, 2011.

RECOMMENDED ACTION

Authorize the Mayor to enter into the proposed BBBS Lease Agreement for the time period of January 1, 2012 to December 31, 2016.

ATTACHMENTS

1. Proposed BBBS Lease.

Return to:
City of Oak Harbor
865 SE Barrington Drive
Oak Harbor, WA 98277

LEASE AGREEMENT

GRANTOR: City of Oak Harbor

GRANTEE: Big Brothers Big Sisters of Island County (BBBS)

PARCEL#: **S7600-00-02-604-0-9500**

LEGAL DESCRIPTION: Those premises situated at 913 East Whidbey Avenue, Oak Harbor, Washington.

This Agreement is made and entered into on the 6th day of December, 2011, between the CITY OF OAK HARBOR, a municipal corporation of the State of Washington, located in Island County, herein referred to as "Lessor", and BIG BROTHERS BIG SISTERS OF ISLAND COUNTY (BBBS), herein referred to as "Lessee".

In consideration of the mutual covenants herein set out, the parties agree as follows:

1. Premises. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the Premises described in Section 1 constituting the office building, parking lot and surrounding grounds commonly identified as 913 East Whidbey Ave, Oak Harbor, WA.

2. Term. The term of this lease begins on January 1, 2012 and continues for a five (5) year period, expiring on December 31, 2016, unless terminated earlier by the Lessor with a minimum of 90 days notice to the Lessor.

   2.1 Renewal Option. Lessee shall have, and is hereby given an option to extend the term hereof for an additional period of five (5) years under the same terms and conditions contained in this lease PROVIDED that the city council approves and accepts the Lessee's exercise of its option by council action prior to the expiration of the initial term. Lessor expressly reserves the right of the city council to deny the extension of the lease term for reasons deemed sufficient by the city council which include but are not limited to the City's need to use the leasehold premises for other purposes.

Such option may be exercised by Lessee only (i) upon notice in writing to Lessor not earlier than one (1) year, and not later than six (6) months prior to the end of the preceding term; (ii) if Lessee is not then in default hereunder; and (iii) if the preceding term has not theretofore been terminated.

3. Rent. For purposes of rent, the parties agree that the premises at 913 East Whidbey Avenue consists of 1,078 square feet of building space and the current rental market rate for similar office space is $.50 per square foot per month, thereby commanding a monthly rent amount of $539.

3.1 Monthly Rent. In exchange for the rental amount of $539 per month, the City recognizes the contributions to the Oak Harbor community through youth services provided by the work of Big BrothersBig Sisters of Island County as outlined in Section 3.2 and does agree to the exchange of BBBS services for the rental amount of $539 per month.

3.2 Monthly Rent Exchange Basis.

3.2.1 Monthly Rent will be credited 34% per month for BBBS providing a youth services program that carefully screens and trains adults to be matched with eligible young people to provide mentor services in a caring and positive fashion.

3.2.2 Monthly Rent will be credited 33% per month for BBBS to coordinate its youth mentor program with the Oak Harbor School District, Island County Health Department, Washington State Department of Social Health Services, Oak Harbor Police Department and any other youth service agency operating in Oak Harbor.

3.2.3 Monthly Rent will be credited 33% per month for BBBS to develop and operate a support network and safety net for at-risk youth referred to the BBBS.

3.3 Reporting. BBBS will report directly to City Council annually no later than the first City Council meeting of March for the preceding calendar year of the status of the BBBS accomplishments as described in Section 3.2 of this agreement.

4. Personal Property Taxes, Rent Taxes and Other Taxes. Lessee shall pay all taxes, charges and other governmental impositions assessed against or levied upon Lessee's fixtures, furnishings, equipment and personal property located in the Premises prior to delinquency. Whenever possible, Lessee shall cause such items to be assessed and billed separately from Lessor's property. In the event such items are billed with Lessor's property, Lessee shall pay Lessor Lessee's share of such governmental impositions within thirty (30) days of request by Lessor. Lessee shall pay any rent tax, sales tax, value added tax, or other tax currently applicable or which becomes applicable in the future, to the Rent.

5. Use of Premises.

5.1 Permitted Use. Lessee shall use the Premises exclusively for the purpose of providing youth mentorship, coordination of other youth advocacy agencies and providing a support network for at-risk youth. Such use shall conform to applicable City ordinances and state and federal law and Lessee agrees that by taking possession of the Premises, Lessee has determined to its satisfaction that the Premises can be used for that purpose. Lessee waives any right to terminate this Lease if the Premises cannot be used for that purpose. The Premises may not be used for any other purpose without Lessor's prior written consent.

5.2 Restrictions on Use. Lessee may not use or occupy the Premises or the Property in violation of any law, ordinance, regulation or the certificate of occupancy issued for the Property, and may not do, bring, or keep anything in or about the Premises that will cause an increased premium for or the cancellation of any insurance covering the Property. If Lessee does cause any such increase in insurance premiums, Lessee shall pay or reimburse Lessor for the entire amount thereof, without regard to whether Lessor elects to terminate this Lease as a result of Lessee's unauthorized use of the Premises. Lessee may not use the Premises in any manner that will constitute waste, nuisance or unreasonable annoyance to other Lessees in the Property, nor may Lessee do anything that will cause damage to the Property. Lessee may not place any signs, symbols, drapes or other materials in windows or other openings or in interior hallways or on the exterior of the Premises without prior written approval from Lessor. Lessee may not permit floor loading in excess of the pounds per square foot limitation, if any, which Lessor notifies Lessee is the maximum permissible for the Premises.

5.3 Nondiscrimination in Use. The Lessee will not discriminate against any recipient of any services or benefits provided for in this Lease 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.

6. Lessee Maintenance. By taking possession of the Premises, Lessee accepts the Premises as being in good and sanitary order, condition and repair. Lessee shall, at its expense, clean, maintain and keep the Premises and all appurtenances, including, without limitation, carpet, wall coverings, signs, windows, doors, skylights, water pipes, electrical systems, outside area lighting, heating and air conditioning equipment, plumbing, fixtures, appliances, utility lines and other fixtures, equipment, improvements and systems utilized by Lessee, and shall keep the premises in "first class" condition and repair throughout the Term. The Lessee shall maintain the immediate approaches and sidewalks clean and sightly (including policing the grounds), free from ice and snow and from fire hazard and any other nuisance. At the expiration of the term, Lessee shall surrender the premises broom clean, in as good condition as the reasonable use thereof

will permit. All damage or injury to the leased premises not caused by fire and other casualty, as set forth in Paragraph 13 hereof, and all damage to glass shall be promptly repaired by Lessee.

Lessor shall keep in repair the roof, exterior walls, gutters, and downspouts of the part of the building leased under this Agreement, except as to damage arising from the negligence of Lessee which shall be the sole responsibility of the Lessee, but nothing herein shall be construed as requiring Lessor to repair any front doors, the interior, or glass in windows or doors. Any repairs, renovations, or modifications of the building must be approved by the City Administrator as well as comply with applicable federal, state and local law. Lessee shall be responsible for obtaining all permits required by law.

All building repairs, alterations, additions, improvements, installation, equipment, and fixtures, by whomsoever installed or erected (except such equipment and fixtures belonging to Lessee that can be removed without damage to or leaving incomplete the premises or building) shall belong to Lessor and remain on and be surrendered with the premises as a part thereof, at the expiration of this lease or any extension thereof.

All communications systems purchased and installed by Lessee shall remain property of the Lessee per Interlocal Agreement.

7. Utilities. Lessee shall be responsible for all utility costs to provide water, sewer, storm sewer and solid waste to the premises at 913 E Whidbey Avenue.

8. Liens. Lessee shall keep the Premises and the real property upon which the Premises are situated free from any liens arising out of any work performed, materials furnished, or obligations incurred by Lessee. Lessor has the right at all reasonable times to post any notices on the Premises which it deems necessary for Lessor's protection from such liens. If any such liens are filed, Lessor may, without waiting its rights and remedies for breach, and without releasing Lessee from any of its obligations hereunder, require Lessee to post security in form and amount reasonably satisfactory to Lessor or cause such liens to be released by any means Lessor deems proper, including payment in satisfaction of the claim giving rise to the lien. Lessee shall pay to Lessor upon demand any sum paid by Lessor to remove the liens, together with interest from the date of payment by Lessor, at the lesser of 1-1/2% per month or the maximum rate permissible by law.

9. Indemnification and Exculpation of Lessor. Lessee shall indemnify, defend, and hold Lessor harmless from all claims arising from Lessee's use of the Premises or the conduct of its business, or from any activity, work or thing done, permitted or suffered by Lessee in or about the Premises or the Property. Lessee shall further indemnify, defend, and hold Lessor harmless from all claims, liabilities, costs, attorneys' fees and expenses arising from any breach or default in the performance of any obligation to be performed by Lessee under the terms of this Lease, or arising from any act or omission of Lessee or of its agents or employees. Lessee's obligation to indemnify Lessor under this section includes an obligation to indemnify for losses resulting from death or immunities it now

has or hereafter may have under any Industrial Insurance Act, or other worker's compensation, disability benefit or other similar act which would otherwise be applicable in the case of such a claim. In case any action or proceeding is brought against Lessor by reason of any such claim, Lessee, upon notice from Lessor, shall defend the same at Lessee's expense, by counsel approved in writing by Lessor. Lessee, as a material part of the consideration to Lessor, hereby assumes all risk of and waives any claims Lessee might have in respect to damage to property or injury to persons in, upon or about the Premises from any cause whatsoever, except that which is caused by Lessor's gross negligence.

10. Insurance. The Lessee 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 Lessee's operation and use of the leased Premises.

10.1 No Limitation. Lessee's maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Lessee to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

10.1.1 Minimum Scope of Insurance. Lessee shall obtain insurance of the types described below:

10.1.1.1 General Liability insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 and shall cover premises and contractual liability. The City shall be named as an insured on Lessee's General Liability insurance policy using ISO Additional Insured-Managers or Lessors of Premises Form CG 20 11 or a substitute endorsement providing equivalent coverage.

10.1.1.2 Property insurance shall be written on an all risk basis.

10.1.2 Minimum Amounts of Insurance. Lessee shall maintain the following insurance limits:

10.1.2.1 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.

10.1.2.2 Property insurance shall be written covering the full value of Lessee's property and improvements with no coinsurance provisions.

10.1.3 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for General Liability insurance:

10.1.3.1 The Lessee's insurance coverage shall be primary insurance with respect to the City. Any insurance, self-insurance or insurance pool coverage maintained by the City shall be in excess of the Lessee's insurance and shall not contribute with it.

10.1.3.2 The Lessee'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.

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

10.1.5 Verification of Coverage. Lessee 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 Lessee.

10.1.6 Waiver of Subrogation. Lessee and City hereby release and discharge each other from all claims, losses and liabilities arising from or caused by any hazard covered by property insurance on or in connection with the premises or said building. This release shall apply only to the extent that such claim, loss or liability is covered by insurance.

10.1.7 City's Property Insurance. City shall purchase and maintain during the term of the lease all-risk property insurance covering the Building for their full replacement value without any coinsurance provisions.

11. Destruction. In the event the Premises are destroyed or injured by fire or earthquake or other casualty, to the extent that they are untenantable in whole or in part, then Lessor may, at Lessor's option, proceed with reasonable diligence to build and restore said Premises or such part thereof, provided that within sixty (60) days after such destruction or injury, Lessor shall notify Lessee in writing of Lessor's intention to do so. During the period from destruction or damage to restoration, Rent will be abated in the same ratio as that portion of the Premises which Lessor determines is unfit for occupancy bears to the whole Premises.

12. Assignment, Subletting and Succession. Lessee may not assign or sublet this Lease or the Premises, or any part of either, without first obtaining Lessor's written consent. This Lease is not assignable by operation of law.

13. Defaults - Remedies.

13.1 Default by Lessee. The occurrence of any one or more of the following events constitutes a default under this Lease by Lessee:

13.1.1 Vacation or abandonment of the Premises;

13.1.2 Failure by Lessee to make any payment of Rent when due, or failure to make any other payment required hereunder when due when that failure continues for a period of five (5) days after written notice from Lessor;

13.1.3 Failure by Lessee to observe or perform any of the covenants, conditions or provisions of this Lease, other than the making of any payment, where that failure continues for a period of thirty (30) days after written notice from Lessor; provided, that if the nature of Lessee's obligation is such that more than thirty (30) days are reasonably required for cure, Lessee will not be in default if Lessee commences to cure within thirty (30) days of Lessor's notice and thereafter diligently pursues completion and completes performance within a reasonable time;

13.1.4 Lessee's failure to comply with the same Lease term or covenant on three occasions during the Term, even if such breach is cured within the applicable cure period.

13.2 Remedies. In the event of any default, Lessor may at any time, without waiving or limiting any other right or remedy, re-enter and take possession of the Premises, terminate this Lease, accelerate all Rent payments due hereunder which payments will then become immediately due and payable, or pursue any other remedy allowed by law. Lessee shall pay Lessor the costs of recovering possession of the Premises, the expenses of re-letting, and any other costs or damages arising out of Lessee's default. Notwithstanding any re-entry or termination, Lessee will remain liable for all sums Lessee is obligated to pay hereunder for the balance of the Term, and Lessee shall compensate Lessor for any deficiency arising from re-letting the Premises, provided, however, that Lessor shall use reasonable efforts to mitigate its damages. Unless the Lessor elects to accelerate the Rent owed hereunder, Lessee shall pay such deficiency each month as the amount thereof is ascertained by Lessor.

13.3 Default by Lessor. Lessor will not be in default unless Lessor's failure to perform an obligation within thirty (30) days after notice by Lessee, which notice must specify the alleged breach; provided, that if the nature of Lessor's obligation is such that more than thirty (30) days are reasonably required for cure, Lessor will not be in default if Lessor commences to cure within thirty (30) days of Lessee's notice and thereafter diligently pursues completion and completes performance within a reasonable time.

14. Waiver. Failure of Lessor to promptly enforce its rights hereunder will not waive such rights. Lessor's acceptance of Rent subsequent to a Lessee breach will not waive such breach.

15. Access. Lessor may enter the Premises at all times to: inspect, provide Services required hereunder; post notices of non-responsibility; or, alter, improve or repair the Premises or any other portion of the Property, all without being deemed a constructive eviction. Lessee shall ensure that Lessor at all times has a key with which to unlock all doors and gates in the Premises, excluding Lessee's vaults and safes. No re-keying of doors or gates may be done without Lessor's prior written approval. Lessor has the right to use any and all means that Lessor deems proper to open doors and gates in an emergency in order to obtain entry to the Premises.

16. Prior Agreements. This Lease contains all of the agreements of the parties with respect to any matter covered or mentioned in the Lease, and no prior agreement, letter of intent or understanding pertaining to any such matter will be effective for any purpose. No provisions of this Lease may be amended or added to, except by an agreement in writing signed by the parties or their respective successors in interest.

17. Americans with Disabilities Act. Within ten (10) days after receipt, Lessee shall advise Lessor in writing, and provide Lessor with copies of (as applicable)(a) any notices alleging violation of the Americans with Disabilities Act of 1990 ("ADA") relating to any portion of the Premises; (b) any claims made or threatened in writing regarding non-compliance with the ADA and relating to any portion of the Premises; or (c) any governmental or regulatory actions or investigations instituted or threatened regarding non-compliance with the ADA and relating to any portion of the Premises.

18. Surrender of Premises. The voluntary or other surrender of this Lease by Lessee, or a mutual cancellation thereof, will not work a merger, and will, at the option of Lessor, operate as an assignment to it of any or all subleases or subtenancies. Upon the expiration or earlier termination of this Lease, Lessee shall peaceably surrender the Premises and all of the alterations and additions thereto, leave the Premises broom clean, in as good order, repair and condition as was provided to Lessee on the Commencement Date, reasonable wear and tear excepted, and Lessee shall comply with the provisions of Sections 9 and 10. The delivery of keys to any employee of Lessor or to Lessor's agent or any employee thereof shall not be sufficient to constitute a termination of this Lease or a surrender of the Premises.

19. Severability. Any provision of this Lease which proves to be invalid, void or illegal will in no way affect, impair, or invalidate any other provision hereof, and such other provisions will remain in full force and effect.

20. Governing Law; Venue. This Lease is to be governed by and construed in accordance with the laws of the State of Washington. Lessor and Lessee hereby agree that venue of any action between parties relating to this Lease will be in Island County, Washington.

21. Hazardous Substances. Lessee shall not generate, handle, store, or dispose of any Hazardous Substance on, under, or in the Premises, the Property, or the real property upon which the remises are situated. As used herein, the term "Hazardous Substance" means any hazardous, toxic, or dangerous substance, waste, or material, which is or becomes regulated under any federal, state or local statute, ordinance, rule, regulation, or other law now or hereafter in effect pertaining to environmental protection, contamination, or cleanup. Lessee agrees to hold harmless, protect, indemnify, and defend Lessor from and against any damage, loss, claim, or liability resulting from any breach of this covenant, including any attorneys' fees and costs incurred. This indemnity will survive the termination of this Lease, whether by expiration of the Term or otherwise.

CITY OF OAK HARBOR

By_____
Jim Slowik, Mayor

STATE OF WASHINGTON)
) ss:
COUNTY OF ISLAND)

THIS IS TO CERTIFY that on this _____ day of _____, _____, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn, personally appeared Jim Slowik, to me known to be the Mayor of the City of Oak Harbor, that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of the City of Oak Harbor for the uses and purposes therein mentioned, and on oath stated that said individual was authorized to execute said instrument.

WITNESS my hand and official seal the day and year in this certificate first above written.

_____
Print: _____
NOTARY PUBLIC in and for the State of
Washington, residing in _____
Commission expires: _____

BIG BROTHERS BIG SISTERS

By_____
Print Name:_____

STATE OF WASHINGTON)
) ss:
COUNTY OF ISLAND)

THIS IS TO CERTIFY that on this _____ day of _____, _____, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn, personally appeared_____to me known to be the _____ of Big Brothers Big Sisters that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of Big Brothers Big Sisters for the uses and purposes therein mentioned, and on oath stated that said individual was authorized to execute said instrument.

WITNESS my hand and official seal the day and year in this certificate first above written.

_____
Print: _____
NOTARY PUBLIC in and for the State of
Washington, residing in _____
Commission expires: _____

ATTEST:

_____
City Clerk

City of Oak Harbor
City Council Agenda Bill

Public Hearing and Agenda Bill continued from the 11/28/11 Special Meeting to December 6, 2011.

Bill No. 6
Date: December 6, 2011
Subject: Public Hearing – Property Tax Ordinance for 2012.

FROM: **Doug Merriman**
Finance Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

Jim Slowik, Mayor
Paul Schmidt, City Administrator
Margery Hite, City Attorney, as to form

PURPOSE

An ordinance to increase the 2012 City of Oak Harbor property tax levy by 1%.

AUTHORITY

RCW 84.55.010 provides that a taxing jurisdiction may levy taxes in an amount no more than the limit factor multiplied by the highest levy of the most recent three years plus additional amounts resulting from new construction and improvements to property, newly constructed wind turbines, and any increase in the value of state-assessed utility property.

RCW 84.55.005(1) defines "inflation" as the percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent 12-month period by the Bureau of Economic Analysis of the federal Department of Commerce in September of the year before the taxes are payable;

RCW 84.55.005(2)(c), provides the limit factor for the City of Oak Harbor, a taxing jurisdiction with a population of over 10,000, is the lesser of 101 percent or 100 percent plus inflation;

FISCAL IMPACT DESCRIPTION

Funds Required: $ $37,499.98 annually

Appropriation Source: Not Applicable

The revenue impact of the change in the 2012 property tax levy is $37,499.98. This increase in the property tax levy is included in the second year of the City's adopted 2011-2012 biennial budget.

SUMMARY STATEMENT

This agenda bill presents the ordinance required to establish the property tax levy rate for the City of Oak Harbor for 2012. Under and RCW 84.55.005(1) and RCW 84.55.005(2)(c), the City may increase the collection of property tax revenues by the lower of 1% or the rate of inflation as set by the Implicit Price Deflator (IPD) as published by the Bureau of Economic Analysis (BEA). The IPD measurement to be

utilized for 2012 is 2.755%. Accordingly, the allowed levy adjustment for 2012 is 1%.

STANDING COMMITTEE REPORT

The Finance Standing Committee reviewed this item at their November 9, 2011 meeting.

RECOMMENDED ACTION

1. Hold public hearing
2. Pass ordinance to implement a 1% adjustment to the 2012 property tax levy..

ATTACHMENTS

1. Draft Ordinance
2. IPD information (Source: MRSC)
3. Graph of historical inflation data.

ORDINANCE NO. _____

AN ORDINANCE TO INCREASE BY $37,499.98 THE AMOUNT TO BE RAISED BY AD VALOREM TAXES FOR THE 2012 PROPERTY TAX LEVY WHICH REPRESENTS A 1% INCREASE OVER THE ACTUAL LEVY ASSESSED IN 2011.

WHEREAS, proper public notice of this ordinance and the related public hearing was given in the Whidbey News Times on November 12, 2011, and

WHEREAS, a public hearing was held November 28, 2011, to consider the City of Oak Harbor's Current Expense budget for the Year 2012; and

WHEREAS, RCW 84.55.010 provides that a taxing jurisdiction may levy taxes in an amount no more than the limit factor multiplied by the highest levy of the most recent three years plus additional amounts resulting from new construction and improvements to property, newly constructed wind turbines, any increase in the value of state-assessed utility property, and any annexations that have occurred and refunds made.

WHEREAS, under one provision of RCW 84.55.005(2)(c), the annual inflationary increase limit factor for the City of Oak Harbor, a taxing jurisdiction with a population of over 10,000, is the lesser of 101 percent or 100 percent plus inflation;

WHEREAS, RCW 84.55.005(1) defines "inflation" as the percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent 12-month period by the Bureau of Economic Analysis of the federal Department of Commerce in September of the year before the taxes are payable; Inflation as evidenced by the change in the for the twelve month period ending July 2011 as measured by the change in the implicit price deflator (IPD) is 2.755% (percent).

WHEREAS, the City Council of the City of Oak Harbor has met and considered its budget for the calendar year 2012, and after hearing and after duly considering all relevant evidence and testimony presented, has determined that the City of Oak Harbor requires an increase in property tax revenue from the previous year, in order to discharge the expected expenses and obligations of the City of Oak Harbor.

WHEREAS, the City of Oak Harbor's actual levy amount from the previous year was $3,749,998.64.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAK HARBOR do hereby ordain as follows:

Section One: An increase in the regular property tax levy is hereby authorized for the levy to be collected in 2012 tax year. The dollar amount of the increase over the actual levy amount of the previous year shall be $37,499.98, which is an increase of one percent (1%) from the previous year. This increase is exclusive of any additional revenues resulting from under-utilized levy capacity, from new construction, improvements to property, newly constructed wind turbines, and from any increase in the value of state-assessed property, any annexations that have occurred and refunds made,. The total regular property taxes will be budgeted at $4,082,568.00 for 2012.

Section Two: The City Clerk shall file a certified copy of this ordinance with the Island County Auditor.

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

Section Four: Effective Date. This ordinance shall take effect five days after publication as provided by law.

PASSED by the City Council this 28th day of November, 2011.

CITY OF OAK HARBOR

Approved ( )
Vetoed ( )

_____
Jim Slowik, Mayor

_____
Date

Attest:

_____
City Clerk

Approved as to Form:

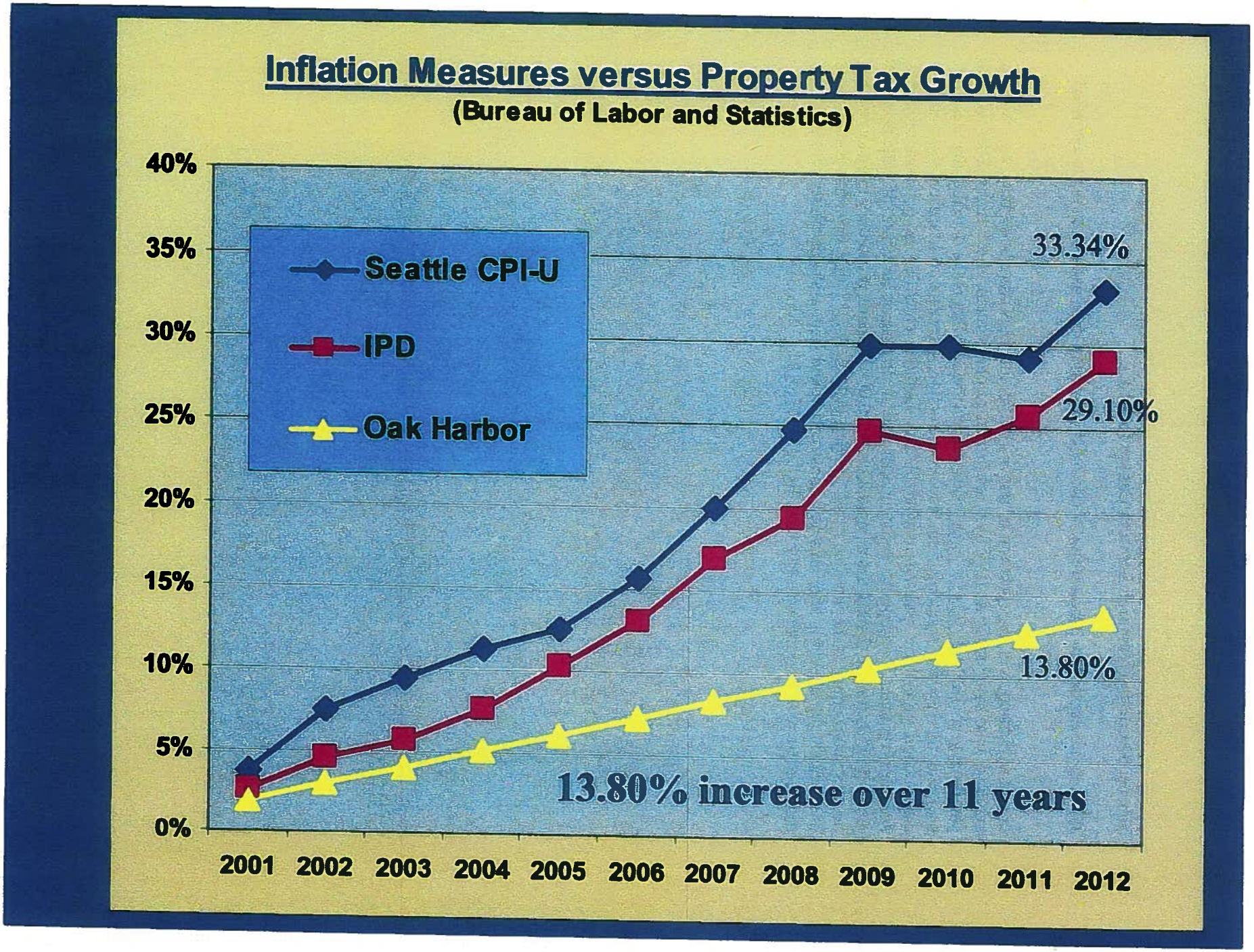
_____
City Attorney

Published:_____

Source: Municipal Research Services Center (MRSC)

What is the maximum amount that a city or county may increase its property tax levy?

In taxing districts with a population of under 10,000, the legislative body may, by a simple majority, vote to increase its levy by a maximum of one percent of the highest levy of the past three years (note WAC 458-19-065 says since 1986 and that is the date that the assessors use) plus the revenue resulting from new construction, increases in assessed value due to construction of electric generation wind turbine facilities classified as personal property, and improvements to property, and any increase in the assessed value of state-assessed property. If the taxing district has a population of 10,000 or more, it can only increase its levy by an amount equal to the increase in the implicit price deflator (IPD) from the prior July or one percent, whichever is less, plus new construction and state-assessed utility revenue. This can be done with a simple majority vote. RCW 84.55.010.


Inflation Measures versus Property Tax Growth
(Bureau of Labor and Statistics)
40%
35%
30%
25%
20%
15%
10%
5%
0%
Seattle CPI-U
IPD
Oak Harbor
33.34%
29.10%
13.80%
13.80% increase over 11 years
2001
2002
2003
2004
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2010
2011
2012

City of Oak Harbor
City Council Agenda Bill

Bill No. 7
Date: December 6, 2011
Subject: Low Impact Development Code– Proposed Amendments

FROM: **Steve Powers**
Development Services Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:
Jim Slowik, Mayor
Doug Merriman, Finance Director
Margery Hite, City Attorney, as to form

PURPOSE
The Low Impact Development Code Amendments were first presented to City Council on July 12, 2011. Council members and the public raised a number of issues regarding the proposed code amendments at that time. This agenda bill addresses those issues and presents a second version of the code for City Council consideration.

AUTHORITY
Amendments to the City's code are Review Process V Decisions per Chapter 18.20 OHMC. Under this process, the Planning Commission is required to form a recommendation with City Council designated as the final decision-making authority. Additionally, RCW 36.70.A.040 gives the City "legislative body" the authority to adopt development regulations.

FISCAL IMPACT DESCRIPTION
Funds Required: $ 0

Appropriation Source: Not applicable

At this time, the only component of the draft code that will require future expenditures is the maintenance of pervious concrete sidewalks which are part of the proposed LID street sections. The pervious sidewalks would need to be periodically "vacuumed" to keep them free of debris and properly functioning. The cost to perform this maintenance is unknown since the City cannot predict how often this street section will be used by developers. Thus, the fiscal impacts of the proposed code cannot be determined at this time.

SUMMARY STATEMENT
In the July 12, 2011 meeting, the Council made a motion to table the Low Impact Development Code Amendments and remand them back to the Planning Department. On November 1, 2011the City Council voted to schedule this matter for the November 15th meeting. Since that time, Planning Division staff have worked on alternative code language. The revised code language makes adjustments to the July 12, 2011 draft. The revisions primarily affect Chapter 19.44 OHMC regarding when (at what threshold) pervious surfaces or LID techniques are required in off-street parking lots.

RESPONSE TO ISSUES RAISED AT JULY 12, 2011 COUNCIL MEETING

During the July 12, 2011 City Council meeting, Council members and the public raised questions and issues about that version of the draft code. The Skagit Island Builders Association, through its director Mr. Wayne Crider, submitted written comments via e-mail. City staff sent Mr. Crider a response letter, addressing the questions he raised (please see attachment 2). City staff subsequently responded to these concerns in the Public Works and Governmental Services Standing Committee meetings on October 6 and October 11. The following discussion summarizes the central issues that were raised by City Council and provides staff responses to each of these issues. For a more detailed discussion of these issues, please see Attachment A.

- **Parking maximums and LID.** City Council and members of the public questioned why the draft code proposes that pervious surfaces/LID be mandatory in off-street parking lots exceeding 50 spaces in size. Parking lots are one of the two major contributors to stormwater runoff in urban areas (streets being the other). The more stormwater runoff there is, the more public infrastructure is needed. Staff researched parking maximums in other jurisdictions, with the conclusion that maximums are usually set between 125% - 150% of the minimum number of required spaces. Under Planning Commission input to "be flexible within parameters," staff proposed a maximum of 200% of the minimum with pervious surfaces required for all spaces above 125% of the minimum, and a variance required at 150% of the minimum. These standards would apply to all parking lots with 50 or more spaces and for development/redevelopment which exceeds 60% of the total assessed value.

  Based on Council discussion and public input, staff offers an alternate approach which raises the threshold to 100 spaces (from 50) to which these regulations apply, that pervious be required at 150% of the maximum, that no variance be required, and that the maximum be 250% of the minimum number of required spaces. Please see Section 19.44.105 OHMC. The City Council could also decide not to approve the parking maximum concept as part of the LID code.

- **Incentives.** City Council questioned what incentives had been researched as part of encouraging LID. Staff researched both built-in and city-offered incentives. Built-in incentives from using LID include reduced stormwater bills, smaller stormwater ponds, and possible installation cost savings in some cases. City-offered incentives could include expedited permitting or reduced stormwater impact fees. However, in Oak Harbor's situation, neither expedited permitting nor reduced stormwater impact fees apply. Permitting times are already quicker than most jurisdictions and we do not have stormwater impact fees, thus no fee waiver is possible.

- **Parking for residential uses.** City Council and the public raised questions as to the adequacy of minimum parking standards for residential uses especially as relates to newly proposed LID street sections. <u>It is important to note that the proposed code updates will not change the code-required minimum number of parking spaces for each land use. Additionally, use of these street sections is strictly voluntary; the developer chooses to use these street sections or not.</u> Regardless of whether or not an applicant chooses to use a narrow LID street design, the code will continue to require a total of 2.5 parking spaces per residential unit, of which 0.5 spaces per unit will be public parking located either on-street or in parking "pockets" throughout the development. Thus the minimum number of required parking spaces will be the same in any given residential development, whether or not the LID street sections are used.

- **Native vegetation areas.** City Council raised a concern that the use of Crown Vetch as groundcover

and erosion control was not appropriate given that it is a non-native species. Staff agrees and has deleted the reference to Crown Vetch from the code.

STANDING COMMITTEE REPORT

This item was discussed at the Public Works Committee on October 6, 2011 and with the Governmental Services Committee on October 11, 2011. Both committees asked questions regarding the materials distributed by staff and seem satisfied with the answers provided. No additional concerns regarding the proposed code came to light. The draft notes from these meetings are found in Attachment 9.

RECOMMENDED ACTION

1. Conduct the public hearing.
2. Approve the proposed amendments to Titles 11, 19, and 21 promoting the use of LID stormwater management techniques.

ATTACHMENTS

- Attachment 1 – Memorandum to the Public Works Standing Committee for the October 6, 2011 meeting.
- Attachment 2 – Staff response letter to SICBA, dated October 3, 2011
- Attachment 3 – Draft code amending Title 11 "Streets and Sidewalks"
- Attachment 4 – Draft code amending Chapter 19.44 "Parking"
- Attachment 5 – Draft code amending Chapter 19.46 "Landscaping and Screening"
- Attachment 6 – Draft code amending Chapter 19.47 "Land Clearing"
- Attachment 7 – Draft code amending Title 21 "Subdivisions"
- Attachment 8 – Planning Commission Minutes from January 25, February 22, and March 29, 2011.
- Attachment 9 – Draft meeting notes from Standing Committees

Memo

To: Public Works Standing Committee Members

From: Ethan Spoo, Senior Planner

Date: 10/6/11

Re: LID Code Update – Staff Response to July 12, 2011 City Council Questions

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PURPOSE

The purpose of this memorandum is to directly address City Council questions/concerns that arose as part of the Low Impact Development (LID) code agenda item at the July 12, 2011 Council meeting. The end goal of this memorandum is to provide the Public Works Standing Committee members with a policy discussion that will give them the information they need to be prepared for the next City Council consideration of this topic.

The memorandum begins with general comments by staff about the LID project and its objectives. Following the General Comments section, this memorandum proceeds to a topical discussion of issues raised at the Council meeting. These topics are meant to address the major issues brought forth in Council and public comments, including the letter and follow-up e-mail by Mr. Wayne Crider of Skagit/Island Counties Builders Association (SICBA). The topical discussion is organized as follows:

- Parking maximums and impervious surfaces,
- Parking for residential uses, and;
- Native vegetation areas

GENERAL COMMENTS

There are two primary reasons the LID code update was undertaken: (1) to remove barriers to and promote the use of LID and (2) to help promote a healthy Puget Sound. Staff anticipates that having the LID code in place will save review time for applicants (and therefore cost), thus removing a barrier to LID and saving money for applicants. Additionally, by reducing the quantity of stormwater and pollutants entering the public stormwater system, LID will help promote a healthy Puget Sound. In the long-run, if widely implemented, it may reduce the City's infrastructure and maintenance costs for its public stormwater system.

Stormwater runoff is the number one major contributor to pollution in the Puget Sound according to regional scientists and has contributed to declines in the number of salmon and shellfish.[1] According to studies, LID is much more effective at removing pollutants from stormwater than are traditional stormwater facilities (ponds and pipes).[2] To the degree that Oak Harbor shares the belief that a healthy Puget Sound is important, this is a worthwhile issue for the City to address.

The City's Phase II stormwater permit from the state says that the City shall:

> *"...allow non-structural preventive actions and source reduction approaches such as Low Impact Development Techniques (LID), measures to minimize the creation of impervious surfaces and measures to minimize the disturbance of native soils and vegetation. Provisions for LID should take into account site conditions, access and long-term maintenance."*

To help address this Phase II permit requirement, the City applied for and was awarded a technical services grant from the Puget Sound Partnership (PSP) in late 2007. PSP's consultant, AHBL, worked with the City to draft LID code provisions. City staff did a significant amount of work with the draft code language after the consultant was finished fitting this language it into our local context.

Council should also be aware that the Department of Ecology (DOE) is currently modifying the Phase II stormwater permit to make LID mandatory wherever feasible. The latest information from DOE indicates that, starting in 2015, the City will be required to enforce mandatory LID standards on all new development, unless it is not feasible to do so.

The costs to install LID have been found in studies to be comparable to traditional stormwater techniques. In some cases, LID may even cost less.[3] On the maintenance side, there are no studies that staff is aware of that thoroughly address the cost issue. Anecdotal evidence suggests that maintenance costs are probably somewhat higher for LID than for traditional stormwater facilities. There is very little evidence that LID regulations effect economic development (positively or negatively). However, some developers do report increased profits by gaining developable land which would have otherwise been used for stormwater ponds. At this time, it is too early to draw conclusions about the effect of LID regulations on businesses in a community.

Finally, code amendments are legislative actions (Review Process V) in the City's code. Legislative actions require that a recommendation be made by the Planning Commission, with final decision authority given to the City Council. Under this review process, City Council has broad discretion to approve, deny, or amend Planning Commission's recommendation. Planning Commission's recommendation is meant to assist City Council in their discussion and decision. In this case, the Council can decide whether some or all of the proposed LID practices should be included in the code at this time.

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[1] According to the Puget Sound Partnership, http://www.psp.wa.gov/stormwater.php

[2] "National Pollutant Removal Performance Database for Stormwater Treatment Practices" Center for Watershed Protection, June 2000.

[3] "The Economics of Low-Impact Development: A Literature Review", ECONorthwest, November 2007.

DISCUSSION OF TOPICS

Parking Maximums and LID

Parking lots and stormwater runoff

Parking lots are one of the main contributors of stormwater runoff in urban areas. The stormwater runoff is usually captured and treated in private facilities (stormwater ponds) and then released into the public stormwater system. Thus, there is a direct relationship between the amount of impervious surface in parking lots and the amount the City spends on stormwater maintenance.

Both national and local studies suggest that many commercial parking lots have at least 25% additional capacity even during peak daytime hours.[4] From a stormwater perspective, these infrequently used spaces are expensive, creating additional impervious surface and stormwater runoff for very little benefit. For these reasons, Planning Commission recommended that the maximum parking standard be mandatory.

As opposed to setting a "hard maximum" with no variation from this standard, Planning Commission focused on "being flexible within parameters." For this reason, a "graduated maximum" was suggested to and approved by the Planning Commission. An explanation of the numerical limits in this maximum follows.

Explanation of parking maximum numerical limits

Parking minimum requirements have been around for decades and have been widely adopted around the nation. Parking maximums, on the other hand, are a relatively new concept since the 1990s. Cities are beginning to consider the idea of adopting parking maximum standards since studies have found that many commercial lots are over-parked, having more spaces than are needed even during peak hours.

Minimum parking requirements are usually set using a widely available document called "Parking Generation" by the Institute of Transportation Engineers (ITE). Oak Harbor's parking minimums generally align with the recommendations in the "Parking Generation" document. That document recommends a minimum amount of parking stalls for each type of land use based on the *peak parking demand* for each land use. In other words, the minimum amount of parking recommended in Oak Harbor's code is generally the maximum amount of parking that land use would need under nearly all circumstances. Parking spaces provided above that minimum are excess spaces beyond what is needed in a peak hour. This is why it is common to see a large number of unused spaces in commercial parking areas.

To gain a better understanding of this topic, staff researched parking maximum standards in other communities. Generally speaking, for communities that have them, parking maximums are usually set between 125% and 150% of the minimum.[5] To be more flexible than other cities, staff suggested a parking maximum of 200% of the minimum number of required spaces. Remember that the minimum number of required spaces is set based upon the peak parking demand. The 200% limit is twice the peak parking demand for a given land use. In line with the "flexibility within parameters" guidance given by Planning Commission, staff

[4] See Schueler, T, "Environmental Land Planning series: Site Planning for Urban Stream Protection", Washington, D.C.: Metropolitan Washington Council of Governments, Department of Environmental Programs. See also City of Olympia, "Impervious Surface Reduction Study: Final Report. Olympia, WA: Public Works Department, Water Resources Program.
[5] See "Parking Standards", American Planning Association, Davidson, Michael and Dolnick, Fay, 2002.

suggested that a graduated approach be adopted whereby pervious surface (or other approved LID technique) would be required at 125% of the minimum number required and an administrative variance would be required at 150% of the minimum. Other cities usually place a hard limit at 125% or 150% of the minimum, but in the spirit of increased flexibility, staff suggested a 200% limit which was then recommended by the Planning Commission.

The following table shows how the proposed parking regulations would have affected several of the larger retail/commercial developments in Oak Harbor if these provisions had been in place at the time of development. The table shows that only the Home Depot development would have been subject to the provisions in the new code. Even so, the proposed standards would not have prevented Home Depot from being built.

Development	Building SF	Parking Standard	Spaces Req'd	Spaces Provided	% of Minimum	Effect
Home Depot	130,071	1 per 600 SF	217	407	188%	136 pervious spaces; administrative variance above 326 spaces
Wal-Mart/Albertsons	156,762	1 per 222 SF	705	780	111%	No effect
Safeway Center	96,448	1 per 222 SF	434	472	109%	No effect
K-Mart Center	160,158	1 per 222 SF	721	849	118%	No effect

Parking maximums are often used as a trip reduction tool; reducing the amount of available parking below the minimum discourages driving and encourages transit use. This approach is typically used in more urban areas and is not the reason for its proposed use in Oak Harbor. In the LID context, parking maximums are used to reduce impervious surface areas, not influence trip behavior.

Finally, it should be noted that the proposed parking maximum standards are only proposed to apply to parking lots with 50 spaces or more. This 50 space threshold was recommended by Planning Commission because the parking maximum is directed at large, underused parking lots with expansive areas of impervious surface.

Incentives

As part of the update process, staff did explore incentives for applicants who are subject to the parking maximums. There are two types of incentives: (1) built-in incentives and (2) a city-offered incentive. Because LID practices are still a relatively new concept for the City, staff believes the City should proceed cautiously in offering incentives until more is known about how LID will work.

LID practices have their own built-in incentives as follows:

- They reduce the amount of impervious area and associated monthly stormwater bills,

- They reduce the size of or eliminate required stormwater ponds giving land back to the property owner/developer (land which may now be put to better use),
- Depending on which type of pervious surface is chosen, it may have a cheaper installation cost than concrete or asphalt.

As previously mentioned, staff did explore city-offered incentives at Planning Commission direction such as density bonuses and expedited permitting. In the end, staff suggested relying on built-in incentives until more is known about the acceptance of LID in Oak Harbor.

Council Alternatives

As previously mentioned, City Council has broad authority to amend the code as recommended to them by Planning Commission. This section advances some possible alternatives/adjustments to the proposed parking maximum concept that could become a launching point for further discussion. The amount of adjustment or change needed depends upon what level of flexibility Council wants in the regulations.

The PC recommended concept was built with the idea of flexibility in mind, especially as compared with maximum parking standards in other cities. The following table shows some possible alternatives to the existing parking maximum concept as it has been recommended by the Planning Commission.

	1	**2**	**3**
Parking Lot Component	**PC Recommendation**	**More Flexible Option**	**Existing code**
When regulations apply	50 spaces & 60% of value	100 spaces & 60% of value	N/A
When pervious required	125%	150%	N/A
When variance required	150%	N/A	N/A
Allowed maximum # of spaces	200%	250%	N/A

A more flexible option might be to increase the threshold to which these regulations apply to 100 spaces, increase the threshold at which pervious applies to 150% of the minimum, eliminate the variance requirement, and increase the maximum to 250%. The existing code does not contain any parking maximum requirements. There is broad discretion for City Council to adjust these numbers as they see fit. Staff is seeking additional City Council input on this concept.

Parking for residential uses

Narrow, LID street sections

Narrower street sections with bioretention are part of the Planning Commission recommended code updates. Use of these street sections is strictly voluntary; the developer chooses to use these street sections or not. The 50-foot right-of-way street section eliminates the on-street parking lane usually required for residential streets. City Council and SICBA expressed a concern that eliminating this parking lane could lead to insufficient parking in subdivisions and new neighborhoods.

It is important to understand that the proposed code updates will not change the code required minimum number of parking spaces for each land use. Single-family residential uses are required to have a minimum of 2.0 off-street parking spaces per unit. These are typically found in the garage or the driveway. Additionally, the existing code also requires that there be one on-street parking space for every two residential units based on an Oak Harbor parking survey that was done in 2009. Thus, each single-family residential unit is required to have a minimum of 2.5 spaces.

Therefore, although the 50-foot LID street section that is proposed does not require on-street parking, sufficient parking would continue to be provided through a combination of on-street spaces or parking courts in the development.

Council Alternatives

Parking requirements, including those for residential uses, are based upon national norms in the ITE "Parking Generation" publication and are set at 2.0 for each single-family dwelling unit. The City already requires an additional public parking space for each two single-family dwelling units.

In the context of stormwater and LID issues, the goal is to reduce impervious areas, thus staff does not recommend increasing the amount of off-street or on-street parking for residential uses at this time. Increasing the number of required spaces, certainly increases overall costs to developers/builders and the City should check with them before doing so. If the City Council wishes to consider changing the City's parking minimums, such work might better be undertaken as a separate project.

Native vegetation areas

Both SICBA and Council raised the issue of invasive species in native vegetation areas. The proposed code would require that only native species be placed within native vegetation areas. However, there seems to be a suggestion that Crown Vetch would be an appropriate form of groundcover in landscape areas in section 19.46.040(13) of the proposed code. Although it is not native, Crown Vetch is a commonly used erosion control plant because it is quick growing. The Puget Sound Partnership suggested to City staff that it be used for these purposes and, thus, it was placed in the draft code as an example of an appropriate type of ground cover. Upon further review, staff recommends the reference to Crown Vetch be removed from the draft code.

At the end of the proposed Chapter 19.46 "Landscaping and Screening" there is a list of recommended tree species that could be used in native vegetation areas. This list was reviewed and approved by the City's tree expert in the Parks Division and was therefore looked at by a qualified entity, as SICBA has suggested.

CONCLUSION

Implementing LID is a policy choice for the City Council. The State is currently working to make LID mandatory for all Phase II jurisdictions, like Oak Harbor, in the not too distant future (2015). Because LID is still a local choice, as opposed to a State mandate, the proposed LID code is an opportunity for the City to see which aspects of LID work best and to prepare for mandatory implementation in the future. At this time, there is broad discretion for City Council to decide how much emphasis to place on LID in the broader city policy context, while at the same time preparing for the future.

Staff requests standing committee input on the following points:

- Given that parking lots are one of the largest contributors to stormwater runoff, is there a public interest to be served by requiring LID for certain sized parking lots?
- Is the "more flexible" option for parking lot maximum requirements a more preferable option?

Staff intends to conduct a briefing similar to this with the Governmental Services Committee. After input is received from both committees, staff will prepare new draft language for Council consideration in November.

CITY OF
Oak Harbor
WHIDBEY ISLAND, WASHINGTON

October 3, 2011

Mr. Wayne Crider, Executive Officer
Skagit Island Counties Builders Association
15571A Peterson Road
Burlington, WA 98233

Re: City Low Impact Development Code Update

Dear Mr. Crider,

Thank you for taking the time to review the draft LID code. We appreciate your comments on the matter. In addition to the telephone conversations you and I had on the topic, I wanted to take this opportunity to respond formally to the concerns you raised in your July 12, 2011 letter. I believe this letter should address your concerns, including those regarding:

- *Mandatory versus voluntary nature of LID.* As proposed, some of the LID techniques are mandatory and some are not.
- *Parking regulations.* The letter addresses the reason for the numerical limits. In addition, please note that staff will be presenting a revised proposal based on City Council discussion and public input.
- *Native vegetation.* References to Crown Vetch have been deleted from the draft code.
- *Parking for residential uses.* Please note that applicants will continue to be required to provide public parking spaces in residential projects regardless of whether narrow streets are installed or not.
- *Incentives.* Staff researched incentives during the code update process. LID has built-in incentives including reduced stormwater bills, smaller stormwater ponds, and potentially less expensive installation costs.

Further detail on these and other issues you raised is below.

Mandatory versus voluntary nature of LID

You raise a concern that the new ordinance will make LID mandatory and the only way to develop within the City of Oak Harbor. Please note that while parts of the proposed regulations are mandatory, others are not. The new street sections in Title 11, for instance, are entirely voluntary and their use would be the choice of the developer. You are correct in identifying that,

as proposed, the parking maximum regulations (OHMC 19.44) are mandatory, with some important caveats. First, these regulations would only apply to parking lots with 50 or more spaces and to redevelopment which exceeds 60% of the assessed value. Additionally, pervious pavements are only one of a host of LID techniques (grass pavers, Filterra's, raingardens, pervious asphalt, interlocking pavers, etc.) which could be used in parking lots to meet the new requirements. Furthermore, the draft language recognizes that soil composition may make implementation of LID infeasible in some cases. Therefore, the new LID parking requirements would apply to a small subset of all development in Oak Harbor and would leave developers with multiple options to meet this requirement.

The native vegetation requirements are mandatory, but here again, these requirements apply to a subset of all development in Oak Harbor. The native vegetation requirements would apply to major new development, such as new commercial site plans and residential subdivisions. The requirements would not apply to individual building permits or small subdivisions (short plats). The code further provides that the minimum amount of native vegetation may be reduced "on sites with special circumstances" (19.46.140). Finally, the native vegetation requirements replace the existing tree retention requirements and give credit for trees in critical areas and landscape areas as opposed to the tree retention concept which does not offer this credit. We believe the proposed native vegetation requirements will be more flexible and easy to comply with than the existing tree retention requirements.

In regards to the proposed LID street (Titles 11 and 21) sections, they are voluntary, as is the case with most of the proposed clearing and grading practices in Chapter 19.47. As you can see from the above discussion, the new LID provisions do not apply to all new development and the City is offering more than one route to applicants.

One final point worth considering: the State is currently on track to make LID practices mandatory by 2015 under the City's municipal stormwater permit. At that time, the City will be required to adopt regulations which make LID mandatory on all projects except in cases where it is proven to be infeasible. Thus, between now and 2015 is an important time for the City and project applicants to learn about how LID works.

Specifics on the new parking regulations

You also expressed concern with the concept of applying parking maximums. In developing this proposal staff researched parking maximum regulations in multiple other jurisdictions around the country. As you are already aware, parking minimum requirements are very common across jurisdictions. Parking maximums are a relatively recent arrival to municipal codes. Parking maximums are meant to curb the overall amount of impervious surface on a site and therefore help control the cost to taxpayers to convey this stormwater away from the site and to reduce the environmental impacts of the stormwater. The proposed code amendment is intended to help Oak Harbor meet these two goals.

Our research revealed that, of jurisdictions who have adopted maximums, most set it at around 125 – 150% of the minimum number of required spaces. We used these parameters as a starting place for the proposed regulations.

In their nine work sessions in 2009 and 2010, Planning Commission gave us direction to "offer flexibility within parameters." Following that direction, staff chose (and Planning Commission

adopted) more flexibility in our parking maximum than is typically found in other jurisdictions, by using a "graduated" maximum. The graduated approach directs applicants toward the use of pervious surfaces at 125% of the minimum rather than simply imposing a hard limit on the number of spaces. The 200% limit is much higher and more flexible than most jurisdictions offer. There was also discussion at the Planning Commission level as to the need to apply these regulations to larger parking lots with infrequently used stalls, hence the 50 space threshold.

The proposed code amendment is not intended to eliminate parking that is needed by businesses. The goal is to strike a balance between parking provision and stormwater generating surfaces. Research on commercial parking lots shows that many lots are "overparked" even during peak parking hours. That extra impervious surface creates added stormwater runoff requiring expensive, taxpayer-funded infrastructure. Parking minimums come from the Institute of Transportation Engineers "Parking Generation" manual. The minimums are set to cover "peak hour" parking demand. In other words, the minimums in the code are actually the maximum any given use would need under almost all circumstances. Thus, a 200% maximum requirement is two times the maximum amount of parking demand for a given use meeting the "flexibility within parameters" direction given to us by Planning Commission.

In response to City Council concerns, staff will discuss a new proposal with Council which would increase the threshold to 100 spaces instead of 50, require pervious at 150 spaces rather than 125, eliminate the variance requirement altogether, and set the maximum at 250%.

Native vegetation

Crown Vetch is a fast growing erosion control plant used for groundcover. As you have noted, it is a non-native species. While it is one of the plant materials recommended by the Puget Sound Partnership, it need not be included in the City's code. Staff will recommend that the reference be deleted.

There is a list of tree species at the end of the proposed OHMC 19.46 for planting in native vegetation areas. The City had its tree expert review this list as part of the code writing process.

Parking for residential uses

The new parking code (OHMC 19.44) does not propose to change the minimum number of required parking spaces, only set a limit on the maximum number.

The new street sections will eliminate or reduce on-street parking in favor of narrow streets and less impervious surface, as you also note. However, as is now the case, applicants will be required to provide one public parking space for every two units, in addition to the two required parking spaces for each single-family unit. The public parking spaces can be placed-on-street in specific areas or in parking "pockets", eliminating the need for a continuous on-street lane, while also meeting parking demand. See OHMC 21.60.070. We believe that this combination of parking will address the parking demand for these types of projects.

Incentives for LID

As part of the update process, staff did explore incentives for LID. We identified two types of incentives: (1) built-in incentives and (2) a city-offered incentive. Because LID practices are still a relatively new concept for the City, staff believe the City should proceed cautiously in offering incentives until more is known about how LID will work.

LID has its own built-in incentives as follows:

- It reduces the amount of impervious area and associated monthly stormwater bills,
- It reduces the size of or eliminates required stormwater ponds giving land back to the property owner/developer (land which may now be put to better use),
- Depending on which type of LID is chosen, it may have a cheaper installation cost than conventional stormwater control.

As previously mentioned, staff did explore city-offered incentives at Planning Commission direction such as density bonuses and expedited permitting. In the end, staff suggested relying on built-in incentives until more is known about the acceptance of LID in Oak Harbor.

Staff will continue our discussions with the Public Works and Governmental Services standing committees in October and expect to present a revised code to Council in November. It is staff's sincere belief that the proposed code offers Oak Harbor the opportunity to proactively explore the LID techniques that work best within a context of flexibility. Beginning in 2015, proposed state requirements will make LID mandatory in Oak Harbor for all new development. If adopted, the draft LID code would allow Oak Harbor to get a jump start on figuring out which techniques are most appropriate for our community rather than simply react to a state mandate.

Thank you again for taking the time to offer input. We trust this letter answers your concerns. Please don't hesitate to contact me with further questions.

Sincerely,

Steve Powers, AICP
Development Services Director

cc: Mayor Slowik
City Council
Mr. Paul Schmidt, City Administrator
Mr. Ethan Spoo, Senior Planner
File

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OAK HARBOR AMENDING CHAPTER 11.17 OF THE OAK HARBOR MUNICIPAL CODE ENTITLED "STREET DESIGN STANDARDS" INCORPORATING LOW IMPACT DEVELOPMENT STORMWATER MANAGEMENT PRACTICES IN STREET DESIGNS.

WHEREAS, the City of Oak Harbor's Comprehensive Plan in Environment Policy 2(h) says "the City should provide incentives to utilize Low Impact Development techniques for new development and redevelopment projects that will further promote resource protection and stewardship. Such incentives may include density credits, street width and/or parking requirement reductions, stormwater fee credits, landscape/park requirement credits, and/or expedited permit review processing. The City should also provide educational materials through pamphlets or web links to the public to educate the public on low impact development" and;

WHEREAS, the City of Oak Harbor finds that Low Impact Development is a non-structural approach for managing stormwater from new and redeveloped sites which has been found by multiple professional and academic studies to have less impact on the environment, especially water quality, than conventional approaches for treating stormwater and;

WHEREAS, the City of Oak Harbor finds that Low Impact Development techniques are, in most cases, cost competitive or less expensive to install than conventional stormwater infrastructure and;

WHEREAS, the City finds that Low Impact Development techniques promote higher property values by using vegetated raingardens, native vegetation areas, and pervious pavements which are considered to be more aesthetically appealing than conventional stormwater techniques and;

WHEREAS, the City of Oak Harbor finds that the Oak Harbor Municipal Code currently does not have standards for incorporating Low Impact Development in site designs, that having such standards will further promote the use of Low Impact Development stormwater treatment techniques, and will help City staff review these projects more efficiently and;

WHEREAS, the City of Oak Harbor conducted seven (7) work sessions on the proposed code updates with the Planning Commission which were open to the public on the following dates: October 27, 2009, November 24, 2009, January 26, 2010, February 23, 2010, March 23, 2010, April 27, 2010, and May 25, 2010 and;

WHEREAS, the City of Oak Harbor conducted a public meeting before the Planning Commission on January 24, 2010 and opened a public hearing on February 22, 2011 which was closed on March 29, 2011, and;

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

WHEREAS, the City of Oak Harbor issued Notice of Application on February 12, 2011 and Determination of Non-Significance (DNS) on March 11, 2011 for a SEPA Environmental Checklist in accordance with Chapter 43.21 RCW and;

WHEREAS, the City of Oak Harbor provided a 60-day comment period which began on March 17, 2011 and ended on May 17, 2011 to the Washington State Department of Commerce in accordance with Section 36.70A.106 RCW

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

Section One. Chapter 11.17 of the Oak Harbor Municipal Code, last amended by Section one of Ordinance 1430 in 2005, is hereby amended to read as follows:

Chapter 11.17
STREET DESIGN STANDARDS
Sections:
11.17.010 ____General requirements.
11.17.020 ____Standard specifications.
11.17.030 ____Inspection and fees.
11.17.040 ____~~Required improvements.~~ Minimum required improvement standards
11.17.050 ____Clearing and grading.
11.17.060 ____Monuments.
11.17.070 ____Street and block layout.
~~11.17.075 North Whidbey Enterprise Area street standards.~~
11.17.080 ____~~Other standards.~~Right-of-way requirements
11.17.090 ____~~Variance~~North Whidbey Enterprise Area street standards.
11.17.100 Street geometry.
11.17.110 Other standards[eas1].
11.17.120 Variance

11.17.010 General requirements.

(1) These street standards shall apply to all development within the city of Oak Harbor. The improvements specified under this chapter are necessary prior to issuance of a building permit for any lot, parcel or tract which has access to such street. Bond or equivalent assurances pursuant to the Oak Harbor Municipal Code (OHMC) may be provided in lieu of construction so long as the required improvements are in place prior to occupancy of the premises for which the building permit is provided.

(2) Building permits may be issued without complying with the provisions of this chapter:

(a) For lots or parcels with frontage on streets that:

(i) Were constructed and dedicated to the city prior to October 1, 2004; and

(ii) Met minimum street standards at the time of construction.

(b) Building permits for remodeling, repair or restoration of existing buildings not exceeding 60 percent of the assessed valuation of the structure may be issued without compliance with this chapter.

(3) Exception authorized under subsection (2) of this section shall not apply when:

(a) Street improvements are required by concurrency requirements of the Oak Harbor Municipal Code or by SEPA analysis;

(b) The regulations under the Oak Harbor Municipal Code requires sidewalks as a pedestrian amenity for the development; or

(c) Required by Local Improvement District ~~LID~~[eas2] assessment.

(4) If street improvements are required by this chapter or Chapter 11.16 OHMC and before any building permit is issued, the property owner shall submit to the city engineer to obtain city approval of plans and profiles of the proposed street, drainage plans and profiles, sewer and water plans and profiles, and right-of-way section drawings, including utility line placement. All design drawings and construction inspections shall be completed under the supervision of the developer's engineer, as defined in this title.

11.17.020 Standard specifications.

The adopted DOE standards and standard specifications for municipal public works construction prepared by the Washington State chapter of the American Public Works Association and standard specifications in accordance with the latest edition of the Oak Harbor water systems plan, comprehensive Oak Harbor sewer system plan and Oak Harbor comprehensive plan shall be hereinafter referred to as the "standards" and said standards together with the laws of the state of Washington and the ordinances of the city of Oak Harbor, so far as applicable, shall apply except as amended or superseded by special provisions.

11.17.030 Inspection and fees.

The engineering department shall be responsible for approving all engineering drawings, the final inspection and acceptance of all street improvements. A charge for staff review, inspection and administrative time shall be prepared by the city engineer and billed to the developer. The charge shall be based on the city's hourly cost plus fringe benefits as a percentage of the hourly labor rate.

11.17.040 ~~Required improvements.~~ Minimum required improvement standards[eas3]

(1) Minimum improvements along contiguous arterials and one-half of all other abutting streets shall consist of paved streets, curbs, gutters, sidewalks, monuments, sanitary and storm sewers, street lights, water mains, street name signs and all appurtenances thereto in accordance with specifications approved by the city engineer or adopted by OHMC 11.17.020[eas4].

(2) The city engineer shall determine the minimum required improvements. At a minimum, streets shall be constructed in accordance with their classification as determined by the comprehensive plan transportation element. The city engineer may require the submission of a professionally prepared traffic impact analysis to assist in determining the minimum street improvements required of any development. It is further provided that improvements of adjoining streets shall be

required only if there is substantial use of the street by the development in question.

(3) Low Impact Development (LID) best management practices, such as permeable surfacing alternatives and on-site stormwater management facilities, are encouraged for street improvements~~,~~ where site and soil conditions make LID feasible. Permeable surfacing and LID stormwater management facilities shall be constructed in accordance with the LID Technical Guidance Manual for Puget Sound (January, 2005 edition) and the manufacturer's recommendations. Permeable surfacing includes, but is not limited to: paving blocks, turf block, pervious concrete, porous asphalt, and other similar approved materials. Alternative surfacing methods may be approved for parking areas, emergency parking areas, private roads, road shoulders, bike paths, walkways, patios, driveways, and easement service roads unless site constraints make use of such materials detrimental to water quality. Use of permeable surfacing methods shall meet the imposed load requirements for fire apparatus, and shall be subject to review and approval by the Oak Harbor Public Works Department (Engineering Division) and the Fire Chief.

11.17.050 Clearing and grading.

All streets, roads and alleys shall be graded to their full width so that pavement and sidewalks can be constructed on the same plane. Before grading is started, the entire right-of-way area shall be cleared of all stumps, roots, brush, other objectionable materials, and all trees not intended for preservation.

11.17.060 Monuments.

~~Concrete~~ Brass monuments in cases shall be set at controlling corners and points of curvature in each street, and at all street intersections. All surveys shall be of third order accuracy. The use of state plane coordinates is encouraged.

11.17.070 Street and block layout

~~(1) The street layout should provide for the following:~~

~~(a) The location of all principal, collector and minor arterials must conform to the circulation element of the Oak Harbor comprehensive plan, as now in effect or hereafter adopted;~~

~~(b) Continuity and continuation of adjoining streets and arterials;~~

~~(c) Access generally extended to boundaries of the tract;~~

~~(d) Streets generally parallel with contour lines where practicable;~~

~~(e) Streets intersecting at right angles or as nearly as possible and T-intersection design shall be utilized insofar as practical;~~

~~(f) All streets dedicated shall be full width except along the boundary lines of the property. Half-width streets may be permitted along the boundaries of a development upon approval therefor and if traffic study demonstrates that more is not needed. Dedication shall be required if use is made of the street by the property being developed;~~

~~(g) Alleys shall be a minimum of 20 feet wide and paved. Alleys may be required in residential areas and to service all properties abutting arterials. Alleys may be required in all commercial and industrial areas; and~~

~~(h) Access and utility easements for residential areas may be permitted in lieu of alleys. All utility easements shall contain access provisions for purpose of maintenance.~~

~~(2) Where possible, blocks shall have sufficient width to provide for two rows of lots, each of which shall have a minimum depth of 90 feet.~~

~~(a) Pedestrian walkways seven feet in width may be required to provide circulation of pedestrians. These are to be paved in concrete.~~

~~(b) The number of intersecting streets with major arterials of all classes shall be held to a minimum.~~

~~(3) Street Grades.~~

~~(a) The minimum grade on any street shall be 0.50 percent unless otherwise approved by the city engineer.~~

~~(b) Maximum grades shall not exceed the following grades unless otherwise approved by the city engineer:~~

~~(i) Residential streets: 10 percent;~~

~~(ii) Collector arterials: 10 percent;~~

~~(iii) Minor arterials: 10 percent;~~

~~(iv) Principal arterials: eight percent.~~

~~(4) Street Right-of-Way Requirements.~~

	~~Right-of-Way Width (in feet)~~	~~Width of Pavement (in feet)~~	~~Sidewalk Width (in feet)~~	
			~~Residential~~	~~Commercial~~
~~Principal Arterials~~	~~60~~	44	~~6~~	~~6~~
~~Collector Arterials~~	~~60~~	44	~~5~~	~~6~~
~~Neighborhood Streets~~	~~50 - 60~~	~~36 - 44~~	~~5~~	
~~Alleys~~	~~20~~	~~16~~		

~~(a) Increased Right-of-Way Requirements. The city engineer may require that street widths be increased from suggested street width above to provide for traffic movement and to reduce or eliminate traffic congestion.~~

~~(b) Horizontal Curves. Where a deflection angle of more than 10 degrees in the alignment of a street occurs, a curve of reasonably long radius shall be introduced on streets 60 feet or more in width, the centerline radius of curvature shall be not less than 300 feet; on other streets, not less than 100 feet subject to review and approval by the engineering department.~~

~~(c) Vertical Curves. All changes in grade shall be connected by vertical curves of a minimum length of 200 feet unless otherwise specified by the engineering department.~~

~~(d) Tangents. A tangent of at least 200 feet in length shall be provided between reverse curves for principal and minor arterials; 150 feet for collector streets; and 100 feet for residential access streets. The city engineer may authorize the modification of the above requirement when it can be shown that the minimum tangents would be impractical and where there would be no impact on traffic safety standards.~~

~~(e) Street intersections with centerline-to-centerline offsets of less than 125 feet shall not be allowed.~~

~~(f) Streets that end within a subdivision which will be extended in the future must be designed at least 200 feet beyond the limits of the subdivision.~~

~~(5) Dead-end streets may be permitted where the proposed dead-end street will not adversely affect the traffic flow and circulation within the area. Dead-end streets shall terminate in a circular turnaround at least 80 feet in diameter. Recommended maximum length is 300 feet. The maximum allowable length is 400 feet, measured from center of intersection to center of cul-de-sac.~~

~~(6) Alleys or easements for utilities or pedestrian access having a total width of 20 feet may be required along rear or side lot lines.~~

~~(7) At street intersections, property line corners shall be rounded by an arc, the minimum radius of which shall be 20 feet. No rounding shall be required for the intersection of an alley with a street[eas5].~~

The standards in this section address pedestrian, vehicular and bicycle traffic flow on a site as it relates to surrounding sites. These provisions create continuous, multimodal connections across properties and developments of different ownership. In so doing, these standards facilitate the efficient and safe movement of pedestrians, bicycles and vehicles, giving each mode multiple route choices from origins to destinations.

(1) Streets, sidewalks, pedestrian or bike paths, shall be linked within and between neighborhoods to create a continuous and interconnected network of roads and pathways;

(2) Local Streets, Arterials and Collectors shall be extended to the boundary of the development, unless an exceptional circumstance of topography, critical areas or existing development prohibits the extension. Provided, that if an adjacent property has a reasonable likelihood of redeveloping in the future, the City Engineer may require a street stub. Streets that end within a proposed development which will be extended in the future must be designed at least 200 feet beyond the property boundary of the proposed development and shall be shown on the preliminary plat document.

(3) The location of all Principal Arterials, Minor Arterials, and Collectors must conform to the Transportation Element of the Oak Harbor Comprehensive Plan;

(4) All streets dedicated shall be full-width except along the boundary lines of the property. Half-width streets may be permitted along the boundaries of a development upon approval and in compliance with 11.17.040 OHMC where reasonably necessary as a direct result of the proposed development.

(5) The number of intersecting streets with Principal or Minor arterials shall be held to a minimum.

(6) Street intersecting at right angles or as nearly as possible and T-intersection

design shall be utilized insofar as practical.

(7) Alleys provide secondary access to an abutting property. Alleys may be considered as a design solution to provide vehicular or service access to residential, commercial, and industrial properties according to the following provisions:

(a) When alleys are proposed, they may be publicly dedicated and maintained or privately owned and maintained. All alleys which are dead-ends and do not provide a through connection to the other side of the block shall be privately owned and maintained.

(b) The dimensions of alleys must conform to Table 11.17-2.

(c) Alleys may be required by the city engineer as a design solution to serve residential properties which front on Arterials and Collectors and to minimize the number of driveway accesses on these streets. Alleys may also be required by the city engineer in commercial and industrial areas.

(d) Where private alleys are proposed, access and utility easements for residential areas may be permitted in lieu of public dedication. All utility easements shall contain access provisions for purpose of public utility maintenance[eas6].

~~**11.17.075 North Whidbey Enterprise Area street standards**~~

~~(1) The standards contained in this section apply to the North Whidbey Enterprise Area as identified in Exhibit C of the Urban Growth Area Interlocal Agreement between Island County and the city of Oak Harbor, a copy of which is on file with the city clerk and available for public inspection.~~

~~(2) Street Right-of-Way Requirements.~~

	~~**Right-of-Way Width (in feet)**~~	~~**Width of Pavement (in feet)**~~	~~**Sidewalk Width (in feet)**~~
~~Industrial Arterial~~	~~60~~	~~46~~	~~None~~
~~Industrial Collector~~	~~50~~	~~30~~	~~None~~
~~Industrial Local~~	~~50~~	~~30~~	~~None~~

~~The city engineer may increase the right-of-way requirements for cut slopes or other engineering needs when recommended by a traffic study.~~

~~(3) Typical street cross-sections for uses within the North Whidbey Enterprise Area and incorporating the requirements of subsection (2) of this section are on file with the city clerk[eas7].~~

~~**11.17.080 Other Standards**~~

~~(1) Sidewalks.~~

~~(a) Sidewalks shall be installed on both sides of all streets, along dead-end streets and around cul-de-sacs. No physical obstructions such as poles and fire hydrants shall be constructed in the sidewalk. Sidewalks shall be a minimum of five feet wide and four inches thick. Where rolled curb has~~

~~been approved by the city engineer all sidewalks adjacent will be a minimum thickness of six inches.~~

~~(b) On streets where a proposed subdivision adjoins an existing subdivision or existing street dedication and the existing subdivision or existing street dedication does not meet city standards, the developer shall, as a minimum, be responsible for installing sidewalks on both sides of all streets within the proposed subdivision and on one side on streets around the perimeter of the proposed subdivision.~~

~~(c) All sidewalks shall be completed prior to an occupancy permit being granted for any new building.~~

~~(2) Other Utilities.~~

~~(a) Street light standards and fixtures shall be provided to supply adequate lighting for the safety and convenience of the public.~~

~~(b) Other utilities which are within a reasonable distance to the platted area shall be installed to provide electricity, natural gas, telephone, television cable, and other services to the platted area. Said utilities shall be restricted to underground installation.~~

~~(c) All utilities (water, sewer, and electrical, and if available, gas and TV cable) shall be installed to the property line prior to acceptance of the public improvements.~~

~~(3) Traffic Control Devices. The developer shall install street name signs and traffic control signs and/or improvements and devices other than traffic signals to the satisfaction of the city engineer. The city may install such signs and devices at the expense of the developer.~~

~~(4) All utilities except water, sewer and storm sewer will be installed behind the sidewalk~~[cas8]~~.~~

11.17.080 Right-of-Way requirements

Table 11.17-2 gives the minimum required dimensional standards for each functional street type listed in the Transportation Element of the Oak Harbor Comprehensive Plan. All newly proposed public streets must conform to the requirements in Table 11.17-2, unless an alternative Local Residential Street design has been approved per sections 21.60.070 or 21.60.080 OHMC.

Table 11.17 – 2. Required Street Improvements

Street Type	Right-of-way width *	Face of curb to-face of curb width	Sidewalk width each side	Landscape strip width each side	Bike lane width each side
Principal Arterial, 4-lane	97 - 105 feet	52 feet without bike lanes, 60 feet with bike lanes. Landscaped median is 12 feet.	8 feet	12 feet	4 feet.

Minor Arterial, 2-lane	80 feet	47 feet, with 11 foot center turn-lane	5 feet	10.5 feet	5 feet
Minor Arterial, Industrial	60 feet	38 feet	none	6 feet (bioswale)	4 feet
Collector w/ bike lanes	66 feet	48 feet	5 feet	3 feet	5 feet
Collector, Industrial	50 feet	26 feet	none	6 feet (bioswale)	4 feet, one side
Local, Residential - Narrow	50 ft	28 feet with one parking lane. Or 28 feet including two 4-foot bike lanes and no parking	5 feet	5 feet	4 feet, optional
Local Residential, Wide	60 feet	36 feet parking on both sides. Or 36 feet with parking on one side and 4-foot bike lanes on both sides.	5 feet	5 feet	4 feet, optional.
Local LID Street #1	50 feet	20 feet (two 10-foot travel lanes).	5 feet	8-foot planter strip on elevated side. 10-foot utility corridor on basin side. Bioretention outside of right-of-way	none
Local LID Street #2	60 feet	28.5 feet, with one, 8.5-foot parking parking lane on basin side of street.	5 feet	9.5 foot planter strip on elevated side. 10-foot utility strip on basin side.Bioretention	none

				outside of right-of-way.	
Alley	20	19 feet.**	none		none

* All street types include a 6-inch strip at the outside edge of the physical improvements, but within the right-of-way, with the exception of the "Minor Arterial, Industrial" which has a 1-foot strip on the outside edge of right-of-way, the "Collector, Industrial" which has a 4 foot strip on the outside edge of right-of-way , and the Local LID Street #2 which has a 1-foot strip on the outside edge of right-of-way.
**16-foot width pavement sections may be used as approved on alleys by the city engineer.
Note: All streets include 6-inch curbs not shown in the dimensions above, with the exception of alleys which do not have curbs.

(1) Where landscape strips are required on Local Residential streets within the public right-of-way, they are to be maintained by the property owner whose property is adjacent to the landscape strip. Such landscape strips shall contain one hundred percent (100%) groundcover in the form of drought-tolerant grass or turf.

(2) Intersection spacing of less than one hundred twenty five feet (125') is not allowed.

(3) For land division of commercial or industrial property, dead-end streets may be permitted where the proposed dead-end street will not adversely affect the traffic flow and circulation within the area. Dead-end streets shall terminate in a turnaround approved by the city engineer. The maximum allowable length for dead-end streets is four hundred feet (400'), measured from the center of intersection to the dead-end terminus. Requirements for dead-end streets in residential subdivisions or short subdivisions are contained in OHMC section 21.60.110.

(4) Increased right-of-way requirements: the city engineer may require that street widths be increased from the minimum width in Table 11.17-2 to provide for traffic movement, to reduce or eliminate traffic congestion and for safety reasons[eas9].

~~**11.17.090 Variance.**~~

~~(1) Ay developer can make application for a variance provided the request is received concurrently with the proposed development application. Such application shall include any and all details necessary to support the application. Variances may be granted under the following circumstances:~~

~~(a) Because of the size of the lot or parcel to be developed, its topography, the condition or nature of adjoining streets, or the existence of unusual physical conditions, strict compliance with the provisions of this chapter would cause unusual and unnecessary hardship on the developer; or~~

~~(b) The requirements for right-of-way dedication and street construction are not roughly proportional to the burdens imposed by the development on the street system; or~~

~~(c) Alternative street designs will further circulation and urban design goals and policies of the comprehensive plan.~~

~~(2) Variances are a Type II review process.~~

~~(3) Such conditions may be required which may achieve, insofar as practicable, the objectives of the requirements for which a variance is authorized~~[eas10].

11.17.090 North Whidbey Enterprise Area street standards.

(1) The standards contained in this section apply to the North Whidbey Enterprise Area as identified in Exhibit C of the Urban Growth Area Interlocal Agreement between Island County and the city of Oak Harbor, a copy of which is on file with the city clerk and available for public inspection.

(2) Street Right-of-Way Requirements.

Table 11.17-1 North Whidbey Enterprise Area Street Standards

	Right-of-Way Width (in feet)	Width of Pavement (in feet)	Sidewalk Width (in feet)
Industrial Arterial	60	46	None
Industrial Collector	50	30	None
Industrial Local	50	30	None

The city engineer may increase the right-of-way requirements for cut slopes or other engineering needs when recommended by a traffic study.

(3) Typical street cross-sections for uses within the North Whidbey Enterprise Area and incorporating the requirements of subsection (2) of this section are on file with the city clerk[eas11].

11.17.100 Street geometry.

(1) Horizontal Curves. Where a deflection angle of more than 10 degrees in the alignment of a street occurs, a curve of reasonably long radius shall be introduced on streets 60 feet or more in width, the centerline radius of curvature shall be not less than 300 feet; on other streets, not less than 100 feet subject to review and approval by the engineering department.

(2) Vertical Curves. All changes in grade shall be connected by vertical curves of a minimum of 200 feet unless otherwise specified by the engineering department.

(3) Tangents. A tangent of at least 200 feet in length shall be provided between reverse curves for principal and minor arterials; 150 feet for collector streets; and 100 feet for residential access streets. The city engineer may authorize the modification of the above requirement when it can be shown that the minimum tangents would be impractical and where there would be no impact on traffic safety standards.

(4) The minimum grade on any street shall be 0.50 percent unless otherwise approved by the city engineer. Maximum grades shall not exceed the following grades unless otherwise approved by the city engineer:

(a) Residential streets: 10 percent

(b) Collectors: 10 percent

(c) Minor arterials: 10 percent

(d) Principal arterials: 8 percent

(5) At street intersections, property line corners shall be rounded by an arc, the minimum radius of which shall be 20, except as provided for in 21.50.100 OHMC. No rounding shall be required for the intersection of an alley with a street[eas12].

11.17.110 Other standards.

(1) Sidewalks.

(a) Sidewalks shall be installed on both sides of all streets, along dead-end streets and around cul-de-sacs. No physical obstructions such as poles, fire hydrants, utility boxes, utility vaults, or mailboxes shall be constructed in the sidewalk or overhang the sidewalk from zero to eight (8) feet above grade. Sidewalks shall be a minimum of five feet wide and four inches thick. Where rolled curb has been approved by the city engineer all sidewalks adjacent will be a minimum thickness of six inches.

(b) On streets where a proposed subdivision adjoins an existing subdivision or existing street dedication and the existing subdivision or existing street dedication does not meet city standards, the developer shall, as a minimum, be responsible for installing sidewalks on both sides of all streets within the proposed subdivision and on one side on streets around the perimeter of the proposed subdivision. These provisions may be amended for LID projects, when approved by the city engineer and development services director.

(c) All sidewalks shall be completed prior to an occupancy permit being granted for any new building.

(2) Other Utilities.

(a) Street light standards and fixtures shall be provided to supply adequate lighting for the safety and convenience of the public.

(b) Other utilities which are within a reasonable distance to the platted area shall be installed to provide electricity, natural gas, telephone, television cable, and other services to the platted area. Said utilities shall be restricted to underground installation.

(c) All utilities (water, sewer, and electrical, and if available, gas and TV cable) shall be installed to the property line prior to acceptance of the public improvements.

(3) Traffic-Control Devices. The developer shall install street name signs and traffic control signs and/or improvements and devices other than traffic signals to the satisfaction of the city engineer. The city may install such signs and devices at the expense of the developer.

(4) All utilities except water, sewer and storm sewer will be installed behind the sidewalk[eas13].

(5) Visibility triangles. Visibility triangles shall be provided as per AASHTO standards for local roads except where connections to state highways require a different standard.

11.17.090 Variance.

(1) Any developer can make application for a variance provided the request is received concurrently with the proposed development application. Such application shall include any and all details necessary to support the application. Variances may be granted under the following circumstances:

(a) Because of the size of the lot or parcel to be developed, its topography, the condition or nature of adjoining streets, or the existence of unusual

physical conditions, strict compliance with the provisions of this chapter would cause unusual and unnecessary hardship on the developer; or

(b) The requirements for right-of-way dedication and street construction are not roughly proportional to the burdens imposed by the development on the street system; or

(c) Alternative street designs will further circulation and urban design goals and policies of the comprehensive plan.

(2) Variances are a Type II review process.

(3) Such conditions may be required which may achieve, insofar as practicable, the objectives of the requirements for which a variance is authorized.

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

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

PASSED by the City Council this ___ day of _____ 2011.

CITY OF OAK HARBOR

Approved ( )
Vetoed ( )

_____
Mayor

_____
Date

ATTEST:

_____
City Clerk

Approved as to Form:

_____
City Attorney

Published:_____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OAK HARBOR AMENDING CHAPTER 19.44 OF THE OAK HARBOR MUNICIPAL CODE ENTITLED "PARKING" INCORPORATING LOW IMPACT DEVELOPMENT STORMWATER MANAGEMENT PRACTICES IN PARKING FACILITIES.

WHEREAS, the City of Oak Harbor's Comprehensive Plan in Environment Policy 2(h) says "the City should provide incentives to utilize Low Impact Development techniques for new development and redevelopment projects that will further promote resource protection and stewardship. Such incentives may include density credits, street width and/or parking requirement reductions, stormwater fee credits, landscape/park requirement credits, and/or expedited permit review processing. The City should also provide educational materials through pamphlets or web links to the public to educate the public on low impact development and;"

WHEREAS, the City of Oak Harbor finds that Low Impact Development is a non-structural approach for managing stormwater from new and redeveloped sites which has been found by multiple professional and academic studies to have less impact on the environment, especially water quality, than conventional approaches for treating stormwater and;

WHEREAS, the City of Oak Harbor finds that Low Impact Development techniques are, in most cases, cost competitive or less expensive to install than conventional stormwater infrastructure and;

WHEREAS, the City finds that Low Impact Development techniques promote higher property values by using vegetated raingardens, native vegetation areas, and pervious pavements which are considered to be more aesthetically appealing than conventional stormwater techniques and;

WHEREAS, the City of Oak Harbor finds that the Oak Harbor Municipal Code currently does not have standards for incorporating Low Impact Development in site designs, that having such standards will further promote the use of Low Impact Development stormwater treatment techniques, and will help City staff review these projects more efficiently and;

WHEREAS, the City of Oak Harbor conducted seven (7) work sessions on the proposed code updates with the Planning Commission which were open to the public on the following dates: October 27, 2009, November 24, 2009, January 26, 2010, February 23, 2010, March 23, 2010, April 27, 2010, and May 25, 2010 and;

WHEREAS, the City of Oak Harbor conducted a public meeting before the Planning Commission on January 24, 2010 and opened a public hearing on February 22, 2011 which was closed on March 29, 2011, and;

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

WHEREAS, the City of Oak Harbor issued Notice of Application on February 12, 2011 and Determination of Non-Significance (DNS) on March 11, 2011 for a SEPA Environmental Checklist in accordance with Chapter 43.21 RCW and;

WHEREAS, the City of Oak Harbor provided a 60-day comment period which began on March 17, 2011 and ended on May 17, 2011 to the Washington State Department of Commerce in accordance with Section 36.70A.106 RCW.

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

Section One. Section 19.44.010 of the Oak Harbor Municipal Code last adopted by Section 19 of Ordinance 1555 in 2009 is hereby amended to read as follows:

Chapter 19.44
PARKING
Sections:

19.44.010 Purpose and intent

Provisions of this chapter are of general application to several of the districts described in Chapter 19.20 OHMC, except as noted in the CBD central business district. It is the intent of this chapter to set down provisions for off-street parking and loading areas to prevent congestion in the streets, promote and protect property values and to provide for the health, safety and welfare of the citizenry.

19.44.020 General requirements.

Parking areas, public or private, are permitted as accessory uses, operating in conjunction with permitted uses, unless otherwise permitted by this title. Each off-street parking space shall have a net area of not less than 180 square feet, exclusive of driveways or aisles, and shall be of usable shape and condition. To determine on a gross area basis, 270 square feet shall be allowed per vehicle. If the required parking space for a one-family or

two-family dwelling is not provided in a covered garage, then such space shall be not less than 180 square feet The circulation pattern of all off-street parking areas excepting driveways serving single-family or two-family dwellings shall not have as a part of the pattern any parking or parking maneuvers on a public sidewalk, highway, road, street or alley.

19.44.030 Bicycle parking.
Bicycle racks shall be provided for all nonresidential and multifamily uses. Such racks shall provide space for a minimum of one bicycle for each 10 parking spaces required to a maximum of 10 bicycle spaces.

19.44.040 Location.
Off-street parking facilities shall be located and operated in conjunction with the permitted use as hereinafter specified; where a distance is specified, such distance shall be the walking distance measured from the nearest point of the parking facility to the nearest point of the building that such facility is required to serve:

(1) For one-family and two-family dwellings, on the same lot with the building they are required to serve;
(2) For multiple dwellings, not more than 100 feet;
(3) For hospitals, skilled nursing facilities, assisted living facilities, rooming houses and boarding houses, fraternity and sorority houses, not more than 300 feet;
(4) For uses other than those specified above, not more than 500 feet;
(5) Parking lots for passenger automobiles only shall be allowed when such parking lots are for the purpose of providing the off-street parking required by this title and are located and improved in accordance with this chapter, except that when any such parking lot is to serve a use first permitted in a less restrictive zone than the zone in which the parking lot is to be located, such parking lot may be allowed only by a variance granted by the hearing examiner after a public hearing and the finding that such parking lot will not be unduly detrimental to surrounding properties; provided, that additional landscaping or fencing as directed by the hearing examiner to visually screen parked cars from all residential properties in the vicinity shall be provided as conditions precedent to the granting of such variance; and provided, that at least 40 lineal feet of the boundary of such parking lot adjoins a less restrictive zone or is separated therefrom only by the width of an alley or street. Such parking lots shall not extend beyond said less restrictive zone more than 150 feet into the more restrictive zone in which the parking lot is to be located. No such parking lots shall be allowed for the purpose of serving nonconforming uses.

19.44.050 Expansion, enlargement and occupancy.
All new or substantially altered uses or structures shall be provided with special purpose off-street parking facilities as required by this chapter. No application for a building permit or change of occupancy for a new or substantially altered structure or improvement shall be approved unless there is included with such improvement or use a plot plan showing the required special off-street parking as required in this chapter. Wherever any building is enlarged in height or in ground coverage, off-street parking

shall be provided for said expansion or enlargement in accordance with the requirements of the schedule; provided, however, that no parking space need be provided in the case of enlargement or expansion where the number of parking spaces required for such expansion or enlargement is less than 10 percent of the parking spaces specified in the schedule for the building.

19.44.060 Mixed occupancies.
In the case of mixed uses, the total requirements for the various uses shall be computed separately. Off-street parking facilities for one use shall not be considered as specified for joint use.

19.44.070 Uses not specified.
In the case of uses not specifically mentioned in sections below, the requirements for off-street parking facilities shall be determined by the planning director. Such determination shall be based upon the requirements for the most comparable use listed.

19.44.080 Joint use.
Joint use of parking facilities is encouraged, where appropriate. The director, upon application, may authorize the joint use of parking facilities for the following uses or activities under conditions specified:

(1) Up to 50 percent of the parking facilities required by this chapter for primarily nighttime uses such as theaters, bowling alleys, bars, restaurants and related uses may be supplied by certain other types of buildings or uses herein referred to as daytime uses such as banks, offices, retail and personal service shops, clothing, food, furniture, manufacturing or wholesale and related uses;

(2) Up to 50 percent of the parking facilities required by this chapter for primarily daytime uses may be supplied by primarily nighttime uses;

(3) Up to 100 percent of the parking facilities required by this chapter for a church, or for an auditorium incidental to a public or parochial school, may be supplied by the off-street parking facilities provided by uses primarily of a daytime nature.

19.44.090 Conditions required for joint use.
The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within 500 feet of such parking facilities in addition to which:

(1) The applicant shall show that there is no substantial conflict in the principal operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed;

(2) The applicant shall present a properly drawn legal instrument to be recorded with the Island County auditor, executed by the parties concerned for joint use of off-street parking facilities and approved as to form and manner of execution by the city attorney, to the hearing examiner upon application, such instrument to be filed with the building official upon approval of the hearing officer.

19.44.100 Minimum parking space standards~~Table of minimum standards.~~

Use	Required Parking
Residential, single-family	Two per dwelling
Residential, duplex	Two per dwelling
Residential, multiple	One and one-half per dwelling unit
Three or more bedroom dwelling unit	Two per three or more bedroom dwelling unit. In addition, multifamily projects with eight or more units shall provide one visitor parking space for each eight units.
Banks	One per 400 square feet of gross floor area, plus employee parking
Bowling alleys	Four per alley, plus employee parking
Churches, auditoriums and similar enclosed places of assembly	One per four seats and/or one per 30 square feet of assembly space without fixed seats
Skilled nursing facilities	One per five beds, plus owner and employee parking
College	One space per 200 square feet of class room space
Assisted living facilities	Minimum of 0.8 spaces per unit, with a maximum of one and one-half spaces per unit
Food and beverage places with sales and consumption on premises	One per three seats, plus one space for every two employees on the largest shift
Furniture, appliance, hardware, clothing and shoe stores, personal service stores such as beauty parlors, barbershops and physical fitness centers	One per 600 square feet gross floor area, plus employee parking
Gasoline stations	15 spaces, including pump service area
Hospital	One per two beds, excluding bassinets
Hotels, moter hotels	One per sleeping room, plus owner and employee parking
Libraries and museums	One per 200 square feet gross floor area, plus employee parking
Manufacturing uses, research testing and processing, assembling, all industries	One per each two employees on maximum shift and not less than one per each 800 square feet gross floor area
Mortuaries	One per 100 square feet of gross floor area used for assembly or one per five seats, plus employee parking
Motels	One per unit, plus owner and employee parking
Motor vehicle, machinery, plumbing, heating, ventilating, building supplies stores and services	One per 1,000 square feet floor area, plus employee parking
Offices not providing customer service	One per each employee

Offices of opticians, chiropractors and others licensed by the state of Washington to practice the healing arts	One per 400 square feet of gross floor area, plus employee parking
Offices, business and professional (other than medical and dental) with on-site customer service	One per 400 square feet of gross floor area, plus employee parking
Rooming houses, similar uses	One per dwelling unit
Schools, elementary and junior high	One per each employee and faculty member, plus 15 visitor parking
Schools, high	One per each 10 students, plus one per each employee and faculty member, plus 15 visitor parking
Shopping centers with over 30,000 square feet of gross floor area	Four and one-half spaces per 1,000 square feet gross floor area, but not to exceed five spaces per 1,000 square feet of gross floor area
Stadiums, sport arenas and similar open assemblies	One per four seats and/or one each 30 square feet of assembly space without fixed seats
Theaters	One per four seats, plus employee parking
Warehouses, storage and wholesale businesses	One per each employee, plus two additional spaces
Other retail	One per 300 square feet gross floor area, plus employee parking

19.44.105 Maximum parking space standards

~~Large, impervious parking areas represent inefficient use of land within the City's Urban Growth Area.~~ Impervious parking areas generate stormwater runoff, with negative impacts to water quality, ~~and~~, wildlife habitat, and municipal budgets. The following maximum parking space standards are designed to limit the total impervious area resulting from large, off-street parking lots, ~~helping make land available for other uses, encouraging redevelopment and infill, and~~, reducing negative water quality impacts, while at the same time providing sufficient parking for land uses within Oak Harbor.

(1) Applicability. These standards in this section shall apply to all new development and redevelopment which meets both of the following criteria:

(a) All new development, as well as building remodels, site retrofits, and redevelopment which exceeds sixty (60) percent of the total assessed value for the property and;

(b) Off-street parking lots with ~~fifty (50)~~ one hundred (100) or more spaces proposed or required.

~~(2) The maximum number of parking spaces allowed for each land use listed in section 19.44.100 shall be one hundred twenty-five percent (125%) of the required minimum number of spaces.~~

~~(3) Parking spaces in excess of one hundred twenty-five percent (125%) of the minimum specified in 19.44.100 and up to one hundred fifty percent (150%) of~~

~~the minimum may be approved by the City subject to the following:~~

~~(a)~~ (2) Pervious requirement. Each additional parking space over one hundred ~~twenty five~~ fifty percent (~~125%~~150%) of the minimum number of required spaces must have a pervious surface ~~designed to infiltrate stormwater~~ approved by the City Engineer wherever soil conditions make infiltration feasible. The pervious area may be provided at any location within the parking lot, including drive aisles, as long as its size is equivalent to the area of parking stalls exceeding ~~125~~150%.

(~~b~~a) Other LID techniques may be proposed in place of the pervious area requirement in subsection (~~a~~2) above, as approved by the City Engineer and in compliance with the *Low Impact Development Technical Guidance Manual for Puget Sound* (current edition).

~~(4) Parking variance. A request to provide more than one hundred fifty percent (150%) of the minimum number of required parking spaces listed in 19.44.100 shall meet requirements (a) through (d) below. In no case shall more than two hundred percent (200%) of the required minimum number of parking spaces be approved. Applicants for parking variance shall:~~

~~(a) File a parking demand study which demonstrates the projected need for the additional proposed parking spaces above one hundred fifty percent (150%) of the required minimum number of spaces. For the purposes of the parking demand study, "need" shall be defined as 90% occupancy during peak demand hours on more than ten (10) days per year. The Director shall administratively approve parking variance applications meeting the 90% occupancy/more than 10 days per year criteria stated above.~~

~~(b) The parking study shall be prepared by a transportation/traffic engineer registered in the state of Washington;~~

~~(c) All parking variance requests shall demonstrate compliance with subsection (2) above with regard to pervious surfaces and other LID techniques.~~

(3) In no case shall more than two hundred fifty percent (250%) of the required minimum number of parking spaces be approved.

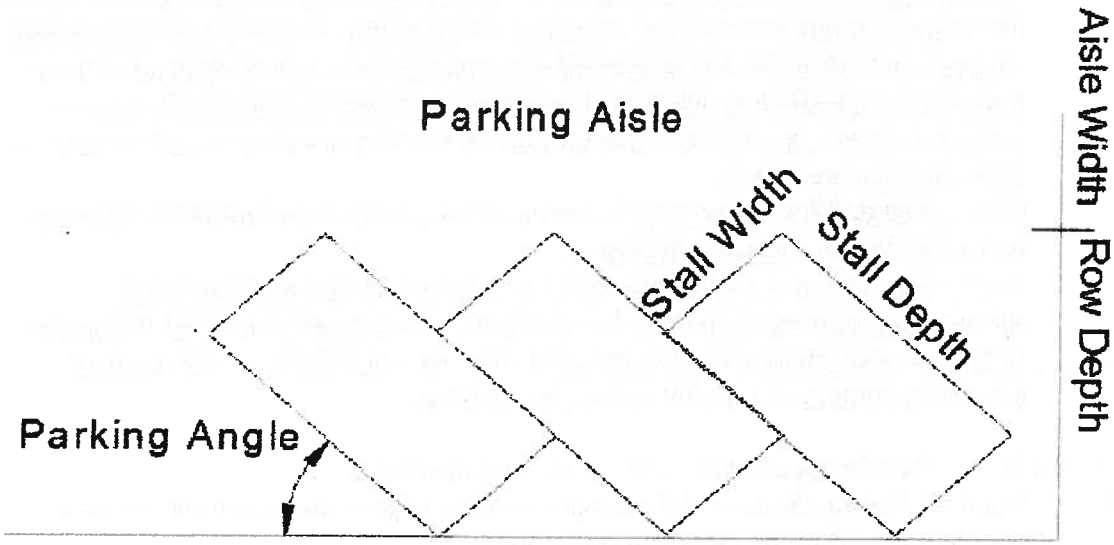
19.44.110 Parking space size and access requirements.

(1) Standard Parking Spaces. All standard parking spaces shall meet the minimum criteria outlined in the table and figure below.

(2) Compact Parking Spaces. Up to 40 percent of required parking spaces may be provided as compact spaces. The aisle widths required for standard spaces shall be applied to compact spaces. Parking space width, parking space depth and row width shall be as shown in the following table. The minimum parking space depth shall be 16 feet and the minimum parking space width shall be eight feet. Compact parking spaces shall be clearly marked by painting the word "compact" on the parking space(s).

Required Parking Dimensions					
Parking Angle	**Stall Width**	**Stall Depth**	**Row Depth**	**Aisle Width (One Way)**	**Aisle Width (Two Way)**
0°	Standard: 9'	Standard: 23'	Standard: 9'	10'	18'

	Compact: 8'	Compact: 19'	Compact: 8'		
30°	Standard: 9' Compact: 8'	Standard: 20' Compact: 16'	Standard: 18' Compact: 15'	12'	20'
40°	Standard 9' Compact: 8'	Standard: 20' Compact: 16'	Standard: 20' Compact: 16'	12'	20'
45°	Standard: 9'	Standard: 20' Compact: 16'	Standard: 21' Compact: 17'	12'	20'
50°	Compact: 8'	Standard: 20' Compact: 16'	Standard: 20' Compact: 16'	15'	20'
60°	Standard: 9' Compact 8'	Standard: 20' Compact: 16'	Standard: 20' Compact: 16'	17'	20'
70°	Standard: 9' Compact: 8'	Standard: 20' Compact: 16'	Standard: 20' Compact: 16'	20'	20'
80°	Standard: 9' Compact: 8'	Standard: 20' Compact: 16'	Standard: 20' Compact: 16'	24'	24'
90°	Standard: 9' Compact: 8'	Standard: 20' Compact: 16'	Standard: 20' Compact: 16'	24'	24'



19.44.120 Car and van pool parking.
Any nonresidential development which shall provide priority spacing for car pools and van pools shall be allowed to reduce the total amount of required parking by 1.15 spaces for each priority car pool and van pool space provided.

19.44.130 Plans.
The plan of the proposed parking area shall be submitted to the ~~city engineer~~ Development Services Department at the time of the application for the building for which the parking area is required. The plan shall clearly indicate the proposed development, including location, size, shape, design, curb cuts, lighting, landscaping, construction details and other features and appurtenances required. The illustrations

provided at the end of this chapter shall serve as a guide and illustrate the minimum requirements for parking stall configurations.

A legal description of the property is required and a parking area designated and recorded.

(1) Parking areas shall be designed in conformance with the Oak Harbor design guidelines.

(2) All traffic-control devices such as parking strips designating car stalls, directional arrow or signs, bull rails, curbs, and other developments, shall be installed and maintained as shown on the approved plans. Hard surfaced parking areas shall use paint or similar devices to delineate car stalls and directional arrows. All driveways, off-street parking areas and public off-street parking areas shall be hard surfaced with a minimum of two inches of asphalt concrete~~.~~ Alternative surfaces, including low impact development practices, may be allowed in compliance with the *LID Technical Guidance Manual for Puget Sound* (current edition) or as approved by the City Engineer.

(3) Minimum dimensions of off-street parking areas shall be not less than stated in this chapter.

(4) Screen all parking lots from view of adjoining residential district or use through use of sight-obscuring fences, earth berms or landscaped planting strips, to a height of not less than six feet.

(5) At least ~~10~~ 15 percent of every parking lot shall be landscaped. In all cases, landscaping shall be distributed throughout the parking area. LID stormwater management facilities are to be incorporated into the required landscaping as much as possible, unless site or soil conditions make LID stormwater management facilities infeasible. Parking lot landscaping shall conform to 19.46.030(5) with a preference for native species. For computation of required landscape area, allow 30 square feet per parking space. The landscaping shall consist of deciduous or coniferous plant material and may include turf, shrubs and flowers.

~~(6) Pervious surfacing is encouraged in parking lots, where appropriate for the site and soil conditions, and associated vehicular traffic. A minimum of 30% permeable surfacing in new and remodeled parking lots is encouraged where site and soil conditions make permeable surfacing feasible.~~

(~~6~~7) Lighting of areas provided for off-street parking shall be so arranged to not constitute a nuisance or hazard to passing traffic and where said lots share a common boundary with any "R" classified property, the illuminating devices shall be so shaded and directed to play their light away from "R" classified property.

(7) Maintenance of all areas provided for off-street parking shall include removal and replacement of dead and dying trees, grass and shrubs, removal of trash and weeds, and repair of traffic control devices, signs, light standards, fences, walls, surfacing material, curbs and railings. Maintenance of LID stormater management facilities shall be completed in accordance with the *LID Technical Guidance Manual for Puget Sound* (current edition), the City's Public Works Maintenance Standards~~,~~ and an approved operating and maintenance agreement.

19.44.140 Loading areas.

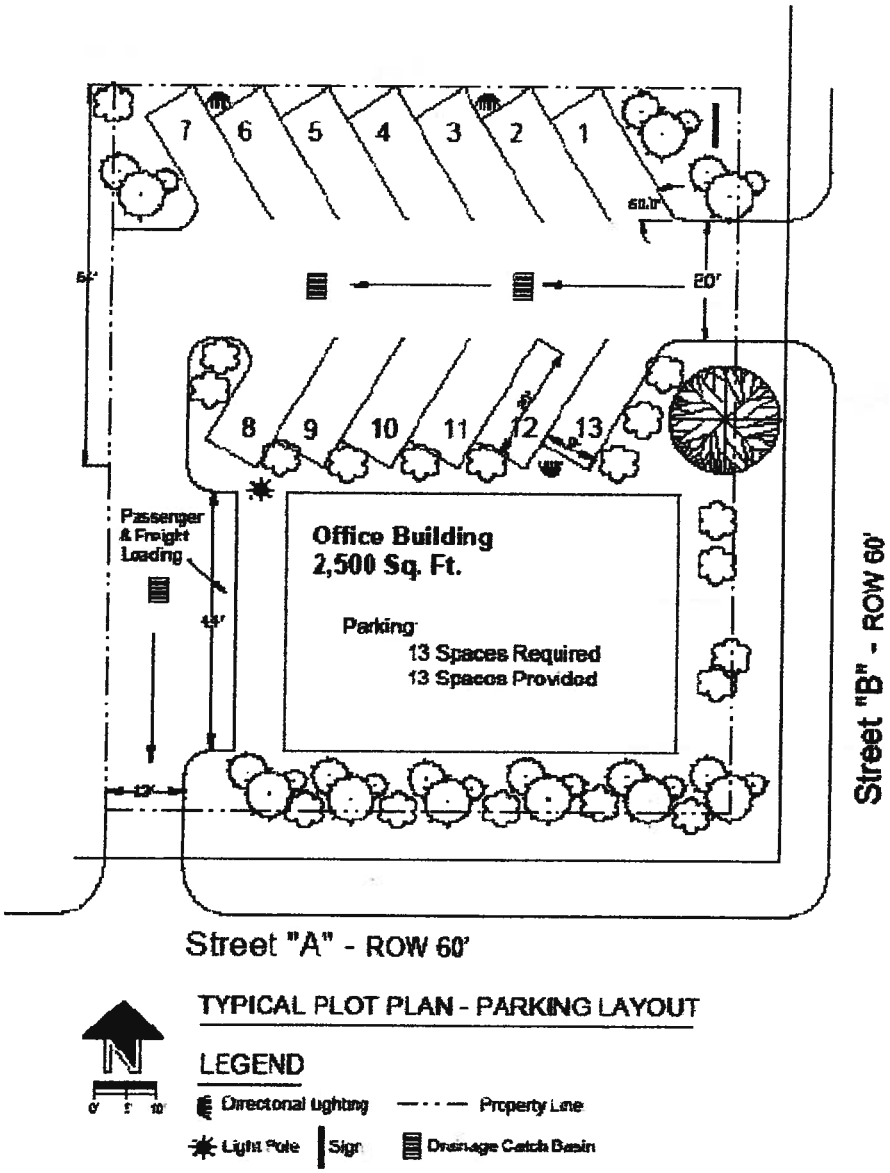
Each off-street loading space shall measure not less than 30 feet by 12 feet and shall have an unobstructed height of 14 feet six inches and shall be made permanently available for such purposes, and shall be hard surfaced, improved and maintained as required by this chapter. Required loading spaces shall be in conformance with the following table:

Department stores, freight terminals, industrial or manufacturing establishments, retail or wholesale stores or storage warehouses or any similar use which has or intends to have 10,000 square feet or more shall provide truck loading or unloading berths:

Square feet of aggregate gross floor area	Required number of berths
10,000 to 15,999	1
16,000 to 39,999	2
40,000 to 65,000	3
Each additional 16,000	1 additional

Auditoriums, convention or exhibit halls, sports arenas, hotels, office buildings, restaurants or similar uses which have or intend to have an aggregate gross floor area of 40,000 square feet or more shall provide truck loading or unloading berths:

Square feet of aggregate gross floor area	Required number of berths
40,000 to 59,999	1
60,000 to 160,000	2
Each additional 60,000	1 additional



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

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

PASSED by the City Council this ___ day of _____ 2011.

CITY OF OAK HARBOR

Approved ( ) _____
Vetoed ( ) Mayor

_____
Date

ATTEST:

_____
City Clerk

Approved as to Form:

_____
City Attorney

Published:_____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OAK HARBOR AMENDING CHAPTER 19.46 OF THE OAK HARBOR MUNICIPAL CODE ENTITLED "LANDSCAPING AND SCREENING" PROMOTING LOW IMPACT DEVELOPMENT STORMWATER MANAGEMENT PRACTICES IN LANDSCAPE DESIGNS.

WHEREAS, the City of Oak Harbor's Comprehensive Plan in Environment Policy 2(h) says "the City should provide incentives to utilize Low Impact Development techniques for new development and redevelopment projects that will further promote resource protection and stewardship. Such incentives may include density credits, street width and/or parking requirement reductions, stormwater fee credits, landscape/park requirement credits, and/or expedited permit review processing. The City should also provide educational materials through pamphlets or web links to the public to educate the public on low impact development and;

WHEREAS, the City of Oak Harbor finds that Low Impact Development is a non-structural approach for managing stormwater from new and redeveloped sites which has been found by multiple professional and academic studies to have less impact on the environment, especially water quality, than conventional approaches for treating stormwater and;

WHEREAS, the City of Oak Harbor finds that Low Impact Development techniques are, in most cases, cost competitive or less expensive to install than conventional stormwater infrastructure and;

WHEREAS, the City finds that Low Impact Development techniques promote higher property values by using vegetated raingardens, native vegetation areas, and pervious pavements which are considered to be more aesthetically appealing than conventional stormwater techniques and;

WHEREAS, the City of Oak Harbor finds that the Oak Harbor Municipal Code currently does not have standards for incorporating Low Impact Development in site designs, that having such standards will further promote the use of Low Impact Development stormwater treatment techniques, and will help City staff review these projects more efficiently and;

WHEREAS, the City of Oak Harbor conducted seven (7) work sessions on the proposed code updates with the Planning Commission which were open to the public on the following dates: October 27, 2009, November 24, 2009, January 26, 2010, February 23, 2010, March 23, 2010, April 27, 2010, and May 25, 2010 and;

WHEREAS, the City of Oak Harbor conducted a public meeting before the Planning Commission on January 24, 2010 and opened a public hearing on February 22, 2011 which was closed on March 29, 2011, and;

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

WHEREAS, the City of Oak Harbor issued Notice of Application on February 12, 2011 and Determination of Non-Significance (DNS) on March 11, 2011 for a SEPA Environmental Checklist in accordance with Chapter 43.21 RCW and;

WHEREAS, the City of Oak Harbor provided a 60-day comment period which began on March 17, 2011 and ended on May 17, 2011 to the Washington State Department of Commerce in accordance with Section 36.70A.106 RCW.

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

Section One. Chapter 19.46 of the Oak Harbor Municipal Code, last amended by Section 20 of Ordinance 1555 in 2009, is hereby amended to read as follows:

Chapter 19.46
LANDSCAPING AND SCREENING

Sections:
19.46.010 Purpose.
19.46.020 Applicability.
19.46.030 ~~General landscape requirements.~~ Requirements for setbacks, perimeters, buffers, fences, screening, and parking lots.
19.46.035 North Whidbey Enterprise Area landscape requirements.
19.46.040 General landscaping standards.
~~19.46.045 Tree Retention~~
19.46.050 Fences and Hedges.
~~19.46.060 Phased projects~~
19.46.070 Conflicts.
19.46.080 Maintenance ~~standards~~ of required landscape areas.
~~19.46.090 Timing of landscape completion~~
19.46.100 Landscapeing ~~plans~~ and irrigation plans required.
19.46.110 ~~Administrative relief and alternative compliance~~ Review of landscape plans.
19.46.120 ~~Enforcement of chapter~~Phased projects.
19.46.130 Landscape performance bonding.
19.46.140 Native vegetation standards.
19.46.150 Tree species.
19.46.155 Tree removal outside of native vegetation areas.
19.46.160 Administrative relief and alternative compliance.
19.46.170 Enforcement of chapter.[eas1]

19.46.010 Purpose.

The purpose of this chapter is to provide uniform standards for the development and maintenance of the landscaping of private property and public rights-of-way. The purpose of landscaping is to improve the livability of residential neighborhoods, enhance the customer attraction of commercial areas, increase property values, improve the compatibility of adjacent uses, provide visual separation and physical buffers between

incompatible adjacent land uses, provide visual relief from the expanse of parking lots, screen undesirable views, contribute to the image and appeal of the overall community, and mitigate air and noise pollution.

These requirements are also intended to facilitate Low Impact Development techniques through ~~It is the intent of these requirements to encourage~~ the[eas2] retention of existing vegetation including ~~significant~~ trees to the extent feasible and to require ~~repla~~replanting ~~cement~~ if ~~significant~~ existing trees are removed; to reduce erosion and storm water runoff; to preserve and promote urban wildlife habitats; to enhance the streetscapes along the city's public rights-of-way with an emphasis on trees; to define and separate vehicular and pedestrian traffic areas; to screen the appearance of parking areas from public rights-of-way and adjacent properties; and to make the city a more aesthetically pleasing place to live, shop and work.

19.46.020 Applicability.

The provisions of this chapter shall apply to any of the following:

(1) All new public and private developments, multifamily housing larger than a duplex, and long plats;

(2) Any additions to existing structures that exceed 30 percent of the gross floor area, or are in excess of 1,000 square feet;

(3) Any expansion of a mobile home park in which the number of new mobile home lots exceeds 10 percent of the number of existing mobile home lots;

(4) Provisions required by Chapter 19.48 OHMC;

(5) Situations where this chapter imposes a requirement for buffering or screening between two uses, one of which is existing and the other new. The responsibility for satisfying this requirement rests entirely on the new use;

(6) Single-family dwellings~~,~~ and duplexes~~, and current approved site plans shall be exempt~~;

(7) Any preexisting vehicular surface area which expands in excess of 25 percent shall provide the landscaping required in OHMC 19.46.030. No expenditure made for removing existing asphalt, constructing planting areas, installing irrigation systems, and adding dirt and plant materials which is required in order to comply with these requirements shall be required to exceed four percent of the total assessed real property value of the subject property on which the improvements are being made.

19.46.030 ~~General landscaping requirements.~~ Requirements for setbacks, perimeters, buffers, fences, screening, and parking lots.[eas3]

(1) Required minimum landscape setbacks apply to all zoning districts, except those projects specifically excluded in OHMC 19.46.020.

(a) Minimum width of landscape setback, as identified with the city's street classification plan:

(i) Large shopping centers in excess of five acres adjacent to principal arterial streets: 20 feet;

(ii) Any multifamily and nonresidential use constructed on a designated scenic transportation route: 20 feet;

(iii) All other uses adjacent to a principal arterial: 12 feet;
(iv) Adjacent to a minor arterial or collector arterial: 10 feet;
(v) Adjacent to all other streets: eight feet;
(vi) Where roadway right-of-way expansion is proposed, the setback will begin at the anticipated new edge of the road.

(b) Minimum Number of Trees in Landscaped Setbacks. There shall be four trees for every 100 linear feet of frontage of property adjacent to all street classifications. Guidelines for the specific types and locations of trees and other landscape materials in landscape setbacks are contained within the landscape policy manual.

(c) Design Standards.

(i) Some of the required landscape setback trees may be clustered in the setback. Parking lot screening may be included in the landscape setback width. The required landscaped setback trees may be permitted to be partially or totally located in the adjacent public right-of-way area, if:

(A) All of the required trees cannot be placed in the landscaped setback;
(B) There are no conflicts with utility easements;
(C) In the case of the state highway, the city engineer and State Highway Engineer approve;
(D) It shall be the responsibility of the adjacent property owner to care for landscaped rights-of-way;
(E) Where undeveloped adjacent right-of-way occurs, it shall be landscaped.

The required landscaped setback trees may be located in the adjacent public right-of-way area if these trees cannot be placed in the landscaped setback area due to the existing development of the site. However, such trees are required only to the extent that: (1) the city engineer and State Highway Engineer approve the trees in the case of a state highway; and (2) no conflicts exist within utility easements.

(ii) Opaque walls and fences which obstruct view shall be located outside (building side) of the setback to maintain a landscaped appearance along the street.

(iii) Administrative relief of the requirements of this section may be requested in accordance with OHMC 19.46.~~110~~160.

(2) Required Minimum Landscape Perimeters. Planting areas within side and rear yards that are not occupied by structures shall be as follows:

(a) Minimum Width of Perimeter. Five feet for the length of the property line, unless otherwise specified under screening requirements of this chapter;

(b) Exemptions. Perimeter of industrial site or commercial yard that is not substantially visible from the right-of-way or located where screening is not required, shall be exempt;

(c) Planting Requirements.

(i) A minimum of four trees shall be planted for every 100 linear feet, or fraction thereof, of perimeter planting area;

(ii) Shrubs and ground cover plantings shall be in quantities and spacing that will provide for 80 percent ground coverage within three years;

(iii) When abutting properties with different land use classifications occurs, the screening requirements under OHMC 19.46.030(3) and (4) shall supersede the requirements of this subsection;

(d) Connecting Driveways. When connecting joint driveways, or shared parking lots are provided between sites, the minimum area requirements may be reduced by the area occupied by the driveway that would otherwise be landscaped under the requirements of this subsection.

(3) Required Minimum Landscape Buffers.

(a) Buffers between (1) adjacent nonresidential and residential uses; and (2) adjacent nonresidential uses and single-family residential zones:

(i) Design Standards. The buffer shall be a minimum of 12 feet wide and shall be located on the property line adjacent to any single-family residential community. Said buffer shall generally consist of a mix of predominantly evergreen plantings including trees, shrubs, and ground covers. Evergreen trees shall be a minimum height of four feet at time of planting. Planting shall be chosen and spaced so as to grow together within four years of their planting in a manner that is sufficient to obscure sight through the barrier. The entire planting strip shall be landscaped; however, those plantings used to achieve the sight-obscuring screen shall cover at least six feet of the width of the strip.

(b) Buffers between adjacent multifamily residential and single-family residential zones:

(i) Design Standards. The buffer shall be a minimum of 10 feet wide and shall be located on the property line adjacent to the single-family residential community.

(c) Buffers between nonresidential and residential uses separated by a nonarterial street, public alley or private street:

(i) Design Standards. The buffer shall be a minimum of 12 feet in depth. The minimum number of trees in the buffer shall be two trees for every 20 linear feet of buffer. The trees will consist of a mix of evergreen and deciduous. Depending upon the nonresidential use, evergreens may be increased to help obscure sight between the two uses. An opaque structure with a maximum height of six feet may be optional along the common property line. If a fence is constructed, planting shall still occur as stated above. The buffer may be reduced to 10 feet if an opaque structure is erected.

(d) Buffers between an industrial classified district and a residential classified district:

(i) Design Standards. All sites in an industrial district having a common boundary with a residential district shall be planted and maintained along such common boundary with a view-obscuring

coniferous greenbelt of shrubs, trees and native vegetation not less than six feet in height nor less than 10 feet in width, for screening purposes and controlling access.

(4) Fences and Screening. When applicable, the requirements of this section shall supersede the requirements of other sections of this chapter.

(a) Purpose. The requirements of this subsection are intended to reduce visual impacts and incompatible characteristics of:

(i) Abutting properties with different land use classifications;

(ii) Service areas and facilities, including loading and storage areas;

(iii) Parking areas located in front of buildings;

(iv) Any other use or area as required under this section, or determined to be necessary by the planning director (or designee).

The fence or landscaping screen shall be sight obscuring, obstructing storage areas from view on the sides of the property abutting, adjoining, or facing a residential district. The fence shall be of such material and design as will not detract from adjacent residences and shall be built according to plans submitted by the owner or his/her authorized agent and approved by the planning director (or designee).

(b) Landscaping. Screen planting shall consist of evergreen trees planted a maximum of 15 feet on center, or hedges with dense evergreen foliage, in combination with deciduous trees and hedges for seasonal color and texture. Ground cover shall be planted at a density to form an effective barrier to cover 85 percent of the ground surface within two years.

(i) On a corner lot there may be placed and maintained:

(A) A fence or screen not more than three feet in height; provided, that it is not sight obstructing (50 percent of the area of the fence or screen is open) along a public or private street;

(B) A six-foot-high open wire fence along the property line facing the side street; provided, that it does not come closer to the street right-of-way on the front of the lot than the required building setback;

(C) A four-foot-high solid fence or hedge parallel to the property line facing the side street; provided, it is 10 feet back from the side street; and provided, that it does not come closer to the street on the front of the lot than the rear of the building.

(ii) In commercial zones, no fence or hedge may be placed on the front yard setback except where required to screen the property from the adjacent lot, then the screen shall extend to the street right-of-way.

(c) Minimum Width.

(i) Landscape Screening. If screening is to be achieved through the use of plant materials only, the screening area shall be a minimum of 10 feet in width. If other materials, such as fencing, walls or berms, are used in conjunction with the landscaping, the width may

be reduced, as described in subsections (4)(c)(ii) through (iv) of this section.

(ii) Earth Berm Alternative. If an earth berm is incorporated into the screening plan, medium size shrubs and/or evergreen trees shall be spaced a maximum of four and one-half feet on center and the width of the screening area may be reduced to eight feet.

(iii) Fence Alternative. If a fence option is selected, maximum spacing of medium sized shrubs shall be six feet on center, and the width of the screening area may be reduced to seven feet. The fence shall be constructed of exterior weather- resistant wood, or applicable alternative. One alternative may be a cyclone fence; however, such a fence shall include slats, and if the fence is next to a right-of-way, landscaping shall be planted between the fence and the right-of-way. Plantings must obscure 75 percent of a cyclone fence within four years.

(iv) Wall Alternative. If a wall at least five feet high is to be used for screening, the planting requirements shall be as specified under subsection (1) of this section, and the screening width may be reduced to five feet. Screen walls shall be constructed with masonry, block, rockery or textured concrete, subject to design approval by the planning director.

(d) Uses Requiring Screening. The planning director may require screening to protect adjacent properties from negative impacts of any permitted or conditional use in a zoning district.

Except as otherwise required by the planning director, screening shall be required in the following instances:

(i) Developments located in districts listed on the left side of the chart below shall provide screening when they adjoin districts specified on the right side of the chart.

District to Be Developed	District to Be Screened
Multifamily residential	Single-family residential
Semi-public	All residential
Commercial/business	All residential
Industrial	All residential/commercial

(ii) Churches, community centers, and other similar conditional uses shall provide perimeter screening when adjoining a residential district.

(e) Fence and screen height limits in the various zones are as follows:

Residential Zones:	Front yard	3 feet maximum
	Side yard	6 feet maximum
	Rear yard	6 feet maximum
Commercial Zones:	Front yard	0 feet maximum
	Side yard	6 feet maximum

	Rear yard	6 feet maximum
Industrial Zones:	Front yard	8 feet maximum
	Side yard	8 feet maximum
	Rear yard	8 feet maximum

(5) Minimum Parking Lot Requirements.

(a) Required Trees.

(i) One tree of a type suitable for parking lots shall be provided for every 10 open (not in a garage) vehicular parking spaces in parking lots with 10 or more spaces;

(ii) The tree types and minimum planter sizes shall be consistent with the landscape policy manual. Trees chosen shall be appropriate to a parking lot location;

(iii) The required trees may be clustered but shall be located to divide and break up expanses of paving and long rows of parking spaces and to create a canopy effect in the parking lot. In order to be considered within the parking lot, the trees must be located in planters that are bounded on at least three sides of parking lot paving. This means only trees in landscaped "islands" or "fingers" can count toward the parking lot tree requirement;

(iv) Planters shall be of sufficient size and design to accommodate the growth of the trees and to prevent damage to the trees by vehicles;

(v) The number of species required shall vary according to the overall number of trees required to be planted. The species shall be planted in proportion to the required mix. The species mix shall not apply to areas of vegetation required to be preserved by law nor those located in areas designated as natural. The number of species to be planted are indicated below.

Required # of trees	Maximum # of species
6 – 10	2
11 – 15	3
16 +	4

(b) Required Landscape Area. At least 15 percent of every parking lot shall be landscaped, unless otherwise required by this title. In all cases, with the exception of vehicular display lots, landscaping shall be distributed throughout the parking area. Landscaping located in required setbacks or buffers may not be used to meet this requirement. If LID rain gardens or bioretention facilities are proposed, they are to be incorporated into the required parking lot landscaping unless site and soil conditions make such facilities infeasible. LID stormwater management facilities shall be designed and constructed in accordance with the *Low Impact Development Technical Guidance Manual for Puget Sound* (current edition). The [eas4] landscaping shall consist of deciduous and/or coniferous material and may include turf, shrubs, and flowers.

(c) Required Screening.

(i) Open parking spaces (except those in single-family residential projects in any zone district) shall be screened from the view of adjacent properties and streets to mature minimum height of 30 inches by the use of berms and/or plantings;

(ii) A minimum of two-thirds of the affected street frontage or property boundary, not counting intersecting driveways, must have the required screen;

(iii) The required screening may be a component of the required landscape setback;

(iv) Structures such as decorative walls or fences may be approved through an administrative relief request if the planning director (or other designee) finds that:

(A) The structures avoid a blank and monotonous appearance by such measures as architectural articulation and the planting of vines, shrubs or trees; or

(B) The total use of the berms and/or plantings is not physically feasible; or

(C) The structures attractively complement the use of berms and/or plantings;

(v) The maximum spacing of plants to achieve an acceptable screen and the maximum acceptable grades for screening areas, such as sodded berms and planting beds, shall be consistent with the landscaping policy manual;

(vi) Guidelines for the specific types and location of trees, shrubs and other landscape materials in parking lots are contained within the landscape policy manual as approved by city council or thereafter amended.

(6) In addition to the requirements and standards of this chapter, the landscape guidelines in the design guidelines shall apply. (Ord. 1221 § 1, 2000).

19.46.035 North Whidbey Enterprise Area landscape requirements.

(1) The standards contained in this section apply to the North Whidbey Enterprise Area as identified in Exhibit C of the Urban Growth Area Interlocal Agreement between Island County and the city of Oak Harbor, a copy of which is on file with the city clerk and available for public inspection.

(2) Significant Tree Retention. Significant tree retention in the I, PIP, C-4 and nonresidential development, short subdivision and subdivision in the PRE zones shall meet the following standards:

(a) Applicants should retain 15 percent of the significant trees found on the property except for those trees found in the building footprints, access roads, parking areas and utility line trenches. Applicants should give attention to the following:

(i) Preservation of significant trees along the perimeter of the property; and

(ii) Preservation of significant trees near or adjacent to critical areas; and
(iii) Preservation of significant trees which create a distinctive skyline feature; and
(iv) Preservation of Garry Oak trees; and
(v) Trees that may constitute a safety hazard should be removed; and
(vi) Special attention shall be given to preservation of significant trees on properties identified in the 2001 Oak Harbor Comprehensive Plan, Environmental Element, Woodland Map.

(b) An inventory of significant trees shall be submitted with all applications for subdivision, short subdivision or site plan review.

(3) Landscaping, screening and buffering in the I and PIP zones shall meet the following standards:

(a) Open storage, trash or recycling areas shall be screened by fencing and/or landscaping;

(b) Landscaping including street trees spaced no further than 20 feet on center shall be required in all front yards and the abutting public road; and

(c) Buffers between industrial zones and adjacent residential properties shall be planted along the common boundary. The planting should include coniferous shrubs, trees and native vegetation. Fencing may be incorporated to help ensure an effective visual buffer.

(4) Landscape for I, PIP and C-4 lands abutting Goldie Road and Oak Harbor Road shall meet the following standards:

(a) A 20-foot landscape setback shall be established; and

(b) The area between the property line and drainage swale shall be planted with low profile foliage; and

(c) The landscape area shall be planted with a mixture of native evergreen trees containing a variety of species, colors and textures for a year-round green attractive appearance; and

(d) If the landscape buffer setback does not have existing significant vegetation, the buffer will be planted with native evergreen trees. If deciduous trees are desired they may be planted at a rate of two evergreen to one deciduous tree; and

(e) Maximum spacing of the trees shall be 10 feet on center or equivalent grouping as determined by site and existing conditions; and

(f) Roadway and intersection requirements shall prevail if a conflict arises with the landscape standards listed herein.

19.46.040 General landscaping standards.

(1) Landscape Materials.

(a) Landscape materials shall be defined as evergreen or deciduous trees, shrubs, and ground cover plants, perennial or annual flowers, and lawn. River rock, fountains, ponds, ~~bark,~~ rockeries, ornamental or decorative walkways (provided both sides abut landscaping) may be included, where, in the opinion of the ~~planning~~ director, additional ornamental features may be considered as part of the landscape materials, subject to the administrative relief process.

(b) Suggested tree species ~~plant material~~ suited to the unique soils, geology, and weather patterns of Oak Harbor are contained in ~~the landscape policy manual at the city planning department.~~ 19.46.150 OHMC[eas5].

(c) Planting shall occur based on species tolerance to the environment in which it will be placed.

(d) No artificial lawn or plants will be permitted in landscaped areas.

~~(2) Erosion Control Plan. The city may require temporary erosion and sediment control measures as part of the landscape plan for the development. Erosion or sediment control plan shall be reviewed prior to or in conjunction with a plat or site plan[eas6].~~

(2~~3~~) Drainage Detention/Retention Ponds. If a proposed detention pond has a slope ratio of 3:1 or greater, where fencing around the pond will be required, a fencing and landscaping plan shall be submitted to the planning department. Submittal of the proposed fencing and landscaping plan shall occur in conjunction with short plat, preliminary plat, or site plan review applications, depending on the project type.

(3~~4~~) Land Clearing Plan. Clearing of landscaping is required to be in accordance with the provisions of Chapter 19.47 OHMC.

(4~~5~~) Pollution Control. It shall be the responsibility of the property owner to ensure that storm runoff from landscaped areas does not contain excessive amounts of fertilizer, insecticides, and herbicides that may be harmful to aquatic life, and to take measures to prevent runoff water impacts as required by the Department of Ecology and Wildlife and as specified in the Puget Sound Water Quality Manual. One measure to reduce the use of chemicals is the use of native plants in landscape areas.

(5~~6~~) Safety Features/Utilities. Installation of landscape materials shall not obstruct access to fire connections, post indicator valves (PIVs) and hydrants, standpipes, sprinkler connections, utility vaults, pedestals, and other public and private utility facilities. ~~Appropriate species of plants for areas affected by overhead utility lines can be found in the plant list.~~ Landscaping shall not obstruct fire apparatus access roads[eas7].

(6~~7~~) ~~Irrigation and Watering. An underground irrigation system is required which is adequate to provide watering needs for plant materials. Small preexisting sites may receive special consideration through the administrative relief process. Also, administrative relief from the irrigation requirement may be requested for planting areas which contain only drought tolerant vegetation[eas8].~~

(7~~8~~) Visibility Triangle. Along street frontages, within 30 feet of an alley or unsignalized street intersection, or within 25 feet of a driveway, no shrub shall be higher than 30 inches from street gutter grade and no tree shall have branches or foliage below eight feet above street level.At signalized intersections the conditions of this section shall not be necessary, but it shall be required that only deciduous trees be located at signalized intersections. Under no circumstances shall landscaping interfere with sight distance visibility. In lieu of meeting this standard, visibility triangles shall be provided as per AASHTO standards or in accordance with 11.17.110(5) OHMC.

(8~~9~~) Where practical, landscaping shall be designed to not block solar gain or solar

access by surrounding properties.

(10) Special Landscaping Districts. The area of the CBD central business district, for the purpose of this chapter, will be considered a special landscaping district. This area is substantially developed on zero setbacks from the right-of-way, making it impractical to meet the full extent of the requirements of this chapter. Businesses located in this district shall meet parking lot landscaping standards as shown in OHMC 19.46.030 (5) and shall participate in a street tree planting program in the street right-of-way adjacent to the parcel frontage.

(11) Xeriscape Process. Xeriscape is a process by which sound horticultural, landscaping, and efficient water-using principles come together. The style of the xeriscapes can be quite variable. Drought resistant landscaping, such as a contemporary design or a Spanish garden, could qualify as xeriscape when constructed to meet the following six principles:

(a) Good Design. Based on careful selection of low-water-use plants or drought tolerant plants;

(b) Soil Improvement. Improvements including the addition of manure, compost, or other organic materials which can be amended into the soil;

(c) Use of Mulch. Beauty bark or other organic substance to ~~beautify the landscape and~~ help maintain moisture in the soil[eas9];

(c~~d~~) Limited Lawn Areas. Minimizing grass areas results in minimal lawn maintenance;

(d~~e~~) Efficient Water Use. Water between 12:00 midnight and 6:00 a.m. to help prevent fungus growth, and lower the evaporation rate of water;

(e~~f~~) Good Maintenance. Maintain the landscape to reflect a weed and trash free environment.

(12) Landscaping for Freestanding Signs. All primary freestanding signs shall include, as part of their design, landscaping about their base to prevent automobiles from hitting the sign supporting structure and to improve the overall appearance of the installation. If the required landscaping is not completed within 60 days after completion of sign installation, the sign is in violation of this chapter.

(13) Groundcover. Groundcover shall be planted and maintained within all required landscaping areas. Groundcover refers to low-growing dense growth of plants, such as pachysandra ~~or crown vetch~~, planted for ornamental purposes or to prevent soil erosion in areas where turf is difficult to grow, as in deep shade or on a steep slope. Groundcover shall consist of plantings that will achieve complete coverage within two years. Groundcover is not required within the dripline of any shrub or evergreen tree or within a two-foot radius of a deciduous tree trunk.

(14) Undeveloped Areas. Undeveloped areas of a lot which are not required to be landscaped by other requirements of this chapter shall be planted with groundcover. Groundcover may consist of planted or existing vegetation maintained so as not to exceed one foot in height. For the purposes of this section, grass can be considered to be groundcover[eas10].

(15) Bark, Mulch and Gravel. Bark, mulch, gravel or other similar non-vegetative material shall only be used to assist vegetative growth and maintenance within landscaping areas. Non-vegetative material shall not be a substitute for, or interfere with, required vegetative groundcover[eas11].

(16) Tree Topping and Thinning. Topping and thinning of trees shall be allowed as long as it does not negatively effect the health of the tree[eas12].

(18) Calculations/Measurements. All calculations and measurements within this chapter shall be rounded to the nearest whole number with greater than or equal to .50 being rounded up[eas13].

~~**19.46.045 Tree Retention**~~[eas14]~~.~~

~~(1) The purpose and intent of this section is to reduce the aesthetic and environmental impacts of site development while promoting reasonable use of land and to implement the city's comprehensive plan by:~~

~~(a) Avoiding the removal of significant trees and stands of trees in order to maintain ecological functions and maintain Oak Harbor's urban environment;~~

~~(b) Providing measures to protect trees from construction impacts and ensure their survival; and~~

~~(c) Providing flexibility in order to retain stands of trees of ecological or aesthetic importance, or to allow for revegetation when trees cannot be retained.~~

~~(2) All development proposals and land clearing applications shall retain at least 15 percent of the significant trees, as defined in Chapter 19.08~~[eas15]~~.~~

~~(a) Trees shall be retained within stands or clustered. Narrow strips and single unprotected significant trees shall be avoided. Improvements shall be designed to give priority to protection of trees with the following characteristics:~~

~~(i) Healthy significant trees over 50 feet in height;~~

~~(ii) Significant trees that form a continuous canopy or grove of trees;~~

~~(iii) Significant trees on steep slopes or adjacent to existing open space, parkland, wetlands, water courses and conservancy areas; and~~

~~(iv) Significant trees which provide a distinctive feature, such as a skyline, corridors along arterial and collector streets, or provide a land use buffer along the perimeter of the proposed development~~[eas16]~~.~~

~~(b) All areas where vegetation is retained shall be designated as a native growth protection area, conservation easement, deed restriction or other means of deed conveyance.~~

~~(3) Exceptions.~~

~~(a) The minimum significant tree percentage may be reduced on sites with special circumstances and where revegetation is proposed. Special circumstances include, but are not limited to:~~

~~(i) The retention of significant trees precludes reasonable development of the property.~~

~~(ii) Physical limitations such as existing lot size, soils or topography.~~

~~(iii) Deteriorated health of trees.~~

~~(iv) Potentially hazardous trees.~~

~~(v) Trees subject to blowdown after construction.~~

~~(b) The minimum significant tree percentage may be reduced for preliminary plat applications that demonstrate special circumstances and propose revegetation:~~

~~(i) With approval from the planning commission a revegetation plan shall give consideration to revegetation and its proximity to existing vegetation, steep slopes, open space, parkland, wetlands, water courses, conservancy areas, arterial and collector streets, effectiveness as a land use buffer, enhancement of existing stands of native vegetation or other similar conditions.~~

~~(ii) The revegetation plan may combine the use of native species and nonnative species,~~

~~(iii) The revegetation plan shall provide for a two to one tree replacement ratio.~~

~~(iv) Replacement trees shall be a minimum two and one-half-inch caliper for deciduous trees or a minimum of six feet in height from existing grade for conifers and comply with the requirements of subsection (5) of this section.~~

~~(c) The minimum significant tree percentage may be reduced for short plat, development and land clearing applications that demonstrate special circumstances and propose revegetation:~~

~~(i) With approval from the director a revegetation plan shall give consideration to revegetation and its proximity to existing vegetation, steep slopes, open space, parkland, wetlands, water courses, conservancy areas, arterial and collector streets, effectiveness as a land use buffer, enhancement of existing stands of vegetation or other similar conditions.~~

~~(ii) The revegetation plan may combine the use of native species and nonnative species.with a preference for the species outlined in 19.46.115 (4).~~

~~(iii) The revegetation plan shall provide for a two to one tree replacement ratio.~~

~~(iv) Replacement trees shall be a minimum two and one-half-inch caliper for deciduous trees or a minimum of six feet in height from existing grade for conifers and comply with the requirement of subsection (5) of this section.~~

~~(d) Trees which do not meet the definition of significant trees may be credited towards the minimum significant tree percentage to be retained in order to facilitate the preservation of a greater number of smaller trees if a group of trees and its associated undergrowth provide a distinctive feature, are on a steep slope or adjacent to existing open space, parkland, wetlands, water courses, conservancy areas, arterial and collector streets, effectiveness as a land use buffer, enhancement of existing stands of vegetation or other similar conditions.~~

~~(e) A reduction in the replacement ratio required by subsections (3)(b) and (c) of this section may be considered for planting an understory to enhance habitat.~~

~~(f) The director may approve the removal of significant trees that have been retained pursuant to this chapter, if it is determined that the tree is diseased, physically deteriorated, potentially hazardous, damaged or subject to windthrow. Significant trees that are removed as approved by the director, and the one-year maintenance period has expired, shall be replaced at a one to one ratio. Replacement trees shall be a minimum two and one-half inch caliper for deciduous trees or a minimum of six feet in height from existing grade for conifers[eas17].~~

~~(4) Determining the Number of Significant Trees to be Retained.~~

~~(a) For plats, short plats and binding site plans, trees that are within a regulated environmentally sensitive area shall be excluded and will not contribute towards the base number of significant trees or the 15 percent retention requirement.~~

~~(b) For all other development and clearing applications, trees that are within a regulated environmentally sensitive area, within the building footprint or are within the required landscape area shall be excluded and will not contribute towards the base number of significant trees or the 15 percent retention requirement.~~

~~(c) All development proposals and clearing applications shall include a drawing showing the location of all significant trees, trees to be retained, trees to be removed, groves of trees and other natural features on and adjacent to the site.~~

~~(i) Parcels larger than five acres may utilize a sampling methodology to identify significant trees. Parcels smaller than five acres shall utilize a survey methodology to identify significant trees.~~

~~(5) Revegetation and Survival Standards[eas18].~~

~~(a) Sites with documented special circumstances in conformance with subsection (3) of this section shall provide a revegetation plan. The plan shall include:~~

~~(i) Written documentation of the special circumstances that make the retention of significant trees impracticable;~~

~~(ii) Information required under OHMC 19.46.100;~~

~~(iii) The revegetation plan shall replace significant trees that are required to be retained at a two to one ratio. Replacement trees shall be a minimum two and one-half inch caliper for deciduous trees or a minimum of six feet in height from existing grade for conifers; and~~

~~(iv) Priority shall be given to revegetation and its proximity to existing vegetation, steep slopes, open space, parkland, wetlands, water courses, conservancy areas, arterial and collector streets, effectiveness as a land use buffer, enhancement of existing stands of vegetation or other similar conditions.~~

~~(b) All trees (replacement trees and retained trees) shall be maintained in a healthy growing condition. All trees found to be diseased, dead or dying within one year of acceptance by the city shall be replaced. Trees planted as part of a revegetation plan shall be replaced at a one to one ratio and retained trees shall be replaced at a two to one ratio.~~

(5~~6~~) ~~Construction Standards.~~

~~(a) A vegetation protection plan shall be submitted for all vegetation that is to be retained. The vegetation protection plan may be combined with the grading/clearing plan or the temporary erosion control plan.~~

~~(b) Barrier fencing or silt fencing shall be placed around the root zone of all trees and vegetation to be retained. There shall be no construction activity within the fencing.~~

~~(c) Any clearing to be done within the root zone must be approved by the director and utilize hand grubbing and light equipment. No fill will be allowed within the root zone unless approved by the director~~[eas19]~~.~~

~~(7) Modifications of Standards in Order to Preserve Significant Trees or Stands of Vegetation.~~

~~(a) A variance may be granted to allow intrusion of a building into a setback yard by five feet to preserve significant trees elsewhere on the property.~~

~~(b) Setback averaging may be utilized to preserve significant trees elsewhere on the property. A reduced setback shall be compensated by an increased setback elsewhere~~[eas20]~~.~~

~~(c) A variance may be granted to allow a 10 percent reduction in parking spaces to preserve significant trees elsewhere on the property.~~

~~(8) Professional Evaluation. In determining tree removal or replacement, the director may require a professional evaluation or tree protection plan by a certified arborist at the applicant's expense, where the director determines that such evaluation is necessary to comply with the standards of this section. The evaluation may include providing a hazardous tree assessment, evaluation of the anticipated effects of a proposed project on the viability of trees on the site, developing a plan for tree protection or replacement and evaluation after construction~~[eas21]~~.~~

19.46.050 Fences and hedges.

(1) Fences and hedges a maximum of six feet in height may be placed and maintained on the side and rear lot line, and across the front of the property line even with the front of the building on the lot but not closer to the street right-of-way than the required setback. On corner lots the setback shall apply to both streets.

Within the setback area a fence not more than three feet in height may be constructed; provided, that it is not sight-obscuring (50 percent of the area of the fence is open).

Within the setback area a solid hedge may be planted not to exceed a height of more than three feet.

On a corner lot there may be placed and maintained:

(a) A fence or hedge not more than three feet in height; provided, that it is not sight-obstructing (50 percent of the area of the fence or hedge is open);

(b) A six-foot-high open wire fence along the property line facing the side street; provided, that it does not come closer to the street right-of-way on the front of the lot than the required building setback;

(c) A four-foot-high solid fence or hedge parallel to the property line facing the side street; provided, it is 10 feet back from the side street; and provided, that it does not come closer to the street on the front of the lot than the rear of the house.

(2) In commercial zones, no fence or hedge may be placed on the front yard setback except where required to screen the property from the adjacent lot, then the screen shall extend to the street right-of-way.

(3) Fence and hedge limits in the various zones are as follows:

Residential Zones:	Front yard	3 feet maximum
	Side yard	6 feet maximum
	Rear yard	6 feet maximum
Commercial Zones:	Front yard	0 feet maximum
	Side yard	6 feet maximum
	Rear yard	6 feet maximum
Industrial Zones:	Front yard	8 feet maximum
	Side yard	8 feet maximum
	Rear yard	8 feet maximum

~~**19.46.060 Phased projects.**~~

~~Phased projects include but are not limited to shopping centers, large site developments proceeding in phases, applicable subdivisions, cluster developments, and business parks. Before construction permits are issued for the first phase of any phased project, conceptual approval of the landscaping plan for the site as a whole is required. Final approval of the landscaping plan for each phase is required before construction permits are issued for a phase. Installation of landscaping for each phase of development shall be required prior to releasing occupancy permits for that phase. Relief may be available per OHMC 19.46.110.~~

~~Landscaping along a frontage road or perimeter screening may be required to be installed in the first phase. Criteria to be considered in the decision includes but is not limited to the following:~~

~~(1) Timing of phases of a project;~~

~~(2) Proximity to residential areas~~[eas22]~~.~~

19.46.070 Conflicts.

(1) If the provisions of this chapter conflict with other ordinances or regulations, the more stringent limitation or requirement shall govern or prevail to the extent of the conflict.

(2) In the event that, because of lot configuration, adjacent land uses, or special circumstances, more landscaping is required to meet all requirements of this title, the higher amount of landscaping shall be required.

19.46.080 Maintenance ~~standards~~<u>of required landscape areas</u>.

(1) Maintenance of Cultivated Areas.

(a) General. The owner of land subject to this chapter shall be responsible for the maintenance of said land in good condition so as to present a healthy, neat, and orderly landscape area.

(b) Maintenance of Plants. All landscaping and screening areas shall be maintained in a healthy, growing condition. Broken, dead, or dying trees, shrubs, or other plants shall be replaced. All landscaping and screening shall be kept free of trash and weeds.

(c) Tree Removal. It shall be the responsibility of each private property owner to remove any dead, diseased, or dangerous trees or shrubs, or part thereof, located on private property which overhang or interfere with traffic control devices, public sidewalks, rights-of-way, or property owned by the city. The city shall have the authority to order the removal and possible replacement of any such trees or shrubs.

(d) Pruning.

(i) All pruning should be accomplished according to good horticultural standards. Trees shall be pruned only as necessary to promote healthy growth;

(ii) Unless special approval is provided, trees shall be allowed to attain their normal size and shall not be severely pruned or "hat racked" in order to permanently maintain growth at a reduced height;

(iii) Trees may be periodically pruned or thinned in order to reduce the leaf mass and stimulate further branching.

(e) Mowing. Grass shall be mown as required in order to encourage deep root growth and therefore the preservation of irrigation water.

(f) Edging. All roadways, curbs, and sidewalks shall be edged when necessary in order to prevent encroachment from the adjacent grass areas. Power trimmers shall not be used to trim grasses around trees since they will quickly remove bark causing deterioration and eventual death of the tree.

(g) Watering. All watering of planted areas shall be managed so as to:

(i) Maintain healthy flora;

(ii) Make plant material more drought-tolerant;

(iii) Avoid excessive turf growth;

(iv) Minimize fungus growth;

(v) Stimulate deep root growth;

(vi) Minimize leaching of fertilizers;

(vii) Minimize cold damage.

Watering of plants and trees should always be in sufficient amounts to thoroughly soak the root ball of the plant and the surrounding area, thereby promoting deep root growth and drought tolerance.

Whenever possible, automatic irrigation systems should be installed and operation should occur between the hours of 12:00 midnight and 6:00 a.m. Irrigation during these hours helps to reduce fungus growth and loss of water due to evaporation.

If an irrigation system is installed it shall be regularly maintained to eliminate waste of water due to loss of heads, broken pipes, or misjudged nozzles.

~~(2) Maintenance of Natural Plant Communities.~~

~~(a) General. All areas preserved as natural plant communities shall be annually cleared of nonnative vegetation and lawn grasses, and cleared of all trash and other debris~~[eas23]~~.~~

~~(b) Required Management Plan. For all areas of preserved plant communities larger than three acres in area, the owner shall submit for the approval of the planning department a narrative management plan indicating the manner in which the owner will preserve the native plant communities. The narrative shall include:~~

~~(i) Whether the existing vegetation is to be preserved in the existing species composition;~~

~~(ii) If applicable, the manner in which the composition of existing plant material is to be preserved;~~

~~(iii) The maintenance schedule for removal of debris and exotic species;~~

~~(iv) Other information the planning department feels necessary to approve a management plan.~~

~~All natural plant communities shall be managed in order to maintain the plant community for the purpose it was preserved.~~

~~When applicable, the planning department shall make periodic inspections of the natural areas to verify the owner's adherence to the approved management plan~~[eas24]~~.~~

~~**19.46.090 Timing of landscaping completion.**~~

~~(1) Completion of Landscaping. All landscaping must be completed in accordance with the approved landscape plan before a certificate of occupancy may be issued for any building on the lot. In the event that weather conditions do not allow for the installation of the landscaping, the property owner shall provide the planning director with documented assurance that the landscaping will be completed within six months. The building official may then issue a one six-month temporary certificate of occupancy and permit the owner to complete the landscaping within the six-month period. For the purpose of this subsection, "documented assurance" means:~~

~~(a) A bond or other assurance acceptable to the city equal to 112 percent of the estimated installation costs shall be required. Such deposit shall be accompanied by a letter which shall stipulate completion of all landscape development no later than six months after the issuance of the certificate of occupancy or date of final approval, whichever is later.~~

~~(b) If these conditions are not met, the city may use the deposit to perform the landscape development~~[eas25]~~.~~

19.46.100 Landscaping and irrigation plans required.

Landscaping and irrigation plans shall be submitted for any landscaping activity required by OHMC 19.46.020[eas26]. The landscaping plan shall be reviewed by the Director. All

landscaping plans shall include information regarding existing vegetation to be preserved onsite and newly proposed plantings.

~~(1) General. Prior to the issuance of any building permit, a landscape plan shall be submitted to, reviewed by, and approved by the Director~~[eas27]~~.~~

(1~~2~~) Nature of Required Plans. Landscape plans for lots larger than one and one-half acres in size shall be prepared by and bear the seal of an architect or landscape architect,~~,~~ or other professional with demonstrated qualifications or experience.

(2~~3~~) Contents of Landscape Plan. The landscape plan shall be drawn to scale with dimensions and distances shown and include the following:

~~(a) Be drawn to scale, including dimensions and distances;~~

~~(b) Delineate the existing and proposed parking spaces, or other vehicular areas, access aisles, driveways, and similar features;~~

~~(c) Show all landscape features including height, quality, type, botanical and common names, place of planting and all areas of vegetation, in context with the location and outline of any existing or proposed and other improvements on the site;~~

~~(d) Gross acreage, area of preservation, number of trees to be planted and/or preserved, other plants to be planted and/or preserved, and square footage of paved areas shall be included in a tabulation that clearly displays this and other relevant information necessary for the planning department to evaluate compliance with the provisions of this chapter;~~

~~(e) Include an irrigation plan, which shows zones, connecting nozzles, distribution valves, irrigation lines, sprinkler heads, timer location, and backflow prevention device, as well as other information integral to the proposed irrigation system.~~

~~An application and inspection fee, in the amount set by the city council from time to time, shall be collected by the building department at time of application for certificate of occupancy. (Ord. 1555 § 20, 2009~~[eas28]~~).~~

(a) General information:

(i) Show all property lines and easements for ingress/egress and drainage;

(ii) Show all existing and proposed structures. The square footage and location for each existing and proposed structure shall be identified;

(iii) Show all pedestrian / bike connections and adjacent landscaping areas, storage, garbage, recycling, employee recreation and aboveground stormwater detention and treatment areas;

(iv) Show all paved, impervious surface areas, not including structures. The location of parking, loading and circulation areas and the total paved, impervious surface square footage shall be identified;

(v) Show all proposed and existing outdoor fixtures and equipment such as utility vaults (structures), fire hydrants, light fixtures, fences, retaining walls, ornamental fountains, pools, benches and garbage containers. The size and location of each item above shall be identified;

(b) Information regarding vegetation to be preserved:

(i) Locations of perimeters of individual trees and native vegetation areas to be preserved. The tree protection area for trees to be preserved shall be shown on the plan in accordance with 19.46.140(9).

(ii) Size, species, and health of trees to be preserved.

(iii) General locations of trees proposed for removal.

(iv) Limits of construction on site.

(v) Description of tree protection and tree maintenance measures required for the trees to be preserved.

(vi) Timeline for clearing, grading and installation of tree protection measures.

(vii) If native vegetation retention areas are proposed, the acreage of on-site critical areas, excluding critical area buffers and acreage of on-site public and private roads.

(viii) If native vegetation retention areas are proposed, the calculation of average trees per square foot of protected native vegetation area shall be provided.

(c) Information regarding newly proposed vegetation:

(vi) Location, size, species, spacing and number of trees to be planted.

(vii) Each proposed landscaping area shall have its square footage indicated on the plan.

(viii) Description and detail showing any site preparation, installation, and maintenance measures necessary for the long-term survival and health of the vegetation.

(ix) Timeline for site preparation, installation, and maintenance of vegetation.

(x) Cost estimate for the purchase, installation and three years maintenance.

(3) Irrigation Plan. The landscape plan shall include an irrigation plan. An irrigation plan is required to ensure that the planting will be watered at a sufficient level for plant survival and healthy growth. For projects meeting the one and one-half acre threshold, the irrigation method shall be by a permanent underground system with an automatic controller. An overriding rain sensor switch shall be provided. Also, administrative relief from the irrigation requirement may be requested for planting areas which contain only drought tolerant vegetation[eas29].

(a) The irrigation plan shall show zones, connecting nozzles, distribution valves, irrigation lines, sprinkler heads, timer location, and backflow prevention device, as well as other information integral to the proposed irrigation system.

(b) In lieu of a permanent irrigation system, drought-tolerant plantings may be considered by the City. If drought-tolerant, native species are selected, a watering plan is required for the establishment phase of new plantings. The plan must provide adequate watering of the newly installed trees for a minimum of three years.

~~**19.46.110 Administrative relief and alternative compliance.**~~

~~The standards contained in this chapter are intended to encourage development which is economically viable and environmentally satisfying. The standards are not intended to be arbitrary or to inhibit creative solutions. Projects may justify approval of alternative methods for compliance with the standards. Conditions may arise where normal compliance is impractical or impossible, or where maximum achievement of the city's objectives can only be obtained through alternative compliance.~~

~~(1) Requests for alternative compliance and administrative relief may be accepted for any application to which the requirements of this chapter apply, when one or more of the following conditions exist:~~

- ~~(a) Topography, soil, vegetation or other site conditions make it impossible or impractical; or improved environmental quality would result from alternative compliance;~~
- ~~(b) Space limitations, unusually shaped lots, and prevailing practices in the surrounding neighborhood may justify alternative compliance for infill sites, and for improvements and redevelopment in older communities;~~
- ~~(c) Parking lots with five parking spaces or less may apply for administrative relief in order to reconfigure landscaping to be less than 15 percent of the parking lot. For example, a portion of the requirement can be met by landscaping around the perimeter of the parking lot;~~
- ~~(d) Change of use of an existing site increases the buffer required more than it is feasible to provide;~~
- ~~(e) Safety considerations make alternative compliance necessary;~~
- ~~(f) When an alternative proposal is equal or better than normal compliance in its ability to fulfill all landscaping requirements in this chapter;~~
- ~~(g) Alternative types of irrigation for preexisting conditions.~~

~~(2) The following may be considered as a remedy in the cases where alternative compliance is proposed:~~

- ~~(a) Alternative compliance shall be limited to the specific project under consideration and shall not establish precedents for acceptance in other cases;~~
- ~~(b) Requests for alternative compliance shall be accompanied by sufficient explanation and justification, written and/or graphic, to allow appropriate evaluation and decision;~~
- ~~(c) A request for alternative compliance shall be submitted to the planning director (or designee) at the time the plan is submitted. In the case of those plans for which no public hearing is required, the decision of the planning director (or designee) will be final, unless the applicant appeals the decision to the planning commission. In the case of those plans for which a planning commission or other public hearing is required:~~
  - ~~(i) The request for alternative compliance shall be submitted no less than 21 calendar days prior to the scheduled date of the hearing;~~
  - ~~(ii) The planning director (or designee) will forward a recommendation to the proper hearing authority a minimum of five working days prior to the hearing;~~

~~(d) The planning director may request modification of proposed standards in the administrative relief proposal~~[eas30]~~.~~

19.46.110 Review of landscape plans.

(1) Landscape plans shall be submitted and reviewed concurrently with a development or use permit and shall be processed as part of the integrated permit process under 18.20.360 OHMC.

(2) Compliance with the approved landscape plans shall be a condition of approval for all development applications approved pursuant to Titles 19, 20, or 21.

(3) The Director may allow or approve minor modifications to an approved landscape plan during the site development construction process to account for unforeseen site conditions and circumstances. The submittal of an amended landscape plan meeting the requirements of this Chapter may be required[eas31].

~~**19.46.120 Enforcement of chapter.**~~

~~A violation of any of the provisions of this chapter shall be a civil offense and any person failing to comply thereof shall be punished by a fine not to exceed $250.00 or value of materials and labor to bring the property into compliance with this chapter, whichever is greater. It shall be a separate offense for each and every day or portion thereof during which any violation of any part of the provisions of this chapter is committed, continued or permitted~~[eas32]~~.~~

19.46.120 Phased projects.

Phased projects include but are not limited to shopping centers, large site developments, subdivisions, planned residential developments, and business parks. Before construction permits are issued for the first phase of any phased project, conceptual approval of the landscaping plan for the site as a whole is required. Final approval of the landscaping plan for each phase is required before construction permits are issued for a phase. Installation of landscaping for each phase of development shall be required prior to releasing occupancy permits for that phase. Relief may be available per OHMC 19.46.160.

Landscaping along a frontage road or perimeter screening may be required to be installed in the first phase. Criteria to be considered in the decision includes but is not limited to the following:

(1) Timing of phases of a project;

(2) Proximity to residential areas[eas33].

19.46.130 Landscape performance bonding.

(1) All required landscaping shall be installed prior to a certificate of occupancy being issued.

(2) Deferment. The installation of landscaping may be deferred for up to six months from the date an applicant receives a temporary certificate of occupancy. A performance bond shall be submitted to the city in order to ensure the completion of the landscaping in accordance with the approved plan. It shall be the responsibility of the applicant and the property owner to contact the city upon completion of the landscaping work and request an inspection prior to the City

releasing the bond. Failure to complete all of the required landscaping within six months of the issuance of a certificate of occupancy permit shall constitute a violation and the city shall use the bond to complete the required landscaping.

(3) Maintenance Bond Amount and Type. A three-year maintenance bond shall be required to ensure landscaping completion and a minimum plant survival of eighty percent (80%) at the end of three years. The type of bond shall be approved by the city and must be submitted on forms supplied by the City of Oak Harbor. The approved bond shall be posted with the development services department prior to the issuance of a building permit. The bond amount shall be 150 percent of a landscaping maintenance bid amount submitted and approved by the City. The bid amount must include labor and materials.

(5) Subsections (1), (2), and (3) above shall apply to all landscaping within a development site including street trees required within the public right of way and all landscaping within tracts or lots owned by private entities, such as homeowners' associations[eas34].

19.46.140 Native Vegetation Standards[eas35].

Tree and vegetation retention provides substantial environmental benefits including, but not limited to, erosion prevention, reduction in storm-water runoff, preservation of fish and wildlife habitat, improved water and air quality, energy conservation, reductions in the development impacts on the stormwater drainage system and hydrologic resources, and provides a better transition between adjacent land uses.

(1) Applicability

The native vegetation standards set forth in this section apply to all commercial and residential projects that require one or more of the following approvals: a binding site plan, conditional use permit, manufactured home park development plan, site plan review type II or IV, planned business park master plan, subdivision, or planned residential development. Short subdivisions and site plan review Type I are exempt from these requirements.

(2) Definition of Native Vegetation and Allowed Uses.

(a) Definition. Native vegetation includes native, undisturbed areas or rehabilitation of previously disturbed areas. Native vegetation shall consist of plants and trees that are indigenous to the Pacific Northwest. For the purposes of this chapter, native vegetation is defined by a tree density of no less than one tree per 600 square feet plus native understory vegetation.

(b) Allowed Uses. Native vegetation may integrate pervious, passive recreation facilities, stormwater dispersion facilities, and approved surface water restoration projects. Active open space shall not count towards native vegetation requirements. Activities within native vegetation areas shall be limited to passive recreation (e.g. trails), removal of invasive species, amendment of disturbed soils, and planting of native vegetation[eas36].

(3) Native Vegetation Retention and Tree Density Standards.

(a) Minimum Standards. Table 19.46.140-1 provides minimum vegetation retention standards by zone. The native vegetation must be comprised of a minimum tree density of one tree per 600 square feet plus native understory vegetation.

TABLE 19.46.140-1: Native Vegetation Optional Standards by Zone

ZONE	Native Vegetation Retention (% of site area)
PRE, R1	15%
R2	10%
R3, R4, OS	10%
RO	10%
C1, C3, C4, C5, CBD	5%
I, PBP, PIP	5%
PF	5%

(b) The minimum native vegetation area may be reduced on sites with special circumstances and where replacement and supplemental plantings are proposed. Special circumstances include, but are not limited to:

(i) The retention of native vegetation to the percentages specified in Table 19.46.140-1 precludes development of the property to the minimum density or intensity specified in Chapter 19.20 OHMC.

(ii) Physical limitations such as existing lot size, soils or topography.

(iii) Land dedicated to public infrastructure serving the property for roads, sewer, water, or storm, or other public facilities use substantially more area than is typical of properties in the zone.

The replacement and supplemental plantings should be located in clusters or contiguous tracts and placed to maximize aesthetic, hydrologic, or habitat function and values.

(4) General Provisions.

Native Vegetation Areas shall meet the following additional standards:

(a) Trees shall be retained in stands or clusters. A professional forester, arborist, or landscape architect shall prepare the landscape plan to ensure that retained vegetation is not susceptible to windthrow. See 19.46.100 for landscape plan requirements.

(b) Native vegetation may be accommodated within perimeter landscaping or other required landscaped areas.

(c) The minimum native vegetation retention may be decreased to five percent (5)for non-residential uses (e.g., churches, schools, etc.) that are permitted outright or conditionally in residential zones.

(d) The calculation of the native vegetation retention area for public school sites shall be based upon the total acreage of the school site minus the areas set aside for playfields in the school site plan; provided that for the

purposes of the calculation, such playfield areas shall not exceed 30 percent of the gross site area.

(e) Critical areas and their buffers may be counted towards this standard so long as they contain existing native vegetation (e.g. a steep slope with Douglas fir may be counted while one with Himalayan blackberry may not). Critical areas and their buffers that will be counted towards native vegetation shall not have to comply with the replanting standards within this chapter. Land below an ordinary high water mark shall not be counted towards the required native vegetation.

(f) Any soils disturbed through the site development process that are to be counted toward the native vegetation requirements shall be amended in accordance with the "Guidelines for Implementing Soil Quality and Depth" (BMP T5.13 in DOE *Stormwater Management Manual for Western Washington 2005.*

(5) Selection Standards.

The following selection standards should be used with the applicant's design concept in order to meet the standards outlined in Table 19.46.140-1.

(a) Fifteen percent (15%) of trees on the project site which are 12-inches or greater in diameter and which have a live crown ratio (total tree height in relation to branched portion of the tree) of fifty percent (50%) or more shall be preserved.

(b) Utilize site inventory and analysis techniques to determine which portions of the site are best suited to leave native vegetation. Typically these are the most environmentally sensitive areas such as wetlands, steep slopes, floodplains, critical fish and wildlife habitat areas. In residential developments up to twenty-five percent (25%) of the required native vegetation specified in Table 19.46.140-1 may be incorporated into the individual lot design where covenants or other protection measures are put in place. Where individual lots are utilized, they should be connected either physically or hydrologically to other native vegetation or conservation areas.

(c) Minimize changes to natural topography in an effort to maintain pre-development flow path lengths in natural drainage patterns.

(d) Maintain surface roughness to reduce flow velocities and encourage sheet flow on the lot by preserving native vegetation, forest litter and surface topography.

(6) Flexible standards to allow for native vegetation areas.

(a) Administrative relief under section 19.46.160 OHMC may be granted to allow intrusion of a building into a setback yard by up to five feet to allow for the provision of native vegetation areas elsewhere on the property.

(b) Setback averaging may be utilized to allow for native vegetation areas elsewhere on the property. A reduced setback shall be compensated by increased setback elsewhere.

(c) Administrative relief under section 19.46.160 OHMC may be granted to allow a ten percent (10%) reduction in parking spaces to allow for the provision of native vegetation areas elsewhere on the property.

(7) Replanting Requirements.

(a) If the site or lot has been previously cleared or the proposed native vegetation area does not contain suitable vegetation, then the minimum percentage of native vegetation on the site as required by Table 19.46.140-1 shall be replanted to meet the requirements of subsection (b) below. For the purposes of this section, trees subject to blow down do not constitute suitable vegetation.

(b) New trees that will be planted in native vegetation areas shall meet the revegetation standards in this section and shall be native species. For a list of native species see section 19.46.150 OHMC.

(i) Replacement deciduous and broad-leaf evergreen trees shall have a minimum 2" d.b.h. at planting. Replacement coniferous evergreen trees shall have a minimum height of 6' at planting;

(ii) Reforested areas shall be replanted with a minimum of 25% deciduous species and 25% coniferous species;

(iii) Trees within designated critical areas shall be replanted at a 2:1 ratio.

(8) Permanent Protections[eas37].

A permanent protective mechanism shall be established to ensure that the proposed native vegetation area is preserved and protected in perpetuity. The protective mechanism shall be in a form that is acceptable to the City and filed with the County Auditor's office. Restrictions on the future use of the native vegetation area shall also be recorded on the face of the plat for subdivision applications. A permanent native vegetation area shall be established using one of the following mechanisms.

(a) Placement in a separate non-building tract owned in common by all lots within the subdivision;

(b) Covered by a protective easement or public or private land trust dedication;

(c) Preserved through an appropriate permanent protective mechanism that provides the same level of permanent protection as subsection (1) of this section as determined by the approval authority.

(9) Protection of Native Vegetation Areas During and After Development

(a) All trees and tree stands proposed for retention or to be placed in a native vegetation area shall be protected before and during site development and construction through adherence to the following requirements:

(i) A native vegetation area shall be designed to protect each tree or tree stand during site development and construction. The native vegetation area shall conform to the approved landscape plan.

(ii) Native vegetation areas may vary widely in shape, but must extend a minimum of three feet beyond the existing tree canopy area along the outer edge of the tree stand, unless otherwise approved by the Director.

(iii) Native vegetation areas shall be shown and clearly labeled on all applicable site development, plat, and construction drawings, submitted to the Director.

(iv) No clearing, grading, filling, or other development activities shall occur within the native vegetation area, except where approved in advance by the Director and noted on the Landscape Plan.

(v) No vehicles, construction materials, fuel, or other materials shall be placed in native vegetation area. Movement of any vehicles within the native vegetation area shall be prohibited.

(vi) No nails, rope, cable, signs, or fencing shall be attached to any tree proposed for retention.

(vii) The grade level around the tree may not be lowered within the greater of: (1) the area defined by the drip line of the tree at time of development; or (2) an area around the tree equal to 1 foot in diameter for each 1 inch of tree diameter as measured 1 foot above pre-existing grade at time of development, unless a registered landscape architect, certified arborist or certified nursery professional determines that the long-term health of the tree will not be significantly harmed.

(viii) Trenching and other activities within or adjacent to native vegetation areas that may cut or damage the roots of trees proposed for retention shall be prohibited unless recommended by a professional forester, certified arborist or licensed landscape architect and approved by the City of Oak Harbor.

(ix) The City of Oak Harbor may approve the use of alternate tree protection techniques if the trees will be protected to an equal or greater degree than provided by this section. A description of alternate techniques shall be submitted to and reviewed by the Director along with the site plan, short subdivision, subdivision, planned residential development or other development application[eas38].

(10) Tree Topping.

(a) Topping or pollarding of trees within the native vegetation area is prohibited.

(b) Topping or pollarding may occur when there is an identifiable safety hazard, to remove dead, diseased or unhealthy materials, or to avoid overhead utilities.

(11) Maintenance of Native Vegetation Areas.[eas39]

(a) Removal of trees within native vegetation areas is not allowed, unless the tree is dead or in a state of irreversible decline. In determining tree removal or replacement, the director may require a professional evaluation or tree protection plan by a certified arborist at the applicant's expense, where the director determines that such evaluation is necessary to comply with the standards of this section. The evaluation may include providing a hazardous tree assessment, evaluation of the anticipated effects of a proposed project on the viability of trees on the site, developing a plan for tree protection or replacement and evaluation after construction. Trees that become diseased, severely damaged, or which die shall be replaced. Replacement trees shall be a minimum two-inch caliper for deciduous

trees and broadleaf evergreen or a minimum of six feet in height from existing grade for conifers.

(b) Minor trimming of trees within native vegetation areas is permitted as long as trimming activities do not negatively affect the long-term health and survivability of the tree. Trimming of select branches is allowed for safety reasons, e.g. cracked branches which may fall and become a hazard.

(c) General. All native vegetation areas shall be annually cleared of nonnative vegetation and lawn grasses, and cleared of all trash and other debris.

(d) Developer responsibility for maintenance of trees, including removal or replacement of diseased, dead, or dying trees, shall be as follows:

(i) Within residential subdivisions the developer shall be responsible for maintaining trees on individual lots until such time as the individual lots are sold at which point the individual lot owner shall assume responsibility. Developer responsibility for maintaining trees within common tracts shall remain in effect until such time as the common tract is transferred to the control of a homeowner's association or, where no homeowner's association exists, until such time as all individual lots within the subdivision are sold, at which point the individual lot owners shall assume responsibility.

(ii) Within all other developments, developer responsibility for maintaining trees shall remain in effect until such time as the property sale occurs. Upon the property sale, the new owner shall assume the responsibility for maintenance.

(iii) Compliance with the landscape plan shall be a condition of approval and shall be identified on the face of the binding site plan, conditional use permit, manufactured home park development plan, site plan review, planned business park master plan, subdivision, or planned residential development.

(e) Failure to maintain trees as required in this section shall constitute a violation of this Chapter and any associated land use or subdivision approvals.

19.46.150 Tree species[eas40].

The following table provides information on selected species of native and non-native trees suitable for replanting. All species listed are suited to the climate conditions found in the Pacific Northwest. The list is for guidance only and is not intended to be all-inclusive. Other tree species may be utilized where appropriate when recommended by a professional forester, certified arborist, licensed landscape architect, or as approved by the Director. Species availability and quantity may be limited in some cases. It is best to coordinate in advance with nurseries specializing in native plants. For bioretention areas, a complete list of appropriate plants can be found in Appendix 3 of the *LID Technical Guidance Manual for Puget Sound* (2005).

Characteristics and Use of Select Tree Species				
Species Scientific Name	Native Tree?	Canopy Size Category	Street Tree?	Characteristics
Grand fir *Abies grandis*	Yes	Large	No	Coniferous tree achieving heights of up to 150 feet. Tolerant of a variety of soil conditions, similar needs as Douglas fir.
Vine maple *Acer circinatum*	Yes	Small	No	Deciduous tree typically reaching heights of 5-35 feet. Tree-like in open sun, crooked sprawling and vine-like in shade. Good fall color. Tolerant of a wide variety of soil conditions. Prefers moist soils, but can tolerate drier conditions once established.
Big leaf maple *Acer macrophyllum*	Yes	Large	No	Deciduous tree. Form varies widely based upon competition and soil conditions. Typically 20 to 30 feet high when grow in open conditions but can reach heights of 80 feet or more in the forest. Good fall color. Tolerant of a wide variety of soil conditions. Similar environmental needs as Douglas fir.
Red Alder, Oregon Alder, Western Alder *Alnus rubra*	Yes	Medium	No	Deciduous tree to 50 feet. Best in restoration settings. Mature trees can be very attractive, especially in naturalized settings. Beautiful, mottled grey bark.
Serviceberry *Amelanchier alnifolia*	Yes	Small	No	Deciduous tree seldom larger than 20 feet in height. Tolerant of a wide variety of soil conditions. Fruit very valuable to wildlife.
Madrone *Arbutus menziessii*	Yes	Medium	No	Attractive tree, but very difficult to establish. Expect high losses. Review plant establishment notes at www.soundnativeplants.com before considering. Do not provide supplemental water once established.

Characteristics and Use of Select Tree Species				
Species Scientific Name	Native Tree?	Canopy Size Category	Street Tree?	Characteristics
Weeping nootka cypress *Chamaecyparis nootkatensis 'Pendula'*	Yes		No	Narrow (5'), pyramidal evergreen conifer. Main trunk grows straight up with branchlets that weep straight down from drooping branches.
Hybrid Western dogwood 'Eddie's White Wonder' *Cornus nutallii x florida*	Yes	Small	Yes	Hybrid of Cornus florida and the native western dogwood species. More successful than the native species for transplanting. Deciduous tree up to 30 feet in height. Prefers well-drained sites and partial shade. Could work well as a supplemental planting under a canopy of larger trees.
Black hawthorn *Crataegus douglasii*	Yes	Small	No	Deciduous tree up to 30 feet in height. Scarlet fruit. Prefers highly fertile soil and grows best in moist, open areas.
Oregon Ash *Fraxinus latifolia*	Yes	Medium	No	Deciduous tree up to 80 feet in height. Prefers moist or wet sites with rich soils. Works well for streamside and wetland plantings. Best in natural or restoration plantings and generally not appropriate for ornamental landscaping applications.
Mountain Ash	Yes	?	?	Deciduous perennial tree. Light gray, smooth bark. Flowers in May or June after leaves are full grown.
Incense cedar *Libocedrus decurrens*	No	Large	Yes	Coniferous tree achieving height of 150 feet. Drought and wind resistant. Slow growth. Native to California, Nevada, Oregon.
Sitka spruce *Picea sitchensis*	Yes	Large	No	Coniferous tree achieving 80-160 feet. Best in moist areas.
Shore pine *Pinus contorta*	Yes	Medium	No	Coniferous tree to 35 feet tall. Can be trained if a more manicured look is desired.
Western white pine *Pinus monticola*	Yes	Medium	No	Coniferous tree to 60 feet tall.

Characteristics and Use of Select Tree Species				
Species Scientific Name	Native Tree?	Canopy Size Category	Street Tree?	Characteristics
Black cottonwood *Populus balsamifera* spp. *trichocarpa*	Yes	Large	No	Heavy-limbed deciduous tree, brittle wood. Best in moist, native plantings where space is plentiful
Choke Cherry *Prunus virginiana*	No	Medium	No	Needs well drained soil. Usually upright branching with an oval crown. Fragrant white flowers.
Douglas fir *Pseudotsuga menziesii*	Yes	Large	No	Fast growing, long lived coniferous tree growing to height of 150 feet or more. Prefers drier sites, but tolerates a wide variety of soil conditions.
Western crabapple *Pyrus (Malus) fusca*	Yes	Small	No	Best in native or restoration plantings and generally not appropriate for ornamental landscape use.
Cascara *Rhamnus purshiana*	Yes	Medium	No	Deciduous tree that produces black berries.
Western red cedar *Thuja plicata*	Yes	Large	No	Coniferous tree growing to height of 150 feet or more. Best under moist, shaded conditions, but tolerates a wide variety of soil conditions once established.
Western hemlock *Tsuga heterophylla*	Yes	Large	No	Fairly fast grower, Picturesque and also makes a good background, screen, or hedge.
Japanese Maple *Acer Palmatum*	No	Small	Yes	Common deciduous landscape tree. Slow growing; typically grow to no larger than 20 feet in height. Well suited for small lot use. Popular varieties 'Atropurpureum' and 'Bloodgood.'
Norway Maple (varieties) *Acer platanoides*	No.	Large	Yes	Common deciduous landscape tree. Typically achieves heights of 50 to 60 feet. Care must be taken near sidewalks and drives as roots can become a problem.

Characteristics and Use of Select Tree Species				
Species Scientific Name	Native Tree?	Canopy Size Category	Street Tree?	Characteristics
Red Maple *Acer rubrum*	No	Small	Yes	Common deciduous landscape tree. Varieties 'Armstrong' and 'Red Sunset' are recommended for street tree use. Fast growing, typically to 40 feet with brilliant fall color. May be appropriate in a native setting.
Whitebarked Himalayan birch Betula utilis var. jacquemontii	No	Medium	No	Prefers rich, moist, well drained soil. Narrow tree with oval crown. Brilliant white bark. Yellow fall color.
Incense cedar *Calocedrus decurrens*	No	Large	No	Coniferous tree achieving height of 150 feet. Drought and wind resistant. Slow growth. Native to California, Nevada, Oregon. Appropriate for native restoration areas.
European hornbeam *Carpinus betulus*	No	Medium	Yes	Deciduous tree growing to 40 feet. Variety 'Fastigiata' recommended for street tree use.
Eastern redbud *Cercis canadensis*	No	Medium	Yes	Tolerates any soil but wet. Short trunk with spreading branches. Flowers appear before leaves. Heart-shaped leaves emerge reddish and turn dark green. Yellow fall color.
Katsura Tree *Cercidiphyllum japonicum*	No	Medium	Yes	Deciduous tree, slow growing to 40 feet. Good fall color. Well suited for small lot use.
Washington hawthorn *Crataegus phaenopyrum*	No	Small	Yes	Small deciduous tree, typically no larger than 25 feet. Well suited for small lot use with good fall color.
White Ash (varieties) *Fraxinus americana*	No	Medium	Yes	Prefers deep, moist, well drained soil. Green leaflets turn to purple shades. Fall color may include yellow, orange, red, and dark purple.
Green ash *Fraxinus amreicana*	No	Medium	Yes	Fast growing deciduous tree with height of 40 feet. For street tree use, seedless varieties such as 'Marshall' are preferred.

Characteristics and Use of Select Tree Species				
Species Scientific Name	Native Tree?	Canopy Size Category	Street Tree?	Characteristics
Honey locust *Gleditsia triacanthos*	No	Medium	Yes	Fast growing deciduous tree with height of 40 feet. Varieties 'Shademaster', 'Skyline', and 'Moraine' are preferred varieties.
American sweet gum *Liquidambar styraciflua*	No.	Medium	Yes	Common landscape tree very tolerant of urban conditions. Achieves heights of 60 feet with good fall color. Not good in windy settings- the branches are brittle and break easily.
Tulip tree *Liriodendron tulipifera*	No	Large	No	Large deciduous tree achieving height of up to 60 feet. Very tolerant of urban conditions.
Crabapple *Malus sp.*	No	Medium	Yes	Large deciduous tree achieving height of up to 60 feet. Very tolerant of urban conditions.
Dawn redwood *Metasequoia glyptostroboides*	No	Large	No	A deciduous conifer. Fast growing. Bright green fern-like needles. Fall color ranges from bronze to apricot.
Sourwood *Oxydendron arboreum*	No	Medium	Yes	Medium deciduous tree with good fall color. Achieves height of 18 feet.
Yoshino flowering cherry	No	Medium	Yes	Medium sized deciduous tree achieving height of 40 feet. Fast growing.
Flowering callery pear *Pyrus calleryana*	No	Medium	Yes	Widely used in commercial landscaping. Deciduous tree 25 to 40 feet. Well suited to urban conditions. Varieties for street tree use include 'Aristocrat', 'Bradford', 'Capital', 'Chanticlear', 'Redspire' and 'Whitehouse'.
Pin Oak *Quercus palustris*	No	Large	No	Deciduous tree achieving heights of 50 to 80 feet. Better suited to park or large lot use due to size.
Scarlet oak *Quercus coccinea*	No	Large	No	Oval to round canopy shape with high, open branching pattern. Bright green leaves turn scarlet in fall. Deep roots allow for lawn or perennial plant growth beneath canopy.

Characteristics and Use of Select Tree Species				
Species Scientific Name	Native Tree?	Canopy Size Category	Street Tree?	Characteristics
English oak *Quercus robur*	No	Large	No	Prefers well drained sites. Open form. Deep green leaves with yellow-brown fall color. Needs ample space.
Giant Sequoia *Sequoiadendron*	No	Large	No	A good choice in a landscape with adequate space.
Japanese snowbell	No	Medium	Yes	Needs well drained soil and ample water. Medium green foliage with yellow fall color. Blooms in June with fragrant white bell-shaped flowers.
Little Leaf Linden *Tilia cordata*	No	Small	Yes	Small deciduous tree reaching height of 30 feet. Tolerant of urban conditions.
Sawleaf zelkova *Zelkova serrata*	No	Large	No	Water well initiallyto establish deep roots. Once established, very drought and wind tolerant. Fall foliage varies from yellow to dark red. Smooth gray bark.
Notes: Canopy size catetories: (a) Large - mature canopy area>1,250 square feet (b) Medium – mature canopy area 450 to 1,250 square feet (c) Small – mature canopy area 450 square feet or less				

19.46.155. Tree removal outside of native vegetation areas.
The director may approve the removal of trees that are not part of a native vegetation area that were required to be retained as part of a previous plan approval, if it is determined that the tree is diseased, physically deteriorated, potentially hazardous, damaged or subject to wind throw. Trees that are removed as approved by the director shall be replaced at a one to one ratio. Replacement trees shall be a minimum two and one-half-inch caliper for deciduous trees or a minimum of six feet in height from existing grade for conifers.

19.46.160 Administrative relief and alternative compliance[eas41].
The standards contained in this chapter are intended to encourage development which is economically viable and environmentally satisfying. The standards are not intended to be arbitrary or to inhibit creative solutions. Projects may justify approval of alternative methods for compliance with the standards. Conditions may arise where normal compliance is impractical or impossible, or where maximum achievement of the community's objectives can only be obtained through alternative compliance.
(1) Requests for alternative compliance and administrative relief may be accepted for any application to which the requirements of this chapter apply, when one or more of the following conditions exist:

(a) Topography, soil, vegetation or other site conditions make it impossible or impractical; or improved environmental quality would result from alternative compliance;

(b) Space limitations, unusually shaped lots, and prevailing practices in the surrounding neighborhood may justify alternative compliance for infill sites, and for improvements and redevelopment in older communities;

(c) Parking lots with five parking spaces or less may apply for administrative relief in order to reconfigure landscaping to be less than 15 percent of the parking lot. For example, a portion of the requirement can be met by landscaping around the perimeter of the parking lot;

(d) Change of use of an existing site increases the buffer required more than it is feasible to provide;

(e) Safety considerations make alternative compliance necessary;

(f) When an alternative proposal is equal or better than normal compliance in its ability to fulfill all landscaping requirements in this chapter;

(g) Alternative types of irrigation for preexisting conditions.

Alternative compliance shall be limited to the specific project under consideration and shall not establish precedents for acceptance in other cases.

(2) Submittal requirements.

(b) Requests for alternative compliance shall be accompanied by sufficient explanation and justification, written and/or graphic, to allow appropriate evaluation and decision;

(c) A request for alternative compliance shall be submitted to the planning director (or designee) at the time the landscape plan is submitted. In the case of those plans for which no public hearing is required, the decision of the planning director (or designee) will be final, unless the applicant appeals the decision to the hearing examiner.

(d) The planning director may request modification of proposed standards in the administrative relief proposal. (Ord. 1221 § 1, 2000).

19.46.170 Enforcement of chapter.

A violation of any of the provisions of this chapter shall be a civil offense and any person failing to comply thereof shall be punished by a fine not to exceed $250.00 or value of materials and labor to bring the property into compliance with this chapter, whichever is greater. It shall be a separate offense for each and every day or portion thereof during which any violation of any part of the provisions of this chapter is committed, continued or permitted. (Ord. 1221 § 1, 2000[eas421]).

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

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

PASSED by the City Council this ___ day of _____ 2011.

CITY OF OAK HARBOR

Approved ( )
Vetoed ( )

_____
Mayor

_____
Date

ATTEST:

_____
City Clerk

Approved as to Form:

_____
City Attorney

Published:_____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OAK HARBOR AMENDING CHAPTER 19.47 OF THE OAK HARBOR MUNICIPAL CODE ENTITLED "LAND CLEARING" PROMOTING LOW IMPACT DEVELOPMENT CLEARING AND GRADING PRACTICES.

WHEREAS, the City of Oak Harbor's Comprehensive Plan in Environment Policy 2(h) says "the City should provide incentives to utilize Low Impact Development techniques for new development and redevelopment projects that will further promote resource protection and stewardship. Such incentives may include density credits, street width and/or parking requirement reductions, stormwater fee credits, landscape/park requirement credits, and/or expedited permit review processing. The City should also provide educational materials through pamphlets or web links to the public to educate the public on low impact development and;

WHEREAS, the City of Oak Harbor finds that Low Impact Development is a non-structural approach for managing stormwater from new and redeveloped sites which has been found by multiple professional and academic studies to have less impact on the environment, especially water quality, than conventional approaches for treating stormwater and;

WHEREAS, the City of Oak Harbor finds that Low Impact Development techniques are, in most cases, cost competitive or less expensive to install than conventional stormwater infrastructure and;

WHEREAS, the City finds that Low Impact Development techniques promote higher property values by using vegetated raingardens, native vegetation areas, and pervious pavements which are considered to be more aesthetically appealing than conventional stormwater techniques and;

WHEREAS, the City of Oak Harbor finds that the Oak Harbor Municipal Code currently does not have standards for incorporating Low Impact Development in site designs, that having such standards will further promote the use of Low Impact Development stormwater treatment techniques, and will help City staff review these projects more efficiently and;

WHEREAS, the City of Oak Harbor conducted seven (7) work sessions on the proposed code updates with the Planning Commission which were open to the public on the following dates: October 27, 2009, November 24, 2009, January 26, 2010, February 23, 2010, March 23, 2010, April 27, 2010, and May 25, 2010 and;

WHEREAS, the City of Oak Harbor conducted a public meeting before the Planning Commission on January 24, 2010 and opened a public hearing on February 22, 2011 which was closed on March 29, 2011, and;

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

WHEREAS, the City of Oak Harbor issued Notice of Application on February 12, 2011 and Determination of Non-Significance (DNS) on March 11, 2011 for a SEPA Environmental Checklist in accordance with Chapter 43.21 RCW and;

WHEREAS, the City of Oak Harbor provided a 60-day comment period which began on March 17, 2011 and ended on May 17, 2011 to the Washington State Department of Commerce in accordance with Section 36.70A.106 RCW.

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

Section One. Chapter 19.47 of the Oak Harbor Municipal Code, last amended by Section 21 of Ordinance 1555 in 2009, is hereby amended to read as follows:

Chapter 19.47
LAND CLEARING

Sections:

19.47.010 Purpose.

These regulations are adopted for the following purposes. ~~The city staff shall consider such purposes as criteria or standards of the issuance of land clearing permits under OHMC 19.47.050.~~

(1) To promote the public health, safety and general welfare of the citizens of Oak Harbor;

(2) To preserve and enhance the city's physical and aesthetic character by preventing indiscriminate removal or destruction of trees and ground cover on undeveloped and partially developed property;

(3) To promote land development practices that result in a minimal disturbance to the city's vegetation and soils;

(4) To minimize surface water and ground water runoff and diversion and to prevent

erosion and reduce the risk of slides;

(5) To minimize the need for additional storm drainage facilities~~;~~ and to promote Low Impact Development grading and clearing techniques.

(6) To acknowledge that trees and ground cover reduce air pollution by producing pure oxygen from carbon dioxide;

(7) To promote building and site planning practices that are consistent with the city's natural topographic and vegetation features while at the same time recognizing that certain factors such as condition (e.g., disease, danger of falling, etc.), proximity to existing and proposed structures and improvements, interference with utility services, protection of scenic views, and the realization of a reasonable enjoyment of property may require removal of certain trees and ground cover;

(8) To ensure prompt development, restoration and replanting and effective erosion control of property after land clearing through the use of phased development, performance bonds, and other reasonable controls;

(9) To reduce siltation and water pollution;

(10) To implement the goals and objectives of the Washington State Environmental Policy Act;

(11) To maintain the rural character of the city~~;~~

(12) To protect and enhance critical lands and their buffers;

(13) To implement the following environmental element policies as stated in the comprehensive plan:

(a) Policy 1.c: Protect the public and public resources and facilities from injury, loss of life, property damage or financial loss due to flooding, erosion, landslides, soil subsidence and slope failure;

(b) Policy 6.c: Require planting or retention of trees and shrubs with new development and substantial development projects;

(c) Policy 6.g: The city shall require developers to submit and receive city approval of erosion control and limit-of-clearing plans, as applicable, prior to release of forest practices permits and land clearing;

(d) Policy 6.h: Consider adopting a land clearing and grading ordinance to prevent indiscriminate removal or destruction of trees and ground cover on undeveloped and partially developed property;

(14) ~~Not to prevent~~To allow the reasonable development of land in the city of Oak Harbor.

19.47.020 Applicability.

This chapter applies to all properties within the city with exceptions as listed ~~shown~~ in OHMC 19.47.040. This chapter does not apply to oak trees, which are regulated under Chapter 20.16 OHMC.

19.47.025 Definitions

(1) "Caliper" shall mean the diameter of any tree trunk as measured at a height of four feet above the ground on the upslope side of the tree.

(2) "Creek" shall mean those areas where surface waters flow sufficiently to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically

sorted sediments or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. The channel or bed need not contain water year around. This definition is not meant to include storm water runoff devices or other entirely artificial watercourses unless they are used to store and/or convey pass-through stream flows naturally occurring prior to construction.

(3) "Clearing" shall mean the act of cutting and/or removing vegetation. This definition shall include grubbing vegetation.

(4) "Clearing and Grading Permit" shall mean the written approval of the city of Oak Harbor to proceed with the act of clearing property within the city limits of Oak Harbor. The Clearing and Grading Permit includes the associated approved plans and any conditions of approval as well as the permit form itself.

(5) "Critical Area" shall mean any area designated as a critical area pursuant to RCW 36.70A.170 and Chapter 20.02 OHMC.

(6) "Development" shall mean any activity that requires federal, state, or local approval for the use or modification of land or its resource. These activities include, but are not limited to, subdivision and short subdivisions; binding site plans; planned residential developments; variances; shoreline substantial development; clearing activity; excavation; embankment; fill and grade work; converting fallow land or undeveloped land to agricultural purposes; activity conditionally allowed; building or construction; ~~revocable encroachment permits;~~ and septic approval.

(8) "Dry Season" shall mean the months of May through September.

(9) "Ecology" shall mean Washington State Department of Ecology.

(10) "Erosion" shall mean the wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep. Also, the detachment and movement of soil or rock fragments by water, wind, ice, or gravity. The following terms are used to describe different types of water erosion:

(11) Geological erosion – The normal or natural erosion caused by geological processes acting over long geologic periods and resulting in the wearing away of mountains, building up of floodplains, coastal plains, etc. Synonymous with natural erosion.

(12) Natural erosion – Wearing away of the earth's surface by water, ice, or other natural agents under natural environmental conditions of climate, vegetation, etc., undisturbed by humans. Synonymous with geological erosion.

(13) "Excavation" shall mean the removal of material such as earth, sand, gravel, rock, or asphalt from a parcel, tract, or lot of land.

(14) "Fill" shall mean earth, sand, gravel, rock, asphalt, or other solid material used to increase the ground surface elevation or to replace excavated material.

(15) "Geotechnical Engineer" shall mean a professional engineer currently registered in the state of Washington, qualified by reason of experience and education in the practice of geotechnical engineering, and designated by the owner as the geotechnical engineer of record for the project.

(16) "Grading" shall mean the movement of earth material through mechanical or other means to create the finished surface and contour of a project site.

(17) "Grubbing" shall mean the act of removing vegetation by the roots.

(18) "Ground cover" shall mean a dense covering of small plants such as salal, ivy, ferns, mosses, grasses, or other types of vegetation which normally cover the ground.

(19) "Land Disturbance Activity" shall mean any activity that results in movement of earth, or a change in the existing soil cover and/or the existing soil topography. Land disturbing activities include, but are not limited to, clearing, grading, filling, and excavation.

(20) "Low Impact Development (LID)" shall mean a stormwater management strategy that emphasizes conservation and use of existing natural site features integrated with distributed, small-scale stormwater controls to more closely mimic natural hydrologic patterns in residential, commercial, and industrial settings.

(21) "Partially developed lot" shall mean a lot or parcel of land upon which a structure (refer to 19.08.875 OHMC for the definition of a structure) is located and which is of sufficient area so as to be capable of accommodating additional development pursuant to the Oak Harbor zoning code; or which may be subdivided in accordance with the city of Oak Harbor subdivision chapter.

(22) "Permit" shall mean, unless otherwise noted, the Clearing and Grading Permit; see Clearing and Grading Permit.

(23) "Removal" shall mean the actual destruction or causing the effective destruction through damaging, poisoning or other direct or indirect actions resulting in the death of a tree or ground cover.

(24) "Runoff" shall mean water from rain, melted snow, or irrigation that flows over the land surface.

(25) "Sedimentation" shall mean the process of gravity-induced settling and deposition of fragmented rock, soil, or organic particles displaced, transported, and deposited by erosive water-based processes.

(26) "Wet Season" shall mean the period of the year between October 1 and April 30.

19.47.030 Permits.

No person, corporation, or other legal entity shall engage in or cause land clearing in the city without having obtained a land clearing permit or minor clearing permit. Obtaining a land clearing permit or minor clearing permit does not exempt any person from obtaining a grading permit, when required.

19.47.040 Exemptions.

The following shall be exempt from the provisions of this chapter:

(1) The installation and maintenance of fire hydrants, surface electrical transformer boxes, water meters, water and sewer mains, pumping stations, pedestrian or bicycle ~~paths~~ connections, and street improvements by the city or its contractors;

(2) Removal of trees and ground cover in emergency situations involving immediate danger to life or property or substantial fire hazards;

(3) Removal of dead or diseased ground cover or trees. If there is a question as to whether ground cover or trees are diseased, an arborist~~forester~~ or city staff shall inspect the site and determine whether the plant needs to be removed;

(4) Removal of trees or ground cover on partially developed lots, for purposes of general property and utility maintenance, landscaping or gardening; provided, that

this exemption shall not apply to any land clearing which includes the use of a bulldozer or similar mechanical equipment and shall not be construed to eliminate the requirement of permits for land clearing for the purpose of developing the property with substantial permanent improvements such as roads, driveways, utilities, or buildings;

(5) Developed single-family residential lots;

(6) Individual undeveloped single-family residential lots where a building permit has been issued.

19.47.050 Application for land clearing permit.

(1) An application for a land clearing permit shall be submitted by the owner or authorized agent on a form provided by the city and shall be accompanied by such of the following documents and information as are determined to be necessary by the city staff as indicated on the application form.

(2) Applications shall be submitted with the preliminary plat application, where applicable.

(3) ~~The c~~City staff shall complete its review and make its decision within 20 working days from the date a complete land clearing application is submitted, if such application is submitted as a stand-alone application. However, if the application is submitted with a preliminary plat, binding site plan, site plan review, planned residential development or other development application, the review shall be completed within the prescribed timelines of Chapter 18.20 OHMC, unless an extension is authorized by the Director.~~planning director~~.

(4) Any permit granted hereunder shall expire six months from the date of issuance. Approved plans shall not be amended without authorization of the city staff. The permit may be suspended or revoked by the city staff because of incorrect information supplied, not following the approved plan or any violation of the provisions of this chapter. A one-time six-month extension may be approved by the Director ~~planning director~~ upon submission of a letter from the applicant stating the reason for delay and approximate time clearing will be completed.

(5) The city shall be advised by the property owner or authorized agent the day prior to beginning any land clearing operations.

(6) Land clearing involving the use of heavy equipment shall be limited to those hours indicated in OHMC 6.56.030(1)(h).

(7) The applicant shall be responsible for posting the property as per Chapter 18.21 OHMC.

(8) In the case that multiple owners own a share in a property, a homeowners' association or other similar maintenance association shall be responsible for continued maintenance of the land and remaining vegetation, subsequent to land clearing.

(9) An erosion and sediment control plan shall be approved prior to issuance of a land clearing permit, or as a condition of approval of a land clearing permit.

19.47.060 Minor clearing permit.

In the case that a property owner wishes to remove five percent or less of the total trees and ground cover on a site, the owner may apply for a minor clearing permit.

(1) To apply for a permit, the owner must submit a letter requesting approval to remove the trees and/or ground cover. Such letter shall provide the following information:
   (a) The percentage of total ground cover and trees which will be removed, as compared to the existing amount of trees and ground cover on the lot;
   (b) Location of the trees and/or ground cover proposed for removal;
   (c) If applicable, the approximate date the last minor clearing permit was approved by the city;
   (d) Date that trees and/or ground cover are to be removed.

(2) At no time shall the city approve, either by individual permit or by multiple permits, the removal of more than five percent of ground cover and trees on a lot per year through the minor clearing permit. Any proposed tree or ground cover removal above the annual maximum of five percent is subject to the land clearing permit process.

(3) The minor clearing permits may not be used for requesting the removal of trees within a required buffer on arterial streets per OHMC 21.60.180.~~.~~

19.47.065 Performance standards.

~~All of the performance standards in this section are required unless an exemption from a particular standard is clearly justified in the narrative of the construction SWPPP.~~

Compliance with the following performance standards is required prior to the approval of a land clearing permit in 19.47.050 OHMC, unless an exemption is clearly justified in the SWPPP.

(1) Minimize Potential Impacts

All grading and clearing activities shall be conducted so as to minimize potential adverse effects of these activities on forested lands, surface water quality and quantity, groundwater recharge, fish and wildlife habitat, adjacent properties, and downstream drainage channels~~.~~ in accordance with the performance standards in this section.

(2) Stormwater Consistency of Standards

All standards under this code will be consistent with the latest version of the *Stormwater Management Manual for Western Washington*, pursuant to Title 12 OHMC.

(3) Natural Features and Vegetation Retention

Projects shall be phased to the maximum degree practical and shall take into account seasonal work limitations, to decrease exposed soils and minimize adverse impacts to natural features and vegetation resulting from land disturbance activities. The Director shall have the authority to require a phased land clearing plan.

(4) Dust Suppression

Dust from clearing, grading, and other construction activities shall be minimized at all times. Impervious surfaces on or near the construction area shall be swept, vacuumed, or otherwise maintained to suppress dust entrainment. Any dust suppressants used shall be approved by the Director ~~planning division manager~~ or designee. Petrochemical dust suppressants are prohibited. Watering the site to suppress dust is also prohibited unless it can be done in a way that keeps sediment out of the drainage system.

(5) Erosion and Sedimentation Control

Erosion and sedimentation control BMPs shall be designed and implemented appropriate to the scale of the project and necessary to prevent sediment from leaving the project site, including but not limited to, the standards and requirements described in this chapter, and

in the latest edition of the *Department of Ecology Stormwater Management Manual for Western Washington.*

(a) In addition to the measures in this and other codes and ordinances, the ~~planning division manager~~Development Services Director or designee may impose the following erosion control measures, or other additional measures, as appropriate for the project:

(ii) Funding additional city inspection time, up to a full-time inspector.

(iii) Stopping work if necessary to control erosion and sedimentation.

(6) Native Soil Protection and Amendment

(a) The duff layer and native topsoil should be retained in an undisturbed state to the maximum extent practicable. In areas requiring grading, remove and stockpile the duff layer and topsoil on site in a designated, controlled area, not adjacent to public resources and critical areas, to be reapplied to other portions of the site where feasible.

(7) Protection of Critical Areas

~~(1)~~ The function and values of all critical areas, including all stream types, geologically unstable areas, critical aquifer recharge areas, frequently flooded areas, wetlands, and fish and wildlife conservation areas or habitats, and their critical areas buffers located on or adjacent to the site shall be protected from clearing and grading activities that result in sedimentation, erosion, and degradation. Such impacts shall be avoided by appropriate use of setbacks, erosion, and sediment control measures, construction barriers, and other appropriate best development and management practices..

(8) Avoidance of Hazards

Land disturbance activities shall not result in off-site physical damage, nor pose a danger or hazard to life or property.

(9) Cut and Fill Slopes

Cut and fill slopes shall be designed and constructed in a manner that will minimize erosion. In addition, slopes shall be stabilized in accordance with the requirements of this section. The applicant shall:

(a) Submit a geotechnical report, prepared by a geotechnical engineer, when required pursuant to Title 20 OHMC including Critical Area Ordinance provisions for qualified professional reports.

(b) Minimize clearing and grading on slopes fifteen (15) percent or greater and meet any geologically sensitive areas performance standards set forth in Chapter 20.28 OHMC.

(c) Comply with the Geologically Sensitive Areas ~~Land Use Code~~ restrictions (OHMC 20.28) applicable to slopes forty (40) percent or greater and to areas of colluvial or landslide deposit on slopes of fifteen (15) percent or greater.

(d) Limit the maximum gradient of artificial slopes to no steeper than 2:1 [two (2) feet of horizontal run to one (1) foot of vertical fall] unless a geotechnical engineering report and slope stability analysis is provided and shows that a factor of safety of at least 1.5 for static loads and 1.1 for pseudostatic loads can be met.

(e) Do no clearing, excavation, stockpiling, or filling on the potential slide block of an unstable or potentially unstable slope unless it is demonstrated to the City Engineer's satisfaction that the activity would not increase the load, drainage, or erosion on the slope.

(f) Do no clearing, excavation, stockpiling, or filling on any unstable or potentially unstable areas (such as landslide deposits) unless it is demonstrated to the City Engineers that the activity would not increase the risk of damage to adjacent property or natural resources or injury to persons.

(g) Intercept any ground water, subsurface water, or surface water drainage encountered on a cut slope and discharge it at a location approved by the city of Oak Harbor D~~d~~evelopment S~~s~~ervices D~~d~~epartment. Off-site stormwater (run-on) or groundwater shall be diverted away from slopes and undisturbed areas with interceptor dikes, pipes and/or swales. Off-site stormwater should be managed separately from stormwater generated on the site.

(h) Design and protect cut and fill slopes to minimize erosion.

(i) Excavated material shall be placed on the uphill side of trenches, consistent with safety and space considerations.

(j) Check dams shall be placed at regular intervals within constructed channels that are cut down a slope.

(10) Slash Removal

Slash from clearing should preferably be chipped and used in native vegetation areas on the site within one (1) year of project completion.

(11) Seasonality – Temporary Restrictions

Seasonality refers to the wet season (defined as the period from October 1 through April. Clearing, grading, and other land disturbing activities may be approved by the Development Services Director~~planning division manager~~ or designee for proposals that have minimal disturbance of soils and are on sites with predominant soils that have low runoff potential, and are not hydraulically connected to sediment/erosion-sensitive features. The following criteria also apply:

(a) Wet season clearing, grading, and other land disturbing activities may be approved provided an erosion and sediment control plan is prepared by a professional engineer that specifically identifies methods of erosion control for wet weather conditions to control erosion/sedimentation, surface water run off, and safeguard slope stability. In a situation where erosion or sediment is not contained on site, construction activity shall cease immediately and notification of the Development Services Director~~planning division manager~~ shall be made within twenty-four (24) hours.

(b) When approval is issued in the dry season (defined as the months of May through September), and work is allowed to continue in the wet season, the ~~c~~City of Oak Harbor may require additional measures to limit erosion and/sedimentation. ~~for slope stability.~~ The Director ~~planning division manager~~ or designee may prohibit land-disturbing activities during certain

days of the wet season. Determinations shall be made on a site-specific basis and evaluation of the following:

(i) Average existing slope on the site.

(ii) Quantity of proposed cut and/or fill.

(iii) Classification of the predominant soils and their erosion and runoff potential.

(iv) Hydraulic connection of the site to features that are sensitive to erosion impacts.

(v) Storm events and periods of heavy precipitation.

(c) If a clearing and grading approval is issued for work during the wet season and the Director~~planning division manager~~ subsequently issues a "Stop Work" order or correction notice for insufficient erosion and sedimentation control, the approval will be suspended until the dry season, or until the Director ~~planning division manager~~ determines that weather conditions are favorable and effective erosion and sedimentation control is in place.

(d) Certain activities are exempted from seasonal restrictions (For a list of exemptions, see Stormwater Management Manual for Western Washington, Construction SWPPP, Vol. 2).

(12) Site-Specific Requirements

Additional, site-specific requirements may be established after a site visit by the city. These requirements shall be based on specific site conditions and are limited to additional temporary erosion and sedimentation control and the mitigation of hazardous or potentially hazardous conditions that pose a threat off site or to habitat preservation.

(13) Tree Retention

Clearing plans shall show tree retention areas and native vegetation retention areas and shall conform to all the requirements of 19.46 for protection during construction and development.

(14) Protection of Trees During Construction

Protection of trees during construction and development shall conform to the requirements of 19.46.140.

19.47.070 Performance bond or cash guarantee.

The city staff may require, as a condition to the granting of a permit, that the applicant furnish a performance bond or cash guarantee to the city to secure the applicant's obligation, after the approved land clearing has been accomplished, to complete the restoration and replanting of the property in accordance with the terms of the permit and within the term thereof. The bond shall be in an amount equal to the estimated cost of such restoration and replanting, plus an additional 10 percent and with surety and conditions satisfactory to the city staff.

19.47.080 Appeals.

Any person or persons aggrieved by any action of the city staff may within 15 days of such action file a written notice of appeal in accordance with Chapter 1.24 OHMC.

19.47.090 Civil/criminal enforcement.

A violation of any of the provisions of this chapter shall be a misdemeanor and any person found guilty thereof shall be punished by a fine not to exceed $500.00 or replacement value, whichever is greater. It shall be a separate offense for each and every day or portion thereof during which any violation of any part of the provisions of this chapter is committed, continued or permitted.

19.47.100 Injunctive enforcement.
Any violation of the provisions of this chapter is hereby declared to be a public nuisance and may be abated through proceedings for injunctive or similar relief in superior court or other court of competent jurisdiction.

19.47.110 Severability.
If any section, paragraph, subsection, clause or phrase of this chapter is for any reason held to be unconstitutional or invalid by action of law, such decision shall not affect the validity of the remaining portions of this chapter.

19.47.120 Permit fees.
After review and approval of the application a land clearing permit and minor clearing permit will be issued at a cost ~~determined from time to time by the city council.~~in accordance with the "City of Oak Harbor Comprehensive Permit and Fee List."

19.47.130 Compliance with state law.
All clearing shall be done in accordance with applicable state laws.

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

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

PASSED by the City Council this ___ day of _____ 2011.

CITY OF OAK HARBOR

Approved ( ) _____
Vetoed ( ) Mayor

_____
Date

ATTEST:

_____

City Clerk

Approved as to Form:

_____

City Attorney

Published:_____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OAK HARBOR AMENDING TITLE 21 OF THE OAK HARBOR MUNICIPAL CODE ENTITLED "SUBDIVISIONS" FOR THE PURPOSES OF PROMOTING LOW IMPACT DEVELOPMENT STORMWATER MANAGEMENT PRACTICES IN SUBDIVISIONS, SHORT SUBDIVISIONS, AND BINDING SITE PLANS.

WHEREAS, the City of Oak Harbor's Comprehensive Plan in Environment Policy 2(h) says "the City should provide incentives to utilize Low Impact Development techniques for new development and redevelopment projects that will further promote resource protection and stewardship. Such incentives may include density credits, street width and/or parking requirement reductions, stormwater fee credits, landscape/park requirement credits, and/or expedited permit review processing. The City should also provide educational materials through pamphlets or web links to the public to educate the public on low impact development and;

WHEREAS, the City of Oak Harbor finds that Low Impact Development is a non-structural approach for managing stormwater from new and redeveloped sites which has been found by multiple professional and academic studies to have less impact on the environment, especially water quality, than conventional approaches for treating stormwater and;

WHEREAS, the City of Oak Harbor finds that Low Impact Development techniques are, in most cases, cost competitive or less expensive to install than conventional stormwater infrastructure and;

WHEREAS, the City finds that Low Impact Development techniques promote higher property values by using vegetated raingardens, native vegetation areas, and pervious pavements which are considered to be more aesthetically appealing than conventional stormwater techniques and;

WHEREAS, the City of Oak Harbor finds that the Oak Harbor Municipal Code currently does not have standards for incorporating Low Impact Development in site designs, that having such standards will further promote the use of Low Impact Development stormwater treatment techniques, and will help City staff review these projects more efficiently and;

WHEREAS, the City of Oak Harbor conducted seven (7) work sessions on the proposed code updates with the Planning Commission which were open to the public on the following dates: October 27, 2009, November 24, 2009, January 26, 2010, February 23, 2010, March 23, 2010, April 27, 2010, and May 25, 2010 and;

WHEREAS, the City of Oak Harbor conducted a public meeting before the Planning Commission on January 24, 2010 and opened a public hearing on February 22, 2011 which was closed on March 29, 2011, and;

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

WHEREAS, the City of Oak Harbor issued Notice of Application on February 12, 2011 and Determination of Non-Significance (DNS) on March 11, 2011 for a SEPA Environmental Checklist in accordance with Chapter 43.21 RCW and;

WHEREAS, the City of Oak Harbor provided a 60-day comment period which began on March 17, 2011 and ended on May 17, 2011 to the Washington State Department of Commerce in accordance with Section 36.70A.106 RCW.

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

Section One. Chapter 21.10 of the Oak Harbor Municipal Code, last amended by Ordinance 1568, section four in 2010, is hereby amended to read as follows:

Chapter 21.10
GENERAL PROVISIONS

Sections:

21.10.010 Purpose.

This title shall be known as the "Subdivision Ordinance of the City of Oak Harbor, Washington." The purpose of this title is to regulate the subdivision of land and to promote the public health, safety and general welfare in accordance with the standards established by the state in Chapter 58.17 RCW as now or hereafter amended and the city and to:

(1) Provide for the expeditious review and approval of proposed land divisions which comply with this title, the Oak Harbor zoning ordinance, other city plans, policies and land use controls, and Chapter 58.17 RCW;
(2) Promote safe and convenient traffic circulation;
(3) Facilitate adequate provision for water, sewerage, drainage, parks and recreational areas, sites for schools and school grounds, and other public requirements;
(4) Provide for proper ingress and egress;
(5) Adequately provide for the housing and commercial needs of the citizens of the state and city;
(6) Require uniform monumenting of land divisions and conveyance by accurate legal description;
(7) Provide for convenient and safe pedestrian and bicycle movement;
(8) Promote the integration of new residential neighborhoods with developed areas of

the community;

(9) Encourage environmentally sound Low Impact Development techniques to manage stormwater;

(10) Facilitate development that is aesthetically appealing and appropriate for the community; and

(11) Implement the goals, objectives and policies of the Oak Harbor Comprehensive Plan.

21.10.020 Applicability.

(1) The provisions of this title shall apply to all division of land within the corporate limits of the City of Oak Harbor except as expressly stated in this title.

(2) Division of land into nine (9) or less lots shall be in compliance with the regulations and standards governing "short subdivision" set out in Chapter 21.70 of this title unless the binding site plan procedures of Chapter 21.80 are being followed. Division of land into ten (10) or more lots shall comply with regulations and standards pertaining to "Subdivisions" contained herein and must follow the preliminary and final procedures hereafter set forth or, if applicable, binding site plan processes.

(3) Sale of land is prohibited unless it is a duly platted parcel of land or lot or is a tract of record prior to September 16, 1980, or is a parcel of land approved under the short subdivision provisions.

(4) The provisions of the subdivision ordinance shall not apply to:

(a) Cemeteries and other burial plats while used for that purpose;

(b) Divisions of land into lots or tracts each of which is one hundred twenty-eighth (1/128th) of a section of land or larger, or five (5) acres or larger if the land is not capable of description as a fraction of a section of land;

(c) Divisions made by testamentary provisions, or the laws of descent;

(d) Divisions of land into lots or tracts classified for industrial or commercial use when the city council has approved a binding site plan for the use of the land in accordance with Chapter 21.80 of this title;

(e) A division for the purpose of lease when no residential structure other than mobile homes or travel trailers are permitted to be placed upon the land when the city council has approved a binding site plan for the use of the land in accordance with Chapter 21.80 of this title;

(f) A division made for the purpose of alteration by adjusting boundary lines between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum lot size requirements for width and area as specified in the underlying zoning;

(g) Divisions of land into lots or tracts if:

(i) Such division is the result of subjecting a portion of a parcel or tract of land to either Chapters 64.32 or 64.34 RCW subsequent to the recording of a binding site plan for all such land;

(ii) The improvements constructed or to be constructed thereon are required by the provisions of the binding site plan to be included in one (1) or more condominiums or owned by an association or other

legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest;

(iii) The city council has approved the binding site plan for all such land;

(iv) Such approved binding site plan is recorded in Island County;

(h) A division for the purpose of leasing land for facilities providing personal wireless services, as defined in Chapter 58.17.040 RCW, while used for that purpose.

(i) A division of land into lots or tracts of less than three (3) acres that is recorded in accordance with Chapter 58.09 RCW and is used or to be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities as defined in Chapter 58.17 RCW. This subsection does not exempt a division of land from the zoning and permitting laws and regulations of the Oak Harbor Municipal Code. Furthermore, this subsection only applies to electric utility facilities that will be placed into service to meet the electrical needs of a utility's existing and new customers.

(5) Land which the city council may find to be unsuitable or inappropriate for subdivision due to flooding, inadequate drainage, excessive slope, rock formations, high ground water, or other features likely to be harmful to the safety and general health and welfare of the future residents shall not be subdivided unless adequate corrective methods are provided and approved by city council.

21.10.030 Administration.

The director of development services, referred to in this title as "director" is delegated and assigned the administrative and coordinating responsibilities contained in this title pursuant to Chapter 58.17 RCW. All applications for land division approval under this title shall be submitted to the development services department. In cases where an environmental impact statement is required under the provisions of the State Environmental Policy Act (SEPA – Chapter 43.21C RCW), the department shall not be considered to be in receipt of an application, for the purpose of complying with time limitations established by this title, until the date of issuance of a final environmental impact statement.

21.10.040 City standards.

In addition to compliance with this title, all subdivisions shall adhere to all applicable adopted City standards and regulations including, but not limited to, the Comprehensive Plan, the Sewer Comprehensive Plan, the Water System Plan, and the Comprehensive Stormwater Drainage Plan, and the street and utility standards of the city which are on file with the city clerk.

21.10.050 Consent to access.

Persons applying for land division or lot line adjustment approval under this title shall permit free access to the land subject to the application to all agencies considering the

proposal for the period of time extending from the time of application to the time of final action.

21.10.060 Monuments.

~~Concrete~~ Brass monuments in cases shall be set at controlling corners of the subdivision, at all points where the street lines intersect the exterior boundaries of the subdivision, at controlling corners and points of curvature in each street, and at all street intersections. All surveys shall be of third order accuracy. The use of state plane coordinates is required.

All other lot corners shall be marked with a permanent suitable metal marker not less than three-eighths inch (3/8th) in diameter and eighteen inches (18") long and driven flush with the finished grade.

21.10.070 Definitions.

Words used in the present tense shall include the future tense; the future tense shall include the present tense. The singular shall include the plural; the plural shall include the singular. The words "may" and "should" are permissive; "shall" is mandatory.

(1) "Alley" means a public or private right-of-way, a minimum of twenty (20) feet in width, which affords a secondary access to abutting property.

(2) "Block" means a group of lots, tracts, or parcels surrounded by public rights-of-way or easements for pedestrian/bike travel.

(3) "Block length" means the perimeter distance around a block, divided by two (2).

(4) "Binding site plan" means a drawing to a scale specified by Chapter 21.80 OHMC which:

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

(b) Contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as are established by the city; and

(c) Contains provisions requiring development to be in conformity with the site plan.

(5) "Building" means any structure used or intended for supporting or sheltering a continuous use.

(6) "Building setback line" means a line parallel to the front property line in front of which no structure shall be erected. The location of such line shall be determined from the regulations of the zoning ordinance of the city.

(7) "City" means the city of Oak Harbor.

(8) "City engineer" means the duly appointed engineer for the city.

(9) "City finance director" means the duly appointed treasurer and finance director for the city.

(10) "Comprehensive plan" means the coordinated land use policy statement of the City adopted pursuant to 36.70A.030(4) RCW.

(11) "Controlling corner" means all angle points of the perimeter of a subdivision or separate divisions of a subdivision.

(12) "Council" means the city council of the city.

(13) "County assessor" means the duly elected county assessor for the county.
(14) "County auditor" means the duly elected county auditor for the county.
(15) "County engineer" means the duly appointed county engineer for the county.
(16) "County treasurer" means the duly elected county treasurer for the county.
(17) "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to him/her no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. The intention to dedicate shall be evidenced by the owner by the presentment for filing of a final or short plat showing the dedication thereon and the acceptance by the public shall be evidenced by the approval of such plat for filing by the City.
(18) "Director" means the duly appointed director of development services for the city.
(19) "Engineer" means a registered professional engineer licensed to practice engineering in the State of Washington.
(20) "Grid street pattern" means a street layout characterized by rectangular blocks and four-way intersections with streets meeting at right angles. This street pattern is also characterized by no or very few dead-ends.
(21) "Modified grid street pattern" means a street layout characterized by rectangular blocks. This street pattern is distinguished from a grid street pattern by a mix of three-way and four-way intersections with streets meeting at right angles.
(22) "Health department" means the county department of health.
(23) "Low impact development" or "LID" means a stormwater management strategy that emphasizes conservation and use of existing natural site features integrated with distributed, small-scale stormwater controls to more closely mimic natural hydrologic patterns in residential, commercial, and industrial settings.
(24) "Lot" means a fractional part of subdivided land having fixed boundaries being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include "plots" and "parcels."
    (a) "Corner lot" means a lot which abuts on two (2) or more intersecting streets;
    (b) "Interior lot" means a lot which has frontage on one (1) street only;
    (c) "Through lot" means a lot other than a corner lot abutting more than one (1) street.
(25) "Metes and bounds" means a description of real property which starts at a known point of beginning and describes the bearings and distances of the lines forming the boundaries of the property, and is completed when the description returns to the point of beginning.
(26) "Mid-block connection" is a thoroughfare connecting two (2) sides of a residential block, usually located near the middle of said block and intended for pedestrian and bicycle use.
(27) "Monument" means an object used to permanently mark a surveyed location. The size, shape and design of the monument is to be in accordance with standards specified by the city engineer.
(28) "Open space" means a portion of land excluding building sites and parking areas which is designated and maintained as an area for leisure, recreation and other activities normally carried on outdoors. Open space may include greenbelt and

recreational areas.

(29) "Pavement width" means the actual paved surface measured from edge to edge of streets or alley road surface.

(30) "Pipe stem lots," also called a "panhandle" lot, is defined as a parcel of land which resembles a rectangle with a lot taken out of a corner or corners leaving the remainder with considerably less width on the front lot line than the width at the rear of the parcel.

(31) "Planning commission," also referred to as "the commission," means the appointed planning commission of the city.

(32) "Plat" means a map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys or other divisions and dedications.

(a) "Preliminary plat" means a neat and accurately scaled drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, and other elements , which shall furnish a basis for the approval or disapproval of the subdivision.

(b) "Final plat" means the final drawing of the subdivision and dedication prepared for recording with the county auditor and containing all elements and requirements in Chapter 58.17 RCW and the Oak Harbor Municipal Code.

(c) "Redivision" means a map or representation of a subdivision showing thereon the division of a tract or parcel of platted land into two (2) or more lots, blocks, streets, and alleys or other divisions and dedications.

(d) "Short plat" means the map or representation of a short subdivision.

(33) "Plat certificate" means a title report by a title insurance company certifying the ownership, deed restrictions, covenants, etc., of the land being subdivided.

(34) "Right-of-way" or "R/W" means a strip of land deeded or dedicated to the city for street, utility and/or drainage purposes.

(35) "Short Subdivision" means the division or redivision of land into nine (9) or less lots, tracts, parcels, or divisions for the purpose of sale or lease.

(36) "Street" means a dedicated and accepted public right-of-way for vehicular traffic. The word "street" includes the words "road, drive, boulevard or way."

(a) "Arterial street" means an existing or proposed roadway designated as a "Principal" or "Minor" arterial within the Transportation Element of the Comprehensive Plan.

(b) "Collector street" means an existing or proposed roadway designated as a "Collector" or "Collector, Industrial" in the Transportation Element of the Comprehensive Plan.

(c) "Cul-de-sac" means a turnaround at the termination of a dead-end street designed in such a manner as to provide for the safe and convenient reversal of traffic movement.

(d) "Dead-end street" means a local street whose continuation is not required by the city for access to adjoining properties. For the purposes of this title, "eyebrow" or "crescent" turn-arounds are not considered to be dead-ends.

(e) "Local or minor access street" means a street providing vehicular access to abutting properties.

(f) "Private street" means a privately owned right-of-way which provides access for up to nine (9) residential units and meets the requirements of this title.

(g) "Shared drive" means a privately owned right-of-way for vehicular access for a maximum of four (4) residential units and meets the requirements of this title.

(37) "Street and utility standards of the city" shall consist of the requirements contained in the standard drawings and documents as specified by the city engineer which are on file with the city clerk.

(38) "Subdivider" means any person, firm or corporation who subdivides or develops any land deemed to be a subdivision.

(39) "Subdivision" means the division or redivision of land into ten (10) or more lots, tracts, parcels, sites or divisions for the purpose of sale or lease and includes all resubdivision of land.

(40) "Surveyor" means a registered professional land surveyor licensed to practice surveying in the State of Washington.

(41) "Tract" is a non-buildable unit of land created by a subdivision, short subdivision, deed, or other instrument recorded with the appropriate county recorder. Tracts are usually held in common by the owners of an organization, such as a home owner's association, for common benefit and are not required to meet minimum lot size and dimensional requirements of the applicable zone.

Section Two. Chapter 21.20 of the Oak Harbor Municipal Code, last amended by Ordinance 1568, section four in 2010, is hereby amended to read as follows:

Chapter 21.20
PRELIMINARY PLATS

Sections:

21.20.010 Purpose and Applicability.

The purposes of a preliminary plat (preliminary subdivision) application is to:

(1) Accept public comment on the proposed plat application in accordance with the public participation goals and policies of the comprehensive plan and;

(2) Review the proposed division of land for conformance with the comprehensive plan, zoning standards contained in Title 19 OHMC and design standards of this title including, but not limited to, lot size, setbacks and density prior to submittal of detailed construction plans and drawings under the provisions of Chapter 21.30

OHMC.

A preliminary plat shall be required when division of land into ten (10) or more lots, tracts, or parcels is proposed for which a binding site plan process is not being followed.

21.20.020 Application and submission requirements.

(1) The preliminary plat shall be prepared, stamped and signed by a licensed land surveyor.

(2) The preparer shall, by placing his or her signature and seal upon the face of the plat, certify that all information is portrayed accurately and that the proposed subdivision complies with the standards and requirements of this title, the Oak Harbor zoning ordinance, and any other applicable land use and development controls.

(3) The preliminary plat must be prepared in accordance with the following minimum requirements:

- (a) The preliminary plat shall be reproducible;
- (b) All geographic information portrayed by the preliminary plat shall be accurate, legible, and drawn to an engineering (decimal) scale;
- (c) The horizontal scale of a preliminary plat shall be one hundred (100) feet or fewer to the inch, except that the vicinity sketch and typical street cross sections may be drawn to any other appropriate scale; and
- (d) A preliminary plat shall be twenty-four (24) inches by thirty-six (36) inches in size, and if more than one (1) sheet is needed, each sheet shall be numbered consecutively and an index sheet showing the entire property and orienting the other sheets, at any appropriate scale, shall be provided.

(4) The preliminary plat must include the following information:

- (a) Name of proposed plat;
- (b) Name, address and phone number of the subdivider (owner) and the name, address and phone number and seal of the surveyor preparing the plat;
- (c) An accurate and complete legal description of the area being platted;
- (d) All parcels of land intended to be dedicated or temporarily reserved for public use and the conditions attached thereto shall be accurately indicated;
- (e) The lines and names of all streets and other public ways, pedestrian/bike connections, parks, playgrounds and easements intended to be dedicated for public use and/or common areas granted for use of inhabitants of the subdivision;
- (f) There shall be a vicinity sketch at a scale of not more than eight hundred (800) feet to the inch showing the proposed plat in relation to surrounding land. All platted or public rights-of-way for a distance of at least a quarter mile shall be shown, and additional area shall be illustrated, if necessary, to show connecting streets or arterials;
- (g) Monuments found and established during the preliminary survey;
- (h) Names and addresses of all land owners contiguous to the proposed plat;
- (i) Present zoning classification on and adjacent to the proposed plat;
- (j) Date, scale, north arrow and lot lines; and
- (k) All mapped information shall be prepared in a neat and legible manner.

(5) On a separate sheet of paper from the preliminary plat map, a site plan showing the following:
   (a) Name of plat;
   (b) Topography of the area with a maximum five-foot (5') contour intervals;
   (c) City datum shall be used;
   (d) Location of all utilities and sizing of existing and proposed public utilities, including but not limited to fire hydrants, water, sewer, storm drains, electricity, gas, telephone and cablevision lines, mail boxes; and
   (e) Existing structures and natural features and all proposed and existing improvements within and adjoining the proposed subdivision as required by the design standards contained in Chapters 21.50 and 21.60 OHMC.

(6) A landscape plan showing all of the following:
   (a) All buffers, screening, native vegetation and/or tree retention areas, fences and hedges required by Chapter 19.46 OHMC[eas1];
   (b) Landscaping around stormwater ponds as required by this title;
   (c) Any landscaping required in the public right-of-way or pedestrian/bicycle connections, including location, type and spacing of street trees; and
   (d) Locations of light fixtures in pedestrian/bike connections and along all streets;

(7) An environmental checklist and review fee shall be required in accordance with city ordinance upon the submittal of a preliminary plat;

(8) A copy of any deed restrictions or protective covenants existing or proposed; and

(9) Any additional materials, supporting documentation, and fees necessary to fulfill the requirements of other applicable municipal standards defined in the Oak Harbor Municipal Code.

21.20.030 Prints, application and fee submittal.

The preliminary plat application number of prints and applicable fees shall be as set forth on forms provided by the development services department.

21.20.040 Review procedures.

(1) Preliminary subdivision approval shall be a Type IV review process as outlined in OHMC Chapter 18.20.

(2) Upon receipt of the proposed preliminary plat application and determination of "fully completed" status, the director shall distribute it to each of the following for their review and comments as applicable:
   (a) City administrator or such other person as designated by the mayor;
   (b) City engineer;
   (c) Fire chief;
   (d) Police chief;
   (e) Public works superintendent;
   (f) City park board;
   (g) Island County planning department;
   (h) Oak Harbor school district;
   (i) Post office;

(j) Public and private utilities (such as power and natural gas), telephone, cable TV, telecommunications providers holding franchises in Oak Harbor; and

(k) Other agencies designated by the mayor.

(3) For purposes of this section, the term "fully completed," as used in RCW 58.17.033, is the same as Technically Complete" as defined and referenced in OHMC 18.20.350.

(4) The director shall prepare and give notice of the time, location and purpose of the hearing to the following agencies, if applicable:

(a) Department of Transportation if the preliminary plat is adjacent to the right-of-way of a state highway or within two (2) miles of the boundary of a state or municipal airport; and

(b) The county if the preliminary plat abuts the city limits.

21.20.050 Dedications.

(1) Dedication of land to any public body, provision of public improvements to serve the subdivision, and/or impact fees imposed in conformity with RCW 82.02.050 through 82.02.090 may be required as a condition of subdivision approval. Dedications shall be clearly shown on the final plat. No dedication, provision of public improvements, or impact fees imposed under RCW 82.02.050 through 82.02.090 shall be allowed that constitutes an unconstitutional taking of private property. The city shall not, as a condition to the approval of any subdivision, require a release from damages to be procured from other property owners.

(2) If the preliminary plat includes a dedication of a public park with an area of less than two (2) acres and the donor has designated that the park be named in honor of a deceased individual of good character, the city shall adopt the designated name.

21.20.060 Planning commission public hearing.

(1) Notice shall be provided of a public hearing before the planning commission.

(a) The director shall set a public hearing before the planning commission on the preliminary plat application.

(b) The director shall publish notice of the hearing not less than fifteen (15) days prior to the hearing date in a newspaper of general circulation in the area where the real property which is proposed to be subdivided is located.

(c) The director shall also give special notice of the hearing to landowners of adjacent real property located within three hundred (300) feet of any portion of the boundary of the proposed subdivision. If the owner of the real property which is proposed to be subdivided owns another parcel or parcels of real property which lie adjacent to the real property proposed to be subdivided, special notice shall also be given to landowners of real property any portion of the boundaries of which are adjacent to real property owned by the owner of the real property proposed to be subdivided.

(d) All hearing notices shall include a description of the location of the proposed subdivision. The description may be in the form of either a

vicinity location sketch or a written description other than a legal description.

(2) The planning commission shall consider the preliminary plat application and make a recommendation to the city council whether to approve or disapprove the proposed subdivision.

(a) The public hearing shall be an open record hearing where testimony and evidence shall be taken subject to the rules of procedure of the planning commission.

(b) The applicant shall be given an opportunity to testify and produce evidence in support of the preliminary plat application.

(c) Members of the public shall also be allowed to testify and to produce evidence.

(d) The planning commission shall review the application to determine whether the proposed subdivision conforms to the city's comprehensive plan, zoning code, and other planning documents adopted by the city council.

(e) The planning commission shall enter written finding of fact and conclusions concerning the proposed subdivision and include them in the recommendations to the city council.

(f) The recommendations of the planning commission shall be transmitted to the city council within fourteen (14) days of action by the planning commission.

21.20.070 City council decision.

(1) The preliminary plat application shall be placed on the agenda for the next regular city council meeting not less than one (1) week after the city council's receipt of the planning commission recommendations.

(2) Consideration of the application by the city council shall be a closed record proceeding. The city council shall make its determination whether to approve or disapprove the application based on the record created before the planning commission and the planning commission's recommendations.

(3) The city council shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication(s). It shall make written findings:

(a) Whether appropriate provisions have been made for, but not limited to, the public health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds, and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school.

(b) Whether the public use and interest will be served by the platting of the subdivision and dedication(s).

(c) The city council may approve or disapprove the application by resolution, which shall include the written findings required in paragraph (3) of this section. The city council may condition approval of the preliminary plat

upon actions to meet the requirements of paragraph (3) of this section. The city council may not require a release from damages to be procured from other property owners as a condition of preliminary plat approval.

(d) The city council decision shall be made within ninety (90) days of the date of the director's determination that the application is fully completed, excluding those excepted time periods specified in RCW 58.17.140, unless the applicant consents in writing to an extension of the time period for decision.

21.20.080 Effect of approval.

(1) Approval of the preliminary plat by the city council shall constitute approval for the applicant to develop construction plans and specifications for facilities and improvements, as required, in strict conformance with the approved preliminary plat, street and utility standards adopted by the city, and any special conditions required by the council.

(2) Permission shall not be granted for installation of required improvements until all construction plans and specifications have been approved in writing by the city engineer.

(3) Time for performance. Except as provided for in 21.40.020, construction shall be completed within five (5) years of the date of the city council resolution approving the preliminary plat or the preliminary plat approval shall terminate and all permits and approvals issued pursuant to such authorization shall expire and be null and void. If construction has been commenced but the work has been abandoned for a period of one (1) year or more, and if no extension of time has been granted as provided in 21.40.020 OHMC, the authorization granted for the preliminary plat shall terminate and all permits and approvals issued pursuant to such authorization shall expire and be null and void.

Section Three. Chapter 21.50 of the Oak Harbor Municipal Code last amended by Ordinance 1568, section seven in 2010, is hereby amended to read as follows.

Chapter 21.50
GENERAL DESIGN STANDARDS

Sections:

21.50.010. Purpose.

The design standards in this chapter implement the goals and policies of the Oak Harbor Comprehensive Plan for the division of land within city boundaries into lots, tracts, and parcels, as well as set requirements for the design and provision of public infrastructure needed to serve land divisions.

21.50.020. Applicability.

The general design standards in this chapter apply to all divisions of land within the City of Oak Harbor, including binding site plans, short subdivisions, and subdivisions.

21.50.030 Relationship to other plans required by this title.

All improvements required by this chapter for land divisions must be shown on the preliminary plat site plan, short subdivision map, or the binding site plan map, as applicable.

21.50.040 Waiver of requirements - Procedure.

(1) Any subdivider can make application for a waiver from one (1) or more of the design standards contained in this chapter provided the request is received concurrently with the proposed subdivision, short subdivision, binding site plan or dedication. In addition, the waiver process described in this section may be used to vary from the residential design standards in Chapter 21.60. A waiver shall be granted only upon a finding that strict compliance with the provisions for subdivision, short subdivision, binding site plan or dedication would cause unusual and unnecessary hardship on the subdivider due to the following:
   (a) Because of the size of the tract to be subdivided; or,
   (b) Its topography; or,
   (c) The condition or nature of adjoining areas; or,
   (d) The existence of unusual physical conditions.

(2) No waiver shall be granted which allows a subdivision, short subdivision or binding site plan, which is not in the public interest as identified in RCW

58.17.010 et seq.

(3) Subdivision waivers are a Type IV review process, as described in Chapter 18.20 of the OHMC and shall accompany and be processed with the preliminary plat, short subdivision, binding site plan or boundary line adjustment application.

(4) Such conditions may be required which may achieve, insofar as practicable, the objectives of the requirements for which a waiver is authorized.

(5) Application for an Adjustment or Waiver from the Local Residential Street designs contained in Table 21.50 -1 shall be processed in accordance with the provisions of section 21.60.070 and 21.60.080 OHMC, not the provisions of this section.

21.50.050 General improvement standards.

The standards of this section shall apply generally throughout the city of Oak Harbor.

(1) A water distribution system, including fire hydrants, shall provide domestic water service and fire protection to each lot. Said system shall conform to the city's comprehensive water plan, established policy and state requirements. Fire hydrant type and location shall be subject to the review and approval of the fire chief or his designee. Water mains and distribution systems shall be installed as shown on construction plans approved by the city engineer pursuant to Chapter 21.30 OHMC

(2) Sewer mains shall be installed as shown on drawings approved by the city engineer and shall conform to the city's comprehensive sewer plan. When required, sewer mains, manholes, lift stations and force mains shall be installed in all subdivisions prior to any water service being connected to any improvements. Service connections shall be provided to each lot.

(3) Drainage:

(a) All drainage in and through the subdivision shall be the responsibility of the subdivider.

(b) The subdivider may divert or enclose the natural drainage in his subdivision after providing a drainage system approved by the city engineer. The subdivider shall bear all costs associated with diverting or enclosing natural drainage and such alterations shall comply with Title 20 OHMC.

(c) All drainage within street rights-of-way must be contained in underground pipes and culverts except where permitted in gutters, or where Low Impact Development ("LID") stormwater management facilities are approved by the city;

(d) Where required, the subdivider shall design and install storm drain detention or infiltration systems.

(e) Alternate drainage structures, facilities and conveyances, such as LID techniques, may be acceptable where soil conditions permit, subject to approval by the city engineer.

(f) For maintenance purposes, all storm water detention or treatment facilities shall be placed in a tract, unless located within a public right-of-way.

(4) Streets:

(a) Paved streets, sidewalks, landscape strips and concrete curbs and gutters shall be required on all dedicated street rights-of-way in all subdivisions, unless an alternative design has been approved in accordance with section 21.60.070 and 21.60.080. LID alternatives such as permeable surfacing and on-site stormwater management facilities are encouraged where site and soil conditions make these feasible alternatives. All improvements shall be constructed in conformance with city street and utility standards and, when applicable, the "LID Technical Manual for Puget Sound" (Puget Sound Action Team, January, 2005 edition).

(b) The improvements shall be made from intersection to intersection, intersection to subdivision boundary, or from subdivision boundary to subdivision boundary.

(c) All streets, roads and alleys shall be graded to their full width so that pavement and sidewalks can be constructed on the same plane. Before grading is started, the entire right-of-way area shall be cleared of all stumps, roots, brush and other objectionable materials, and all trees not intended for preservation.

(d) On streets where a proposed subdivision adjoins an existing subdivision or existing street dedication and the existing subdivision or existing street dedication does not meet city standards, the subdivider shall, as a minimum, be responsible for installing paved streets, sidewalks, curbs, gutters, landscape strips, street trees, monuments, sanitary and storm sewers, street lights, water mains, and street name signs on both sides of all streets within the subdivision and on one (1) side on streets around the perimeter of the proposed subdivision. Any partial street improvements required on the perimeter of a subdivision shall be designed to allow for two-way vehicular traffic where reasonably necessary as a direct result of the creation of the subdivision.

(5) Alleys shall be constructed to the standards indicated in Table 21.50 – 1.

(6) Sidewalks:

(a) Sidewalks shall be installed on both sides of all streets, along dead-end streets and around cul-de-sacs. No physical obstructions such as poles, fire hydrants, utility boxes, utility vaults, or mailboxes shall be constructed in the sidewalk or overhang the sidewalk from zero to eight (8) feet above grade. Sidewalks shall be a minimum of five (5) feet wide and four (4) inches thick. Where rolled curb has been approved by the city engineer, all sidewalks adjacent will be a minimum thickness of six (6) inches.

(b) All sidewalks shall be completed prior to an occupancy permit being granted for any new building.

(7) Other Utilities:

(a) Street light standards and fixtures shall be provided to supply adequate lighting for the safety and convenience of the public.

(b) Franchise utilities shall be installed to provide electricity, natural gas, telephone, television/internet cable, and other services to the platted area. Said utilities shall be restricted to underground installation.

(c) All utilities (water, sewer, and electrical, and if available, gas, TV cable, and internet cable) shall be installed to the property line prior to acceptance of the public improvements.

(8) The subdivider shall install street name signs and traffic control signs and/or improvements and devices other than traffic signals to the satisfaction of the city engineer. The city may install such signs and devices at the expense of the subdivider.

(9) All utilities except water, sewer and storm sewer will be installed behind the sidewalk.

21.50.060 Streets - Access requirements.

(1) Each lot in a subdivision or short subdivision must have access to a public street or road. This requirement does not apply to lots created through a binding site plan. Alternatively, access may be by private access easement within a residential short subdivision in accordance with the requirements of sections 21.60.120 – through 21.60.140 of this title. In the case of lots intended for use by single-family residences, no more than one (1) driveway access is permitted for each lot, except as authorized by the city engineer.

(2) Whenever a proposed lot created through land divisions abuts two (2) or more streets of a different functional classification, access to the lot must be from the street with the lowest functional classification. Provided, that access may be from the street with the highest functional classification if it is determined by the city engineer that access from the street with the lower functional classification is impractical or impossible due to:

(a) Existing site conditions;

(b) Existing structures; and/or

(c) Topography or critical areas constraints of the site.

21.50.070 Streets - Required Improvements.

(1) Table 21.50 – 1 gives the minimum required dimensional standards for each functional street type listed in the Transportation Element of the Oak Harbor Comprehensive Plan. All public rights-of-way proposed within subdivisions, short subdivisions or binding site plans must conform to the requirements in Table 21.50 – 1, unless an alternative Local Residential Street design has been approved in accordance with section 21.60.070 or 21.60.080.

Table 21.50 – 1. Required Street Improvements

Street Type	Right-of-way width *	Face of curb to-face of curb width	Sidewalk width each side	Landscape strip width each side	Bike lane width each side
Principal Arterial, 4-lane	97 - 105 feet	52 feet without bike lanes, 60 feet with bike lanes. Landscaped median is 12	8 feet	12 feet	4 feet.

		feet.			
Minor Arterial, 2-lane	80 feet	47 feet, with 11 foot center turn-lane	5 feet	10.5 feet	5 feet
Minor Arterial, Industrial	60 feet	38 feet	none	6 feet (bioswale)	4 feet
Collector w/ bike lanes	66 feet	48 feet	5 feet	3 feet	5 feet
Collector, Industrial	50 feet	26 feet	none	6 feet (bioswale)	4 feet, one side
Local, Residential - Narrow	50 ft	28 feet with one parking lane. Or 28 feet including two 4-foot bike lanes and no parking	5 feet	5 feet	4 feet, optional
Local Residential, Wide	60 feet	36 feet parking on both sides. Or 36 feet with parking on one side and 4-foot bike lanes on both sides.	5 feet	5 feet	4 feet, optional.
Local LID Street #1	50 feet	20 feet (two 10-foot travel lanes).	5 feet	8-foot planter strip on elevated side. 10-foot utility corridor on basin side. Bioretention outside of right-of-way	none
Local LID Street #2	60 feet	28.5 feet, with one, 8.5-foot parking parking lane on basin side of street.	5 feet	9.5 foot planter strip on elevated side. 10-foot utility strip on basin	none

				side.Biorete ntion outside of right-of-way.	
Alley	20	19 feet.***	none		none

* All street types include a 6-inch strip at the outside edge of the physical improvements, but within the right-of-way, with the exception of the "Minor Arterial, Industrial" which has a 1-foot strip on the outside edge of right-of-way, ~~and~~ the "Collector, Industrial" which has a 4 foot strip on the outside edge of right-of-way, and the Local LID Street #2 which has a 1-foot strip on the outside edge of right-of-way[eas2].
~~** All streets include 6-inch curbs not shown in the dimensions above, with the exception of alleys which do not have curbs.~~
***16-foot width pavement sections may be used as approved on alleys ~~with permission from~~ by the city engineer.
Note: All streets include 6-inch curbs not shown in the dimensions above, with exception of alleys which do not have curbs.

(2) Where landscape strips are required on Local Residential streets within the public right-of-way, they are to be maintained by the property owner whose property is adjacent to the landscape strip. Such landscape strips shall contain one hundred percent (100%) groundcover in the form of drought-tolerant grass or turf.

(3) Intersection spacing of less than one hundred twenty five feet (125') is not allowed.

(4) For land division of commercial or industrial property, dead-end streets may be permitted where the proposed dead-end street will not adversely affect the traffic flow and circulation within the area. Dead-end streets shall terminate in a turnaround approved by the city engineer. The maximum allowable length is for dead-end streets is four hundred feet (400'), measured from the center of intersection to the dead-end terminus. Requirements for dead-end streets in residential subdivisions or short subdivisions are contained in OHMC section 21.60.110.

(5) All public roads shall also meet the requirements Title 11 OHMC.

21.50.080 Streets - Relationship to adjoining development.

The standards in this section address pedestrian, vehicular and bicycle traffic flow on a site as it relates to surrounding sites. These provisions create continuous, multimodal connections across properties and developments of different ownership. In so doing, these standards facilitate the efficient and safe movement of pedestrians, bicycles and vehicles, giving each mode multiple route choices from origins to destinations.

(1) Streets, sidewalks, pedestrian or bike paths, shall be linked within and between neighborhoods to create a continuous and interconnected network of roads and pathways;

(2) Local Streets, Arterials and Collectors shall be extended to the boundary of the development, unless an exceptional circumstance of topography, critical areas or existing development prohibits the extension. Provided, that if an adjacent property has a reasonable likelihood of redeveloping in the future, the director may require a street stub. Streets that end within a subdivision which will be extended in the future must be designed at least 200 feet beyond the limits of the subdivision and shall be shown on the preliminary plat document.

(3) The location of all Principal Arterials, Minor Arterials, and Collectors must conform to the Transportation Element of the Oak Harbor Comprehensive Plan;

(4) All streets dedicated shall be full-width except along the boundary lines of the plat. Half-width streets may be permitted along the boundaries of a development

upon approval of a final plat and in compliance with 21.50.050(4) OHMC where reasonably necessary as a direct result of the creation of the subdivision.

(5) The number of intersecting streets with Principal or Minor arterials shall be held to a minimum.

(6) Increased right-of-way requirements: the city engineer may require that street widths be increased from the minimum width in Table 21.50 - 1 to provide for traffic movement, to reduce or eliminate traffic congestion and for safety reasons.

21.50.090 Alleys.

Alleys provide secondary access to an abutting property. Alleys may be considered as a design solution to provide vehicular or service access to residential, commercial and industrial properties according to the following provisions:

(1) When alleys are proposed, they may be publicly dedicated and maintained or privately owned and maintained. All alleys which are dead-ends and do not provide a through connection to the other side of the block shall be privately owned and maintained.

(2) The dimensions of alleys must conform to Table 21.50 – 1.

(3) Alleys may be required by the city engineer as a design solution to serve residential properties which front on Arterials and Collectors and to minimize the number of driveway accesses on these streets. Alleys may also be required by the city engineer in commercial and industrial areas.

(4) Where private alleys are proposed, access and utility easements for residential areas may be permitted in lieu of public dedication. All utility easements shall contain access provisions for purpose of public utility maintenance.

21.50.100 Lot Dimensions.

The following requirements address the size and shape of lots created as part of subdivisions or short subdivisions and are intended to create a well-ordered and efficient arrangement of lots.

(1) Every lot shall have a minimum width of sixty feet (60') at the building line. All lots which do not have a width of sixty feet (60') at the setback line as referenced under the applicable zoning ordinance shall indicate on the face of the final plat the location of said building line.

(2) The size, shape, and orientation of lots shall meet the minimum area and width requirements of the applicable zoning classification and shall be appropriate for the type of development and use contemplated.

(4) Generally, the depth of the lot should not be more than three (3) times the width of the lot.

(5) All lots shall have a minimum frontage of thirty feet (30') on a public street unless access from a shared drive or private street has been approved in accordance with the requirements of 21.60.120 through 21.60.140.

(6) Insofar as practical, side lot lines shall be at right angles to street lines or radial to curved street lines, and no more than twenty (20) degrees from perpendicular to the front property line with which it intersects.

(7) Side and rear lot lines shall be straight, or composed of straight line elements.

(8) All lot corners in subdivisions and short subdivisions at intersections of dedicated public rights-of-way shall have a minimum radius of fifteen feet (15').

Section Four. Chapter 21.60 of the Oak Harbor Municipal Code last amended by section eight of Ordinance 1568 is hereby amended to read as follows:

Chapter 21.60
RESIDENTIAL DESIGN STANDARDS

Sections:

21.60.010 Purpose.

The following design criteria address the street, block and lot layout, landscaping and aesthetic design of residential subdivisions and short subdivisions and are intended to create attractive and safe neighborhoods and networks for pedestrians, bikes and vehicular travel within Oak Harbor. The criteria promote "walkable" neighborhoods which contribute to the efficient and comfortable movement of pedestrians, within Oak Harbor, and a reduction in the growth of vehicle trips, in accordance with the comprehensive plan policies.

21.60.020 Applicability.

The design standards contained in this chapter shall apply to all residential subdivisions or short subdivisions of land within the City of Oak Harbor, unless stated otherwise and are in addition to the general design standards of OHMC Chapter 21.50. These standards

do not apply to the division of land for commercial or industrial use.

21.60.030 Relationship to other plans required by this title.
All improvements required by this chapter for land divisions must be shown on the preliminary plat site plan, or short subdivision map, as applicable.

21.60.040 Blocks – Configuration.

(1) Blocks shall be deep enough to allow two (2) tiers of lots, except where:
- (a) There is an abutting Principal or Minor Arterial defined in the Transportation Element of the Comprehensive Plan;
- (b) The location and extent of environmental constraints prevents a two-tiered lot arrangement;
- (c) Unusual shape or small size of the lot prevents a two-tiered lot arrangement;
- (d) A single-tiered lot arrangement may be permitted on the boundary of a residential subdivision or short subdivision bordering existing non-residential development.
- (e) Prior to approval of a single-tier lot configuration based on exceptions (a), (b) or (c), the proponent has demonstrated to the city that a different layout or provision of an alley system is not feasible.

21.60.050 Blocks – Size.

(1) Blocks shall be a maximum of eight hundred (800) feet in length, as defined in 21.10,

(2) Blocks may be up to a maximum of one thousand feet (1,000') in length provided:
- (a) The applicant has demonstrated, through written materials, drawings, and illustrations, submitted as part of the plat application, that an exceptional circumstance exists. Exceptional circumstances are steep topography (exceeding 10%), a critical area designated in the comprehensive plan or delineated in a critical areas report; and
- (b) An alternative block pattern is proposed which achieves the purpose of this chapter; and,
- (c) A mid-block pedestrian/bike connection conforming to the design standards of this chapter are provided for all blocks over eight hundred feet (800') in length.

21.60.060 Local residential streets - Alternative designs.

(1) The following process for reviewing alternative street designs applies to Local Residential streets only. The City has a two-tiered process for reviewing alternative Local Residential street designs which do not meet the requirements in Table 21.50 - 1:
- (a) In the first tier, applicants for residential subdivisions may request to vary from the standard designs in Table 21.50-1 for Local Residential streets. Such requests must continue to provide all of the essential elements listed in 21.60.070. These types of alterations are reviewed administratively through an "Adjustment" application under a Review Process II.

(b) In the second tier, applicants may propose unique Local Residential street designs which eliminate one (1) or more of the essential elements found in 21.60.070 under a Review Process IV which shall be reviewed by planning commission at the time the preliminary plat is reviewed.

21.60.070 Local residential streets - Adjustment application for alternative designs.

(1) The director may at the request of an applicant, allow adjustments under a Type II Review process to the Local Residential Street sections specified in Table 21.50 - 1 "Required Street Improvement Standards" in residential subdivisions. If an adjustment is requested, it must meet both provisions (a) and (b) below.

(a) All of the "essential elements" continue to be provided in the street design. Essential elements are:

(i) Pedestrian facilities must be provided on both sides of the street. Pedestrian facilities must be a minimum of five (5) feet in width, but need to be either concrete (pervious or impervious) or hard-packed gravel. However, hard-packed gravel surfaces may only be provided adjacent to critical areas, and shall not be provided adjacent to residential lots.

(ii) Adequate public parking is provided. In place of on-street parallel parking lanes, applicants for residential subdivisions may provide public parking in the form of head-in parking, diagonal parking, parking courts, or parking in side alleys. A minimum of one (1) public parking space per two (2) residential units in the subdivision must be provided, whether or not parking is provided in on-street parallel spots, or an alternative design (parking courts, parking alleys, etc.) or a combination. Public parking spaces must meet the parking space size and access requirements specified in 19.44.110 OHMC, with the exception of on-street parallel spaces which shall be eight feet (8') in width by twenty feet (20') in length. The public parking spaces must be interspersed throughout the subdivision or short subdivision and within convenient walking distance to all units.

(iii) A landscaping element which has a total dimension of ten (10) feet in width. The landscape element may be one (1) or more landscape strips located within the street section. No single landscape strip may be less than three (3) feet in width. Low Impact Development (LID) bio-retention and stormwater treatment facilities qualify as landscaping elements as long as they are located within the public right-of-way.

(iv) Two (2), minimum ten (10) foot wide travel lanes.

(b) A narrative is provided which describes how the proposed design will meet all of the following:

(i) How the proposed street section will provide an equal or better street design for vehicles and pedestrians.

(ii) The proposed design will not compromise vehicle or pedestrian safety,

(iii) Public utilities, such as storm, sewer and water can continue to be provided, as necessary to serve the development.

(iv) All comprehensive plan designated vehicular and pedestrian connections will continue to be provided.

21.60.080 Local residential streets – Waiver application for alternative designs.

(1) Applicants for residential subdivisions or short subdivisions may also propose alternative Local Residential Street designs which do not contain all of the essential elements listed in section 21.60.070 above. The waiver will be reviewed by the planning commission under a Type IV review as specified in OHMC 18.20.260 and must be reviewed concurrently with the preliminary plat application.

(2) If an applicant is proposing to eliminate one (1) or more essential elements listed in 21.60.070 through the waiver process, all of the criteria for Adjustment contained 21.60.070(1)(b) must be met. In addition, applicants must meet criteria (a), (b), and (c) below and also meet either criteria (d) or criteria (e).

(a) There are unique site conditions (topography, critical areas or size and / or shape of the site) not common to other residential sites, which necessitate street designs that do not have all of the essential elements listed in 21.60.070(1)(a),

(b) Essential elements which have been eliminated from the street design are unnecessary either from a functional (pedestrian or automobile movement) or safety standpoint,

(c) Essential elements are not being eliminated solely for applicant convenience and,

(d) The applicant proposes to offset the loss of the essential element by replacing it with another element (i.e. bike lanes in place of landscaping) within the street section or

(e) The unique site conditions limit the applicant's ability to provide either the essential elements listed in 21.60.070 OHMC or any replacement elements referenced in (d) above.

21.60.090 Local residential streets – Submittal requirements for alternative street designs.

(1) Requests for alternative Local Residential Street designs, either under the Adjustment or Waiver processes must be received from the applicant at the time of preliminary plat submittal and must contain the following:

(a) Section drawings prepared by an engineer certified in the State of Washington that clearly illustrates the proposed street improvements.

(b) Written rationale for requesting to vary from the Local Residential Street improvements which meets all of the criteria in 21.60.070(1)(b) (if Adjustment or Waiver is pursued) and the criteria in 21.60.080(2) (if Waiver is pursued).

21.60.100 Local residential streets – Layout.

(1) The street pattern utilized for short subdivisions and subdivisions shall be a grid or modified grid, with four or three-way intersections designed at right angles. Blocks shall be rectilinear. The grid or modified grid street pattern may be adjusted to a curvilinear street pattern where the following factors are present on site:

(a) Infeasible due to steep topography (exceeding 10 percent) or presence of critical areas designated in the comprehensive plan; or delineated in a critical areas report in accordance with the requirements of Title 20 OHMC of this code, and/or

(b) Substantial improvements exist on adjacent properties which inhibit a grid or modified grid pattern and/or

(c) In lieu of the requirement for a grid or modified grid street pattern, alley access is an acceptable street pattern, in accordance with the requirements of 21.50.090.

21.60.110 Local residential streets – Limitations on dead-ends.

Dead-end streets may only be permitted in residential subdivisions or short subdivisions by the city engineer where, due to demonstrable physical constraints, no future connection to a larger street pattern is physically possible.

(1) Dead-end streets shall only be allowed where:

(a) There exists an exceptional circumstance of steep topography (exceeding 10 percent), a critical area identified in the Comprehensive Plan or delineated in a critical areas report, or existing development which prohibits a stub street or connection to the adjacent property;

(b) The street length for the dead-end as measured from the intersection to the terminus is no longer than 400 feet;

(c) The design of the dead-end turn-around has been approved by the city engineer and the Fire Department. Oak Harbor encourages alternative dead-end designs which reduce stormwater impacts and use less space. Dead-end designs shall meet minimum turning radius requirements for appropriate design vehicles.

(d) A pedestrian/bike connection has been provided for connectivity or future connectivity at the terminus of the dead-end constructed to the standards in 21.60.210 through 21.60.240; or

(e) A temporary turn-around may be approved when connections to adjacent properties cannot be extended at the time of development, but will be provided in the future and such temporary turn-around is required for emergency vehicles.

21.60.120 Access Easements – When allowed.

(1) The City may, at the request of the applicant and as permitted by the Oak Harbor zoning code, allow access to residential lots created through a short subdivision by alternative means in the form of shared drives and private streets. The purpose of the provisions in sections 21.60.120 through 21.60.140 is to optimize the opportunity for efficient and compatible use of land and infrastructure within city

limits and where full public street improvements are not needed to serve the development. Alternative access may be provided when the applicant demonstrates that all of the following criteria have been met as part of the short subdivision application:

(a) Public utilities can be accommodated in the access easement or other easements on the site;

(b) The access easement will not compromise, pedestrian, bicyclist, or vehicular safety and will provide for efficient traffic movement within the short subdivision and connecting to the surrounding circulation system;

(c) A public street is not necessary to provide access to a future developable area.

(d) A site contains steep topography (exceeding 10 percent) or a critical area(s), and the use of an access easement would reduce impacts to those areas. If a site contains steep topography or critical areas, criteria (a) through (c) must continue to be met; and

(e) The access easement must conform to the requirements of the Transportation Element of the Comprehensive Plan, OHMC section 21.60.130, and all other relevant street and utility standards as adopted by the city which are on file with the city clerk.

21.60.130 Access Easements – Design.

(1) Shared drives and private streets shall, at a minimum, be constructed to the following standards:

Table 21.60 – 1 Access Easement Dimensions

Feature	Shared Drives	Private Streets
Pavement width	Minimum 16 feet for up to 2 units, or 20 feet for 3 or more units.	Minimum 20 feet
Sidewalk	N/A	5 feet, one side only
On- street parking	N/A	Optional. If provided, parallel parking must be 8 feet wide. The public parking requirements from OHMC 21.60.070 must be met.
Maximum length	150 feet	400 feet
Turnaround required?	N/A	Yes, if more than 150 feet in length, or as required by the city engineer.

(2) Shared drives may be created which access a total of four (4) residential units in any combination of single-family detached units and / or duplex units.

(a) Shared drives may be connected to private streets as long as the total number of units served by the private street does not exceed nine (9).

(3) Private streets may be created which access a total of nine (9) residential units in any combination of single-family detached units and / or duplex units.

(a) Where a private street intersects a public street, signage shall be placed at the entrance to the private street indicating that the street is private and is not maintained by the City of Oak Harbor.

(4) All land divisions with more than nine (9) residential units accessing the same street must provide public streets that meet the configurations described in Table 21.50 – 1.

21.60.140 Access Easements – Utility services.
A maximum of two (2) lots can be served by private utility side services within an easement, unless the city engineer determines that a public utility main is necessary for adequate area service. Three (3) or more lots served within an easement will require public utilities.

21.60.150 Street Trees – Requirement.
Street trees shall be required along both sides of Local Residential Streets. The purpose of street trees is to improve the visual quality of streets, improve the pedestrian environment, and provide the environmental benefits of improved air quality, reduced stormwater impacts, and reduced heat-island effects associated with large paved areas.

21.60.160 Street Trees – Species
The following standards shall apply to the installation of street trees on any Local Residential Street containing landscape strips within a subdivision or short subdivision

(1) Street trees of a species specified in 21.60 - 2, shall be planted in the designated landscape strip within the public right-of-way, with a maximum spacing of thirty feet (30') along frontage for all divisions of land and on both sides of any public street. Landscape strip minimum dimensions are contained in Table 21.60 – 2;
(2) At the time of planting, all street trees shall be a species listed in Table 21.60 - 2 "Street Tree Species" or as otherwise approved by the director.
(3) The following table identifies tree species acceptable to the City of Oak Harbor.

Table 21.60 – 2. Street Tree Species

Species	Characteristics
Armstrong Maple	Common deciduous landscape tree. Fast growing, typically 40 feet with brilliant fall color. May be appropriate in a native setting.
Red Sunset Maple	Common deciduous landscape tree. Fast growing, typically to 40 feet with brilliant fall color. May be appropriate in a native setting.
Paper Bark Maple *Acer Griseum*	Small, compact tree appropriate as a street tree.
Japanese Hornbeam *Carpinus Japonica*	Deciduous tree, mid-size, compact tree recommended for street tree use.
Lavelle Hawthorne *Crataegus Lavelle*	Appropriate for street tree use.
Little Leaf Linden *Tilia Cordata*	Small deciduous tree reaching height of 30 feet. Tolerant of urban conditions.
Autumn Brilliance Serviceberry *Amelanchier Arborea*	Slow growing, small compact tree.

21.60.170 Street Trees – Maintenance and protection.
To protect their function, define management responsibilities, and protect the health of the street trees, the following language shall be placed on face of the plat:

> Street trees planted in the designated landscape strip along the frontage of all lots, in accordance with the approved landscape plan associated with the residential plat of _____, shall be maintained by the property owners of lots directly adjacent to the location of the street trees. The replacement of street trees for those that have died is the responsibility of the adjacent property owners. The location and tree species for replacement street trees must be in conformance with the approved landscape plan for the plat or as approved by the director and shall not obstruct the travel lane or parking stalls at full maturity. If property owners do not maintain street trees, the City of Oak Harbor may choose to maintain these trees and invoice the adjacent property owner for the cost of the work.

21.60.180 Landscape buffer – Requirement.
A landscaped buffer shall be required along all Minor Arterial roads for a width of at least twenty-five feet (25') abutting all standard residential subdivisions. The purpose of the landscape buffer is to minimize the impact of the roads on adjacent residential uses, encourage tree preservation and planting, and to create visually attractive corridors along these roadways. The landscape buffer shall be established as a separate tract on the face of the plat. The provisions in this section and 21.60.190 and 21.60.200 OHMC do not apply to short subdivisions.

21.60.190 Landscape buffer - Design.
The landscape buffer may incorporate either natural vegetation, applicant proposed vegetation or a combination of both. The purpose of the following requirements is to provide a "complete" buffer which contains overstory, understory and groundcover vegetation.

(1) The Landscape Buffer shall include the following landscaping:
- (a) Trees planted thirty feet (30') on center along the entire length of the edge closest to the arterial road, and no closer than ten feet (10') from this edge of the buffer to avoid conflicts with the required utility easement.
- (b) Shrubs and bushes to provide ninety percent (90%) cover of the buffer area within two (2) years; drought-tolerant, low-maintenance varieties are required.
- (c) Sufficient shrubs and bushes to provide a continuous four-foot (4') high visual screen of the arterial road from within the land division. The plantings must not restrict site distance at intersections.
- (d) In addition to the street trees identified in (a), throughout the entire buffer area a mix of deciduous and coniferous trees, of a species determined suitable by the City of Oak Harbor, shall be provided at a planting density of at least one (1) tree for every four hundred (400) square feet of the buffer area.
- (e) All required plantings in the buffer shall avoid conflicts with public utilities and the species shall be selected to avoid root damage to sidewalks, streets and curbing.

(f) The dual use of landscaped buffers as LID stormwater management facilities is encouraged, provided that the purpose and character of the landscaping is not compromised[eas3].

(2) Those areas of the landscape buffer where suitable natural vegetation of understory and ground cover and healthy stands of trees not prone to wind throw or blow down after adjacent areas have been cleared, may be retained as substitute for the required landscaping in (1) provided:
- (a) Trees are planted as in accordance with (1)(a);
- (b) Evergreen ground cover is present in accordance with (1)(b);
- (c) Screening is present in accordance with (1)(c); and,
- (d) The minimum number of trees are present in accordance with (1)(d).
- (e) Trees which pose a safety hazard from wind-throw, as determined by an arborist, must be removed.

21.60.200 Landscape buffer – Maintenance and protection.

To protect their function, define management responsibilities, and protect the health of the landscape buffers, the following language shall be placed on face of the plat:

(1) Tract(s) _____, are set aside as landscape buffers. No vehicular access to the adjacent roadway is permitted through the tract(s) to protect vegetation and planting areas for their environmental and aesthetic value to the community; and

(2) Maintenance of Tract(s) _____ shall be the responsibility of the home owners association and not the City of Oak Harbor. If the association disbands, maintenance responsibility for Tract(s) defaults to the individual lot owners within the boundaries of the originally approved residential subdivision. If the landscape buffer is not maintained, the City of Oak Harbor may choose to impose a fee structure or invoice the property owners within the boundaries of the originally approved residential plat to maintain landscape buffers.

(3) All vegetation shall be maintained to preserve the health of the buffer plantings and to maintain the landscaping in a manner that conforms to the original landscape and maintenance plans associated with the residential plat approval, including replacement of dead or diseased plantings.

(4) Trees deemed to be a hazard by a professional arborist certified in the State of Washington may be removed, subject to approval by the City of Oak Harbor. Removed trees must be replaced. The city reserves the right to exempt the requirement for an Arborist's assessment if the tree is obviously a hazard, diseased, or dead.

(5) No dumping of vegetation or debris is allowed in buffer tract(s).

(6) No structures are allowed in buffer tract(s).

21.60.210 Pedestrian/bike connections – When required.

Pedestrian/bike connections shall be integrated into the design of subdivisions to enhance the connectivity throughout the plat. They should generally be placed in locations shown in the Comprehensive Plan. The applicant shall install pedestrian/bike connections in subdivisions and short subdivisions in any of the following circumstances:

(1) Sidewalks shall be provided along both sides of public streets in accordance with Table 21.50 - 1, unless an adjustment or waiver is requested in accordance with

code section 21.60.070 or 21.60.080 OHMC.

(2) If the pedestrian/bike connection is necessary to provide non-circuitous pedestrian and/or bike access to a park, open space, or activity center within or adjacent to the subdivision;

(3) Mid-block pedestrian/bike connections for blocks that are over eight hundred feet (800') long;

(4) Pedestrian/bike connections shall be provided to all adjacent uses at no greater than eight hundred-foot (800') intervals. The location of these connections must be coordinated between property owners. Specific connections to adjacent uses may be waived if:

(a) The applicant has exhibited through written materials, drawings, and illustrations, submitted as part of the plat application, that this is impractical or unsafe due to:

(i) Existence of an exceptional circumstance. Exceptional circumstances are steep topography (exceeding 10 percent), critical areas designated in the comprehensive plan or delineated in a critical areas report or existing development.

(ii) The land use characteristics of the adjacent use or potential use as determined by the Comprehensive Plan Land Use Designation; or

(b) An alternative connection to a bordering street can provide a non-circuitous route to the adjacent use; and

(c) An easement or dedication for future connection is provided to properties which have a reasonable likelihood of redeveloping as determined by the director.

21.60.220 Pedestrian/bike connections – Design.

This section provides the minimum design requirements for pedestrian/bike connections which are required by section 21.60.210. Sidewalks do not need to meet the standards specified in this section. Pedestrian/bike connections which meet the design standards in this section and the safety standards in 21.60.230 may be counted as active open space in planned residential developments.

(1) Pedestrian/bike connections shall be built to the following standards:

(a) Be constructed within an easement twenty feet (20') wide,

(b) The pedestrian/bike connection itself shall be either concrete or asphalt (pervious or impervious) and be a minimum of ten feet (10') wide;

(c) Hard-packed gravel may be used for walkway surface in areas adjacent to critical areas designated in the comprehensive plan or delineated through a critical areas report;

(d) A landscape strip of five (5) feet shall be provided on either side with one hundred percent (100%) ground cover and deciduous trees planted at a maximum thirty-foot (30') interval with no less than two (2) trees on each side of the pedestrian bike connection. Ground cover shall be low-maintenance, drought tolerant varieties. Bark mulch and wood chips are not allowed in landscaped areas adjacent to the pedestrian/bike connection;

(2) Fencing along pedestrian connections shall comply with Chapter 19.46 OHMC

and shall not be constructed of chain link, plastic, or vinyl strips.

(3) Lots should front on the pedestrian/bike connection, where possible, to provide visual access and safety of these facilities. The sides of lots may be located along pedestrian/bike connections, however, this is a less preferable option, since fencing is required to separate the pedestrian/bike connection from areas on private lots such as side and rear yards. If lots front on pedestrian/bike connections, secondary access to these lots may be provided from an alley.

(4) All pedestrian/bike connections required by this code must be publicly accessible either by way of easement or through public dedication:

(a) The city may choose not to accept dedication of pedestrian/bike connections at its discretion; and

(b) All pedestrian/bike connections must be designed to city standards contained in sections 21.60.220 and 21.60.230.

(5) Continuous pedestrian/bike connections shall be provided by aligning with street ends, other pedestrian/bike facilities, and connecting destinations or trails.

(6) All trails proposed as part of subdivisions or short subdivisions shall be designed in accordance with the Parks, Recreation and Open Space Plan.

21.60.230 Pedestrian/bike connections - Safety.

The following safety requirements apply to all pedestrian/bike connections in subdivisions and short subdivisions with the exception of sidewalks:

(1) Visibility.

(a) Users shall have clear vision from one (1) end to of the connection to the other;

(b) Plantings shall provide clear visibility from the ground up to thirty inches (30") above grade;

(c) In natural or critical areas with existing vegetation, sight lines for pedestrian and bike safety may vary if:

(i) The protection required of the critical area by other OHMC or other applicable regulations prohibits the pedestrian/bike connection design from meeting this requirement

(3) The entire length of the pedestrian/bike connection must be well lit. Bollard lighting must be used with number of lights and spacing of light fixtures shown on the preliminary plat landscape plan.

(4) Bollard lighting is required at pedestrian/bike connection entrances;

(5) Signage directing users to the pedestrian/bike connection and appropriate use is required at all entrances;

(6) The intersections of pedestrian/bike connections with arterial streets shall provide a ten foot by ten foot (10' x 10') visibility triangle to promote clear vision into the pedestrian/bike connection.

(7) Mid-block connections which cross more than one (1) residential block and intersect streets, must meet the following safety requirements:

(a) Adequate site distance for vehicles to see pedestrians and bikes and come to a complete stop;

(b) Signage from both directions, warning motorists of the pedestrian/bike crossing;

(c) At a minimum, painted striping must be provided to delineate the crosswalk. Applicants are encouraged to use crossing designs which include different materials, such as pavers or pavement patterns, or rumble strips to warn motorists of the crossing. Raised crosswalks may also be provided.

(d) Staggered bollards at all intersections of mid-block crossings and the public right-of-way must be provided. If safety measures cannot be provided to ensure adequate pedestrian/bike safety, the mid-block crossing may be required at a different location or the city engineer may require additional design features to ensure safety of the facility.

21.60.240 Pedestrian/bike connections – Maintenance and protection.

(1) Pedestrian/bike connections and trails shall be maintained by an association of home owners. If the pedestrian/bike connection is part of the city-wide trail system, the city will maintain the connection.

(2) Language detailing the purpose, maintenance responsibilities of the home owners' association, and design standards for these facilities must be placed on the face of the plat.

(3) If these facilities are not adequately maintained to allow safe pedestrian and bicycle passage and/or landscaping is overgrown or in a state of decline, the City may choose to maintain the facility and bill the homeowner's association for the cost.

21.60.250 Stormwater ponds - Location and design.

Stormwater ponds shall be located and designed with consideration to aesthetics and to incorporate the facility as an amenity to the subdivision or short subdivision with features such as landscaping and natural building materials. The provisions in this section apply to all subdivisions and short subdivisions proposed within Oak Harbor. The following design requirements shall apply to the location and design of stormwater ponds.

(1) To create the visual effect of larger open space areas, stormwater facilities shall be located near open spaces, unless site conditions or topography do not allow.

(2) Structural materials utilized within stormwater pond design must have regard for natural aesthetic principles defined as follows:

(a) All structural elements of ponds shall utilize stone or other natural material that have decorative finishes. Acceptable pond materials are brick, natural stone, gabions and architectural blocks. Concrete is an acceptable material, subject to the standards of (b) below.

(b) Use of concrete in stormwater ponds shall be limited to the following finish types:

(i) Relief or architectural detail

(ii) Fractured finish

(iii) Exposed aggregate

(iv) Cast in patterns or textures

In addition, when concrete is used as a pond material, it shall be screened by planting to reduce the visual impact of these facilities.

(c) The use of Ecology block and synthetic stone veneers in pond construction is prohibited.

(d) All masonry in contact with pond water must be designed to withstand spalling. Pourous pond materials shall be placed above the wet zone.

(3) To limit the need for safety fencing resulting from steep slopes, stormwater facilities shall be designed with shallow internal slopes (recommend 3:1 or flatter), whenever feasible. If safety fencing is required it must:

(a) Be decorative or ornamental in nature. Gray, galvanized, chain-link fencing, chain-link fencing with slats or wood-plank fencing is not permitted. Vinyl clad chain-link fencing of green, brown or black color is acceptable if screened by plantings;

(b) For safety reasons, fencing must not completely limit visibility to the pond; and

(c) Ponds shall be designed such that safety fencing is not required on more than two (2) sides of the pond or fifty percent (50%) of the circumference, whichever is less.

21.60.260 Stormwater pond - Landscaping.

Landscaping shall be required for all stormwater ponds within subdivisions and short plats. The purpose of the landscaping is to improve visual quality. The following standards shall apply to the landscaping for stormwater ponds:

(1) A landscape plan that meets the standards of this section and the DOE (Department of Ecology) Stormwater Manual shall be designed by a Landscape Architect certified in the State of Washington and submitted as part of the preliminary plat or the preliminary application.

(2) A perimeter landscape area, a minimum ten (10) feet wide, is required adjacent to all stormwater ponds and shall be placed in a tract owned and maintained by an association of homeowners. This area shall be delineated on the face of the plat and associated landscape plan. The perimeter landscape area shall include:

(a) Evergreen ground cover, shrubs and bushes, to provide one hundred percent (100%) cover of the perimeter area within two (2) years. Native species and low-maintenance varieties are preferred;

(b) A mix of evergreen and deciduous trees to provide visual interest with a planting density of at least one (1) tree for every two hundred-fifty (250) square feet of landscape perimeter.

(c) Existing vegetation may be used to fulfill the landscaping requirements. However, all trees which pose a safety hazard and are subject to wind-throw must be removed.

(d) Trails or pedestrian paths are allowed near the pond, provided that the side slopes of the pond are 3:1 or flatter or safety fencing is provided around the pond. If a trail or pedestrian path is included around the stormwater facility, the area outside the trail or pedestrian path, but within the 10-foot landscape area must have one hundred percent groundcover within two (2) years.

(3) All landscaping for stormwater ponds shall be placed in a tract and maintained according to industry standards by a homeowner's association. If stormwater ponds are not maintained by the homeowner's association to provide for the necessary minimum treatment/detention functions and the pond tract, including

landscaping, is not being maintained, the City may choose to perform necessary maintenance of the facility and bill the homeowner's association for the cost.

(4) Any landscaping provided shall be above the freeboard water level.

Section Five. Severability and Savings Clause

(1) 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.

(2) Deletion or amendment of provisions from the Oak Harbor Municipal Code shall not terminate any obligation to the City already vested or incurred thereunder.

Section Six. Effective Date. This Ordinance shall be in full force and effect (5) five days after its publication as required by law.

PASSED by the City Council this ___ day of _____ 2011.

CITY OF OAK HARBOR

Approved ( )
Vetoed ( )

_____
Jim Slowik, Mayor

_____
Date

ATTEST:

_____
City Clerk

Approved as to Form:

_____
City Attorney

Published:_____

PRELIMINARY DOCKET FOR THE 2011 COMPREHENSIVE PLAN AMENDMENTS – Public Hearing

Mr. Powers reported the City followed advertising procedures to inform the informing the public of the amendment cycle and called for applications. The City received no request for privately sponsored land use map amendments. Therefore, the docket has two items; the annual Capital Improvements Plan update and staff will continue to work on the UGA capacity analysis. In 2011, City staff will work with the County on furthering the analysis. It is not anticipated that there will be any actual Comprehensive Plan amendments coming out of the continuation of the UGA capacity analysis. Mr. Powers summarized the staff report which details the criteria for considering items for the docket and a draft City Council resolution for the proposed docket. Mr. Powers concluded by recommending that the Planning Commission conduct the public hearing and recommend that the City Council approve the proposed docket for the 2011 Comprehensive Plan amendments.

The public hearing was opened. No comments came forth and the public hearing was closed.

ACTION: **MR. OLIVER MOVED, MS. JENSEN SECONDED, MOTION CARRIED TO FORWARD A RECOMMENDATION THAT THE CITY COUNCIL APPROVE THE PROPOSED DOCKET FOR THE 2011 COMPREHENSIVE PLAN AMENDMENTS.**

LOW IMPACT DEVELOPMENT (LID) CODE UPDATE PROJECT – No Action Required

Mr. Spoo reviewed the concept of Low Impact Development and the project background. Mr. Spoo explained that LID is stormwater practices which mimic natural hydrologic cycle through the use of rain gardens, pervious pavement, native vegetation (Infiltration). Traditional stormwater management uses ponds and pipes (conveyance).

Mr. Spoo said that the reason for LID is the Puget Sound cleanup efforts by the State. There are also advantages to property owners and the community. By moving away from traditional stormwater practices to LID it reduces the amount of public stormwater infrastructure that the community has to maintain and in certain cases, the use of LID instead of a stormwater pond could open up more of the site to development.

Mr. Spoo summarized the project background as follows:

- Project start – late 2007 with grant award
- 2008 – Consultant drafted code
- 2009 – Staff reviewed code
- Early 2010 – Work with Planning Commission
- Late 2010 – Staff drafts code

Mr. Spoo summarized the proposed code changes as follows:

Title 11 "Streets"

- Changes to match subdivision code
- Provisions for LID in streets, sidewalks, driveways. Two new LID street sections

Title 19 "Zoning"

- Chapter 19.44 "Parking"
  - ✓ Maximum parking standard – 150% minimum
  - ✓ Variance required for more than 150% of minimum
  - ✓ Pervious surface for 125% or more
- Chapter 19.46 "Landscaping and Screening"
  - ✓ Tree retention is rolled into native vegetation areas

- ✓ Advantages over tree retention concept:
  - Cross over with critical areas and landscape areas
  - Focus on area instead of number
- Chapter 19.47 "Clearing and Grading"
  - ✓ Performance standards – the how and when of grading.
    - Phased grading – where possible
    - Dust suppression
    - Preserve duff layer
    - Approval required for wet season grading
- Title 21 – "Subdivisions"
  - ✓ New street sections consistent with Title 11
  - ✓ Corridor buffers as LID facilities

Mr. Spoo reported that future scheduling could be as follows:

- February – Revisions by staff, pending PC comments.
- February – Open public hearing. Possible recommendation to Council?
- March – present to council, Council hearing.
- April – adoption by Council

Commission Discussion
Commissioners asked the following questions:

Why is the entire development cleared when some of the lots are not built on for a long time? Mr. Spoo said that it is cheaper to have the grading equipment on site one time rather than bringing the equipment back. In some cases, developers specify a phasing plan and there may be a few years between phases. In that case, it may be more appropriate to have phased grading.

Does the City offer any incentives to encourage phased grading? Mr. Spoo said that there were none at this point. Mr. Powers said it was an interesting idea that the City could consider. Mr. Powers also explained that the mass grading that occurs relates to the installation of the utilities as well. Depending upon how the subdivision is being served by utilities and where those utility lines may be; there is a need to grade more than what you might see in the first phase of building. But that doesn't mean there can't be some ways that we might see to limit that grading through this kind of ordinance.

Forty years ago developers saved trees and built around the trees. What has changed that makes it necessary to clear the entire site? Mr. Powers said that two things have changed; lot size and home size. Over the years we have seen lot sizes get smaller and home sizes get larger. When there was a smaller home on a larger lot it was possible and made good sense to grade just the area that for the home.

Where does the oil and sludge from the run-off go? Mr. Spoo said that it goes into the rain garden or the bioretention area. The oil settles into the soil and there are microbes that break down the hydrocarbon naturally into something that is not harmful to the environment.

Is this something the County is adopting as well? Mr. Spoo said that the County received the same grant and they are just now starting to look at LID.

BEING NO FURTHER BUSINESS BEFORE THE PLANNING COMMISSION, THE MEETING WAS ADJOURNED AT 9:08 P.M.

the application but that link goes back to how we define alteration. The answer to the question may be to take both of those together and staff will have a clear direction as to what we should be looking at when we determine what the appropriate signatures are.

MOTION: **MR. FAKKEMA MOVED, MR. WASINGER SECONDED, A MOTION TO RECOMMEND APPROVAL TO CITY COUNCIL OF THE AMENDMENTS TO CHAPTER 21.80 OHMC ("BINDING SITE PLANS") AS DRAFTED.**

Mr. Fakkema asked staff to let the City Council know that the Planning Commission struggled with the amendments. Mr. Powers said the minutes from each of the Planning Commission's meetings on the subject would be provided to the Council.

VOTE: **MOTION CARRIED BY A VOTE OF 3 IN FAVOR AND 1 OPPOSED.**

Mr. Powers noted that the next steps will be a brief to the Governmental Services Standing Committee. Then the item will be placed on the City Council's pending agenda and scheduled for the City Council's public hearing. Both meetings are opened to the public.

LOW IMPACT DEVELOPMENT (LID) CODE UPDATE PROJECT – Public Hearing
Due to the late hour the Planning Commission opted to hear the staff presentation at the March 22, 2011 Planning Commission meeting and to open the public hearing at this time.

Mr. Neil opened the public hearing.

Bill Massey (41 NE Midway Blvd.) said that he was generally in support of the proposed changes. He asked staff to take a closer look at 19.44.105 (2) (a). Mr. Massey shared his company's experience with parking areas using pervious pavement. He found that over a period of time the pavers didn't work because of the combination of oil and siltation. Mr. Massey said that if the surfaces were not maintained absolutely perfectly they plugged up and there was standing water. Mr. Massey recommended that staff look at other options rather than requiring one approach. He suggested allowing landscape areas, where soil conditions make infiltration feasible, to substitute for 20% landscaping requirement. Mr. Massey noted that there was a proliferation of stormwater retention ponds that are not always maintained and working. He said that the City can't police them as well as they should and it takes a lot of money to police them. In that case he recommended a regional approach to stormwater retention and collection. He thought that the pervious surface he described earlier would add to the problem.

ACTION: **MR. WALLIN MOVED, MR. OLIVER SECONDED, MOTION CARRIED TO CONTINUE THE LOW IMPACT DEVELOPMENT (LID) CODE UPDATE PUBLIC HEARING TO MARCH 22, 2011.**

ADJOURN: 8:55 p.m.

PLANNING COMMISSION
REGULAR MEETING
CITY HALL – COUNCIL CHAMBERS
March 29, 2011

ROLL CALL: **Present:** Bruce Neil, Keith Fakkema, Jeff Wallin and Jill Johnson. **Absent:** Kristi Jensen, Gerry Oliver and Greg Wasinger. **Staff Present:** Development Services Director, Steve Powers; Senior Planner Ethan Spoo; and Associate Planner Melissa Sartorius

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

MINUTES: **MR. FAKKEMA MOVED, MR. WALLIN SECONDED, MOTION CARRIED TO APPROVE THE FEBRUARY 22, 2011 MINUTES AS PRESENTED.**

PUBLIC COMMENT: No comments.

LOW IMPACT DEVELOPMENT (LID) CODE UPDATE PROJECT - Public Hearing (continued)

Mr. Spoo reported that the public hearing was opened in March and the last staff presentation on LID was in January. Mr. Spoo reviewed what was covered in January and presented the changes to the code that were proposed following the January presentation and the February public hearing.

Mr. Spoo noted that the changes to the code affect three different titles: Titles 11, 19, and 21. There are many proposed changes to Title 11 which is the City's street code so that Title 11 is consistent with Title 21. Title 21 is the City's subdivision code and changes to the title were approved last year.

Changes to Title 19 affect three different chapters. Chapter 19.44, 19.46, and 19.47. Chapter 19.44 "Parking" will apply a parking maximum to all parking areas with 50 or more spaces. Chapter 19.46 "Landscaping" will require native vegetation areas with new development. Native vegetation area is an undisturbed native vegetation area which helps filter stormwater. Chapter 19.47 "Clearing and Grading" proposes a variety of clearing and grading best practices to help limit erosion and siltation of surface water bodies. There's two substantive changes to Title 21 relate directly to LID is the creation of two new local residential street sections from which applicants for subdivision can choose. The second is language which allows LID facilities to be placed in streets, driveways, parking areas, and patios.

Mr. Spoo reported that in January, staff has worked with the Engineering department modify the street sections. There are still two LID street sections which applicants can choose from and both of them have a bio-retention area outside of right-of-way. Previously one of the street sections had pervious pavement in right-of-way and the other had a bioretention area in the right-of-way. Now, neither of them use pervious pavement and both of them move the bioretention area outside of right-of-way. Mr. Spoo displayed the two street sections and explained that the 50-foot section has two 10-foot travel lanes, a 10-foot utility corridor, which could be planted. It also has 5-foot sidewalks and an 8-foot planter. Outside of right-of-way, behind the sidewalk, is the bioretention area which individual property owners are more likely to maintain.

The 60-foot section is very similar, but this section adds an 8.5-foot parking lane. Everything else is essentially the same. There are 10-foot travel lanes, planter strip, sidewalks, and utility corridor.

Mr. Spoo discussed Title 19.44 "Parking" in more detail. The proposed language puts in place a maximum number of parking spaces which is 150% of the minimum number. But, instead of applying this to every use, this only applies to uses which have 50 or more parking spaces. The variance process would apply if the applicant wants to go above 150% of the minimum number of parking spaces. The variance process allows an applicant to go up to 200%. The second change to the parking chapter is in the use of pervious surfaces. In January the proposed code required that all spaces over 125% of the minimum number of spaces were required to be pervious surface. Staff received a citizen comment from a construction contractor which requested that we allow other LID techniques to be used in place of the pervious surface. So, instead of using pervious surfaces, in a parking lot with more than 125% of the minimum number of spaces, an applicant might be able to propose raingardens to treat that additional area.

Mr. Spoo reminded the Commission that a native vegetation area is a portion of the site which is preserved as native vegetation for the purposes of limiting stormwater runoff. The changes that have happened to Chapter 19.46 "Landscaping" since January, is that if no suitable vegetation exists, the applicants are allowed to clear and replant.

Mr. Spoo concluded his presentation by recommending that the Planning Commission accept public comments, close the hearing which was opened in February and recommend approval of the proposed amendments to Titles 11, 19, and 21 as drafted.

Discussion

Commissioners asked the following questions.

How would the new LID parking options have affected the Wal-Mart type parking areas? Mr. Spoo said that under the new code sites like the Home Depot parking lot would have been subject to a maximum. Home Depot has 200% of the code required minimum and the new code would scale that back. Mr. Powers added that K-Mart/Saar's parking would have seen a reduction of the total number of spaces at that facility and noted that the spaces which are on the back side of the K-Mart/Saar's building along Oak Harbor Road are hardly ever utilized.

Do the maximum parking spaces in the new code conflict with the box-store's maximum requirement? Mr. Powers said that was true and what we see is that our current code has a minimum standard and often businesses wish to provide more than the minimum requirement and that is not inherently wrong or bad, if, however the one of the overall community goals is to reduce the amount of stormwater that we have to deal with, providing the large areas of paved parking perhaps for only a certain number of days a year may not be the best idea in terms of meeting that community goal. The 200% was seen in other codes during staff's research but there is not necessarily any magic in that number either. Mr. Spoo explained that parking maximums are relatively new in the planning world. Over the last decade jurisdictions are starting to adopt maximums.

Do parking maximums apply to parking garages? Mr. Spoo said that structured parking is not addressed because it isn't commonly seen in Oak Harbor. So it only applies to surface parking lots that have a minimum of 50 spaces. Mr. Powers added that staff would look at the parking

as to whether it is a stormwater generating surface. A parking garage under a building would not create any additional stormwater.

Chapter 11.17 eliminated 11.17.090 variance language, is that because it was moved to another chapter? Mr. Spoo said that the variance section was deleted from that location and moved to the end of Chapter 11.17.120.

In Chapter 11.17 responsibility for the public right-of-way is moved from the public to the homeowners, what happens if a developer goes bankrupt and the property goes back to the bank, who is going to maintain the public section? Mr. Spoo said that when a final plat is created a homeowners association (HOA) is also created; so as the lots sell off some combination of the developer and the property owners that are there are responsible for the maintenance. As the developer sells lots then his share of the homeowners association decreases. Mr. Powers added that at some point the responsibility switches from the developer to the HOA. The present language on the face of the final plat assigns the maintenance responsibility to the HOA and the language goes on to say that if the HOA disbands for some reason then the individual property owners become responsible for that maintenance. If the bank becomes responsible the bank is responsible for the maintenance.

Mr. Powers added that not all neighborhoods would have LID techniques and that this is a voluntary street section and there is somewhat of an equity issue to say that all of the stormdrain rate payers should fund that maintenance of those few subdivisions that might choose to utilizes the LID techniques so we were a little worried about that and what the actual rate issue would be. The flip side is the challenges of having the maintenance responsibility fall to a private entity or onto the individual lot owner. Staff has concluded that this is an option that the developer can choose; it is not something that the staff is proposing to be city-wide as the mandatory section, so much like a PRD that has its own private parks or private open space there is a certain level of expectation that comes with buying into that piece of property.

Does the code apply to all new construction or can existing properties that wish to remodel use this code. Mr. Spoo said that the answer lies earlier in the parking code where it talks about when parking standards are applied generally. Section 19.44.050 talks about when the parking code is applied. It says, "All new or substantially altered uses or structures shall be provided with special purpose parking facilities as required by this chapter". This is where the parking maximum requirements are applied. Mr. Powers added that it could be argued that that standard should be applied going forward and that retrofitting of existing parking lots to meet that standard would be more challenging than starting from scratch. If the Planning Commission wishes to explore that, staff can do that.

There was discussion about whether the maximum parking standard should apply to only new construction or whether to define what "substantially altered uses or structures" are. Mr. Powers noted that the Design Guidelines use 60% threshold which might be the appropriate threshold to make clear how staff will handle existing properties. That would also screen out those that are just trying to make use of an existing building.

There was some confusion as to whether LID was voluntary. Mr. Spoo clarified that LID is voluntary but that the parking maximum is mandatory for all parking lots with 50 spaces or more.

Mr. Spoo said that staff can draft language that says the parking maximums only applies to new development or sets a threshold as to when the parking maximums kick in.

Mr. Neil opened the public hearing for additional public comment. Hearing none, Mr. Neil closed the public hearing.

ACTION: **MR. FAKKEMA MOVED, MR. WALLIN SECONDED, MOTION CARRIED TO RECOMMEND THAT THE CITY COUNCIL APPROVE AMENDMENTS TO TITLE 11 "STREETS" AS DRAFTED.**

ACTION: **MR. WALLIN MOVED, MR. FAKKEMA SECONDED, MOTION CARRIED TO RECOMMEND THAT THE CITY COUNCIL APPROVE AMENDMENTS TO TITLE 19 "ZONING" AS DRAFTED SUBJECT TO INCORPORATION OF A 60% THRESHOLD TO APPLY TO PARKING.**

ACTION: **MR. FAKKEMA MOVED, MR. WALLIN SECONDED, MOTION CARRIED TO RECOMMEND THAT THE CITY COUNCIL APPROVE AMENDMENTS TO TITLE 21 "SUBDIVISIONS" AS DRAFTED.**

ADJOURN: 8:17p.m.

CITY OF Oak Harbor
WHIDBEY ISLAND WASHINGTON

PUBLIC WORKS STANDING COMMITTEE
Thursday, October 6, 2011; 7:00 a.m.
Public Works Facility Classroom

MEETING NOTES

Chairman Danny Paggao called the meeting to order at 7:00 a.m. Public Works Standing Committee Members in attendance were Rick Almberg and Scott Dudley. Citizens in attendance were Duane Dillard, Larry Eaton, Robin Kolaitis, and Wayne Crider (SICBA). City staff in attendance: Mayor Slowik, Paul Schmidt, Cathy Rosen, Eric Johnston, Larry Cort, Arnie Peterschmidt, Steve Bebee, Steve Powers, Ethan Spoo, Rhonda Severns, Debbie Mueller, and Angela Braunstein.

1. **Public Comment** – Mr. Paggao recognized the members of the public present and proposed that comments be heard as the agenda items were discussed.

2. **Review Notes from September 1st, 2011 Public Works Standing Committee Meeting** – In reference to the Solid Waste Transfer Station agenda item, Mr. Almberg asked if the City was able to receive a short-term franchise contract with Island County. Cathy Rosen responded that the contract with the County expires in 2012 and staff will be negotiating with them closer to that time.

3. **SE Pioneer Way Project Update** – Larry presented the September 2011 Pioneer Way 3-week Schedule and Project Running Costs. He announced that today is the substantial completion date for the project and spoke highly of Strider Construction, saying that deadlines have been met and other items, not included under substantial completion, have also been completed.

   Oak Harbor Garden Club and the Parks Division have chosen plants which will be planted next week. The archaeology team is back on site and hopes to complete their work in the next 4 weeks. Notice has been given and the downtown office will be vacated by November 10th; however City staff will maintain a presence on the street and continue to post updates on the blog through the end of the project.

   Rhonda has been heading the October 15th Pioneer Way Re-Opening Ceremonies and provided a rundown of the events planned for the celebration. The Swinomish Tribe will be very involved, including providing and cooking 500 pounds of salmon, blessing the street, and conducting a ceremonial dance by tribal children with music by tribal elders. Other entertainment will include a DJ, sidewalk chalk art, poker walk, merchant sales, "Sweet Taste of Pioneer", and a free lunch of salmon or hotdogs with sides provided by the downtown restaurants.

   Mr. Paggao mentioned that the event has received excellent publicity. Mr. Dudley asked if the 2nd permit (for Pit Rd.) had been applied for and Larry answered that it has been issued, but not yet exercised. The plan is to move forward with work on Pit Rd. after Pioneer Way is complete.

4. **Wastewater Treatment Facility Plan** – Action on the WWTP has been postponed to the November City Council meeting. Eric invited any interested Council Members to participate in a visit to the City of Carnation WWTP and the Brightwater WWTP in Seattle at the end of October. He mentioned that the City of Carnation operated with septic systems until 2007 when they built a MBR facility, designed by Corollo, Inc. The Brightwater facility is much larger than the facility planned for Oak Harbor, but a visit to their educational center will benefit the City. There was discussion on the actual date of the all-day trip; Eric said they planned to work around Mr. Severns' schedule as he was unable to attend the last tour. Mr. Almberg asked if those attending could travel in their personal vehicles and Eric said they are welcome to, but a City vehicle will be arranged for all who are interested in attending.

5. **LID Code Amendments** – Steve Powers explained that the Council and public had concerns and questions about the Low Impact Development (LID) code proposed at the July 12th City Council meeting and that the code amendment had been continued. He presented a memo addressing those concerns. Ethan Spoo explained that a main reason for

the code amendment is to reduce storm water runoff from parking lots and streets. He said that most commercial lots are "over parked" and the proposed recommendation is 125-150% of the minimum number of required spaces. Comparing existing larger retail/commercial developments in Oak Harbor (Home Depot, Wal-Mart/Albertsons, Safeway, and K-Mart), only Home Depot would be effected by the new recommendations and would have been required to install 136 pervious spaces (of their total 407 spaces).

Mr. Crider commented that the changes are well defined and expressed some concern about residential parking (2.5 spaces per household unit) and believes too many cars would be parked in the streets. He supports LID, but feels that it doesn't work in all situations.

Mr. Dudley asked if Council would have the flexibility to allow a variance if a developer had a good alternative solution. Ethan indicated there are alternatives to pervious surfaces. Mr. Dudley asked if incentives would be offered. Ethan said, since we do not have a lot of experience with LID, we would like to see how the policy performs over time before offering incentives. Steve Powers pointed out that the City should proceed cautiously before offering incentives to developers, explaining that larger communities have storm water impact fees and may be able to offer incentives, but Oak Harbor does not have these impact fees and storm water fees are historically low, at the maintenance level, not the capital improvement level. He said we need to work inside the existing regulatory and funding frameworks. He offered that the true financial incentive was built-in to the new code, simply because less impervious surfaces equal lower fees.

Mr. Almberg asked about the seasonal water table changes at Home Depot and Mr. Powers clarified that the code language makes it clear that the code only applies where physically feasible. Discussion continued about current projects using LID methods and mandates expected from State agencies (Dept. of Ecology) that would require cities to have LID codes in place by 2015. There was also discussion on the models used to calculate rates based on rain flow; discrete vs. continuous. Eric pointed out that developers have been using LID practices since 2004 and Ethan added that having code in place would standardize practices and make the process simpler.

6. **Dillard's LID Special Benefit Study RFP** – Eric introduced a draft of the Dillard's Local Improvement District (LID) Special Benefit Analysis supporting the construction of a gravity sewer system. The analysis will test the benefit to the area vs. the cost of improvement and cannot exceed $10,000. The draft RFP has been sent to property owners and will be sent to Mr. DiJulio (attorney) for input. Staff is looking for input from the community and City Council by mid-October. Eric said they would like to bring the RFP back to the committees next month with revisions and then to the City Council for action to issue the RFP on November 15. Staff plans to have a draft Scope of Work by early February.

Duane Dillard, property owner in the Dillard's Addition, said that he appreciated the schedule; but felt he didn't have enough time to review the draft version as he had only received it the day before. He was also concerned that all public meetings on the issue were scheduled for 7:00 a.m., a time that made it difficult for property owners to attend. He would like more opportunities to comment at meetings scheduled for various times of day.

Robin Kolaitis, a property owner in the Dillard's Addition, added that the meetings were being held too early in the day. She expressed hopes that the City's main goal is to be open and honest with the property owners and shared her concern about miscommunication and indicated that the property owners do not trust that the City has the residents' best interests in mind. Ms. Kolaitis also mentioned the port-a-potty on the trail near their properties and the need for the City to plan for a permanent restroom fixture on City property. She said page 2 refers to 32 properties and she sees 35, and pointed out that Lot 1 was not shown.

Larry Eaton also commented that the meeting times should be changed, (7:00 a.m. was difficult to meet).

Mr. Almberg and Mr. Paggao each commented on the purpose of the standing committee meetings. They are used to educate Council and no legislative action is taken at the meetings. Property owners were invited to write their comments down and send them to Mr. Johnston at any time. His email address was included in the letter that accompanied the draft RFP.

7. **Safe Routes to School** – Arnie presented the revised project plans. He referred to his memo and explained that 2 of the 8 improvement sites will require archaeological services, and a professional services contract with Equinox Research and Consulting International, Inc. was being prepared. There was discussion on why Equinox was chosen and Eric explained that they have a good working relationship with the Swinomish Tribe and have had some involvement with the SE Pioneer Way Project.

8. **Erie Street Storm Drain Project Closeout** – Eric introduced the draft agenda bill requesting approval for one change order to the contract with C. Johnson Construction. The storm drain was installed to divert flow away from and reduce flooding in the area near Burger King and 7-11. The work had to be completed prior to the paving on SR 20 by WSDOT. Site conditions resulted in additional charges (above the authority granted the City Engineer). The bill will be presented at the November 15th City Council meeting.

9. **42-Inch Outfall – PWTF Loan Approval** – Arnie presented the draft agenda bill asking Council to authorize the signing of a loan agreement with the WA State Public Works Board (PWB) in the amount of $1.6 million with a term of 20 years and an interest rate of .50%. The total amount needed for the project is $1.9 million (the loan cannot fund the project 100%). Additional funds required will be paid with Storm Water Utility Funds. There was discussion about the loan and how it can be used and the possibility that the PWB loan program will be ending soon. Mayor Slowik pointed out that a loan from any other source would be near 4% interest. Steve Powers pointed out that with the PWB loan, the City can choose which projects to use the funding on; other funding sources require the project to fit the funding agency's parameters. Mr. Paggao clarified that the location of the outfall had to be realigned due to the high probability of cultural resources discovery.

10. **Engineering Division Major Project Report** – presented and accepted without question/concern.

11. **Public Works Director's Comments** – Cathy addressed Billie Cook's concerns from the September 1st meeting over Bayshore Drive. Engineers are working on the concerns and they should have something in November.

    Cathy indicated that there was citizen comment at a recent City Council meeting about the new SR 20 ADA ramps. She said Arnie met with the WSDOT project team and they reported that the ramps were constructed in accordance with Federal law. They indicated that they may make a few minor changes. Cathy said the wooden pedestrian button posts will soon be replaced with standard steel posts.

    PW sent vehicles to Hillcrest Elementary School's First Grade "Big Rig Day". It was nice for staff to come out from behind the scenes and meet with the public.

    City Staff met with Navy staff to update sewer rates. The contract requires revising and rates will decrease as there are no current capital projects. There was discussion about the lagoons and the possibility of the levy breaking during winter storms. Clearly there is a risk, but the Navy has gone to extraordinary efforts to protect the lagoons and the costs to mitigate are beyond justification. The solution is to choose a wastewater treatment facility site and move forward efficiently.

    With 15 minutes remaining and the agenda complete, Mr. Paggao opened the floor for additional public comments. Both Larry Eaton and Duane Dillard commented again on the meeting times, expressing their feeling that if the City truly wanted input they would change the meeting times. Mr. Paggao reiterated that the workshops were for discussion only and not for taking action, and again invited written concerns at any time.

    Next Meeting – Thursday, November 3rd, 2011; 7:00 a.m.

12. **Meeting Adjourned** – 8:53 a.m.

GOVERNMENTAL SERVICES STANDING COMMITTEE

Regular Meeting
City Hall Conference Room
October 11, 2011

ATTENDANCE

The meeting began at 8:00 a.m. with the following in attendance: Council members Campbell and Palmer, City Administrator, Paul Schmidt; Development Services Director, Steve Powers; Senior Services Administrator, Mike McIntyre; Public Works Director, Cathy Rosen; City Engineer, Eric Johnston and Marina Manager, Chris Sublet.

PUBLIC COMMENT

No comments.

REVIEW OF JUNE 14, 2011 MEETING NOTES

No questions or comments.

PUBLIC WORKS – ENGINEERING DEPARTMENT

Pioneer Way Improvement Project – *Update*

Mr. Johnston reported that the project was considered substantially complete as of October 6th in terms of full use and function of the street up to Ireland and from Ilwaco east but there are a number of things to be completed such as landscaping, some street lights, and punch list items. Over the next several months the utility connections will be made and the overhead power poles will come down. The archeological work should be completed in about a month and the contractor will return to complete that block. The merchant sponsored ribbon cutting event will take place this Saturday. The ribbon cutting events have been published in the Market Place and Whidbey News-Times.

Discussion

Committee members asked staff to look into adjusting the parking signs for better visibility to drivers. Currently the signs are angled in such a way that you can't tell that you are parking in a handicap parking spot until you have pulled in.

Dillard LID/Special Benefit Study RFP – *Update*

Mr. Johnston reported that the first draft of the RFP was distributed to property owners in the Dillard neighborhood by mail last Tuesday. There were several members of the Dillard neighborhood that attended the Public Works Standing Committee last Thursday with questions about the proposal. Staff anticipates a meeting with the Dillard neighborhood in late October to discuss the RFP. Staff anticipates coming back to the Standing Committees with revisions in early November and to the Council on November 15th to request authorization to advertise the RFP. Selection of a consultant should take place in January or February.

Discussion

Committee members discussed engaging the Dillard neighborhood and favored engaging the neighborhood prior to the special benefit study to provide an opportunity for an information exchange between the real estate appraiser and the neighborhood. Committee members also discussed the selection process and preferred that staff make the selection based on qualifications and a reasonable price.

PLANNING

LID Code Amendments – Update

Mr. Powers reported that the Planning Commission recommendations regarding the LID code were presented to the City Council on July 12th. At that meeting there were a number of questions and

public comment given by Mr. Crider via letter and e-mail. The Council tabled the item in order to give staff a chance to answer the questions and send a follow-up letter to Mr. Crider addressing his questions.

Mr. Spoo reported that major area of concern was parking. Parking is one of the two major contributors of stormwater runoff. There is a relationship between the amount of impervious surface on site and the amount of public infrastructure that is needed to serve it. The more impervious surface you have the more the City spends on maintenance of the public infrastructure. Those are the reasons that the Planning Commission recommended that the maximum parking standards be mandatory.

Mr. Spoo explained how parking minimums are determined and how cities have started considering adopting parking maximums since studies have found that many commercial lots have more spaces than are needed even during peak hours. Cities that use parking maximums usually set the parking maximum between 125% and 150% of the minimum required spaces for a given land use. Planning Commission focused on "being flexible within parameters" and staff suggested that a graduated approach be adopted whereby pervious surface (or other approved LID technique) would be required at 125% of the minimum number required and an administrative variance would be required at 150% of the minimum. Other cities usually place a hard limit at 125% or 150% of the minimum, but in the spirit of increased flexibility, staff suggested a 200% limit which was then recommended by the Planning Commission. The proposed parking maximum standards are only proposed to apply to parking lots with 50 spaces or more.

Mr. Spoo stated that a more flexible option might be to increase the threshold to which these regulations apply to 100 spaces, increase the threshold at which pervious applies to 150% of the minimum, eliminate the variance requirement, and increase the maximum to 250%. The existing code does not contain any parking maximum requirements. There is broad discretion for City Council to adjust these numbers as they see fit. Staff is seeking additional City Council input on this concept.

Discussion

Committee members asked for Mr. Crider's response. Mr. Crider said that staff addressed everything in his letter and e-mail and he was happy with the answers. He stated that Skagit/Island Counties Builders Association (SICBA) supports low impact development and they are one of the only associations that have a green community program to build green communities. They would rather see LID be encouraged rather than mandatory with incentives and the more flexible the better.

ADMINISTRATION

Draft 2012 Legislative Priorities Resolution – *Introduction/Discussion*

Mr. Schmidt reported that this is the annual resolution that Council conveys its priorities to our Legislators. There are eleven items that Mr. Schmidt outlined as follows:

1. Retain CAPROM Transportation funding as a critical resource for Whidbey Island surface transportation needs.
2. Continue to retain and support funding for the Public Works Trust Fund Program.
3. Refrain from supporting any Legislative proposals that would establish a mandate upon local government without providing the necessary funds to fully support the mandate
4. Support a Legislative effort to limit local government liability and financial burdens caused by unlimited public records requests.
5. Support a Legislative effort to continue planning for the definite replacement of the Deception Pass Bridge.
6. Support a Legislative effort to repeal those portions of RCW 36.70A.070(6) requiring Island County and its cities such as Oak Harbor to include State highways and ferry route capacity in determining transportation concurrency in local comprehensive plans.

7. Continue to support Legislative efforts to provide ongoing funding assistance for Phase II cities subject to NPDES storm water regulation and permitting.
8. Refrain from supporting any Legislative proposal that requires the election of all municipal court judges.
9. Support Legislation that better clarifies and retains Legislative decision making for determining reasonable and cost effective indigent defense services rules.
10. Continue to be diligent in addressing the State budget crisis without transferring State obligations onto local government.
11. Continue to support Legislation that provides flexibility at the pint of collecting development impact fees.

Discussion
Committee members asked if the City was close to the population threshold which would require that the City take over maintenance on SR20. Mr. Powers indicated we have not reached that threshold and that the population has remained flat. If the threshold was reached the City would lobby that the population threshold be raised so the City is not asked to take on that obligation.

Economic Development Proposal – *Introduction/Discussion*
Mr. Schmidt reported that this proposal is in response to City Council's direction, to come back to Council with a proposal to undertake a feasibility study to assist in bringing a private shipyard enterprise on the Seaplane Base with the potential of adding 100 jobs to our local economy. For the past couple of months the Mayor and City Staff have been involved in consultation with Navy personnel and the private sector enterprise that is interested in the economic development potential of private investment on the Seaplane Base. A project on the Seaplane Base will require a National Environmental Policy Act (NEPA) environmental review since it will be on Federal property. A NEPA review budget should start with $100,000 and real estate processing through the region would require additional funds. The City is also talking to the Navy about an enhanced use lease. The Navy is willing to look at that option. The City's role is to look at removing obstacles for the private sector to move forward and extend city utilities for the benefit of economic development. The City has also been working with the directory of the Community Economic Revitalization Board (CERB). Staff is recommending that Council authorize the Mayor up to $40,000 of Reserve Fund to provide further assistance as required to pursue economic development possibilities on the Seaplane Base

Discussion
Committee expressed concern about using Reserve Funds and felt that all parties should share in the cost of the feasibility study.

Development Services Director's Comments
Mr. Powers reported:

- Shoreline Master Program Update – the first draft is under review by the Citizens Advisory Committee.
- Temporary Sign Code – the Planning Commission will receive a briefing on the research so far. The Planning Commission will be presented with the draft code at their November meeting. The Council will consider the code or extend the time period for the interim code for another six months at their December meeting.
- C-Dock Roof Project – the decision has been made to formally cancel the contract because it will cost more money to keep the contractor on the books than it will to cancel the contract and pay them what is due. The City will regroup and find out what the most cost effective code compliant solution is for the roof and then go back out for another contract.

MEETING ADJOURNED – 9:12 a.m.

City of Oak Harbor
City Council Agenda Bill

Bill No. 8
Date: December 6, 2011
Subject: Sign Code – Interim Ordinance Extension

FROM: **Steve Powers** RSP
Development Services Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

PURPOSE

This agenda bill recommends that the City Council extend interim Ordinance Number 1609 pertaining to the Temporary and Special Signs section of the Oak Harbor Municipal Code.

AUTHORITY

RCW 36.70A.390 specifies that interim ordinances are effective for a period not to exceed six months, but may be renewed after that six-month period. Under this statute, the interim ordinance is effective until January 12, 2012. If the interim ordinance is renewed, it must be accompanied by a work plan.

FISCAL IMPACT DESCRIPTION

Funds Required: $ 0

Appropriation Source: Not applicable

Extending interim Ordinance Number 1609 does not require non-budgeted expenditures by the City or lead to new revenues. Therefore, staff does not anticipate there will be a fiscal impact from this action.

SUMMARY STATEMENT

City Council adopted interim changes to Oak Harbor Municipal Code Section 19.36.080 "Temporary and Special Signs" on July 12, 2011. That ordinance deleted a provision restricting placement of political signs to "a period of 60 days preceding the election." Staff review had raised legal concerns about this particular provision and other provisions in the temporary sign code, especially those pertaining to placement of signs on public property.

Staff have spent the past few months working with Planning Commission to address necessary changes to the "Temporary and Special Signs" section of the code. Planning Commission raised a number of questions requiring further staff research into legal and planning issues related to limits on temporary signs. For this reason, staff is requesting a six month extension on the interim ordinance adopted in July 2011. RCW 36.70A.390 requires that a workplan accompany the ordinance extension. Staff proposes the following workplan/schedule for completing this project:

- **January – March 2012:** Planning Commission work sessions and public hearing. Staff will answer

Planning Commission questions and craft language responding to their comments.

- **April – June 2012:** City Council work sessions and public hearing. Staff will work with City Council to address their questions and any additional public comments with an anticipated final adoption of a permanent ordinance by June 2012.

The rationale for the extension and the proposed schedule are set forth in the attached draft ordinance.

STANDING COMMITTEE REPORT

The proposed extension of the interim ordinance was not presented to a standing committee. As ordinance drafts are prepared by staff they will be discussed with the Public Works and Governmental Services Standing Committees.

RECOMMENDED ACTION

1. Conduct the public hearing.
2. Adopt ordinance extending interim Ordinance Number 1609 for an additional six month period until July 12, 2012.

ATTACHMENTS

- Attachment 1 – Draft Ordinance

ORDINANCE NO. _____

AN ORDINANCE EXTENDING INTERIM ORDINANCE 1609, PERTAINING TO TEMPORARY SIGNS, FOR A SIX-MONTH PERIOD OF TIME AND ESTABLISHING A SCHEDULE FOR COMPLETING WORK ON A FINAL ORDINANCE.

WHEREAS, cities and counties are authorized to adopt interim zoning ordinances in accordance with RCW.36.70A.390; and

WHEREAS, on July 12, 2011, the City Council of Oak Harbor adopted Ordinance No. 1609, an interim ordinance, deleting a provision in OHMC Section 19.36.080(8)(a) prohibiting placement of political signs prior to 60-days preceding an election; and

WHEREAS, the City Council held a public hearing on July 12, 2011, which was within sixty days of the adoption of the interim ordinance in accordance with RCW.36.70A.390; and

WHEREAS, the Planning Commission of the City of Oak Harbor will open a public hearing on January 24, 2012 to facilitate early and continuous public input in the consideration of a final ordinance; and

WHEREAS, the City needs additional time to study the adequacy of the interim ordinance to assure that the final regulation will preserve a reasonable opportunity to disseminate the speech at issue; and

WHEREAS, in accordance with RCW.36.70A.390, an interim ordinance may be effective for up to one year if a work plan is developed for related studies providing for such a longer period; and

WHEREAS, City staff has outlined a work plan that includes staff research and discussions with the public and the Planning Commission; and

WHEREAS, the goal of this additional research is to answer Planning Commission questions and offer additional time for public input with regard to temporary signs; and

WHEREAS, the adoption of a final ordinance requires public hearings before the Planning Commission and City Council, requires SEPA review and determination, and requires notification to the Department of Commerce; and

WHEREAS, the City has determined that an additional six months time is necessary to complete work on the "Temporary and Special Signs" section of the code.

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

Section One. **Extension of Interim Ordinance**. In accordance with RCW.36.70A.390, interim Ordinance No. 1609, adopted July 12, 2011, which deleted the 60-day pre-election time limit from Oak Harbor Municipal Code Section 19.36.080(8)(a) is hereby extended for an additional

six months until July 12, 2012, subject to general compliance with the work plan shown in Section Two below.

Section Two: Work Plan. The work plan shown below shall generally be followed in completing work on the temporary sign code ordinance.

January 2012 – March 2012	• Additional staff research and presentation of draft code to Planning Commission • Public hearing before the Planning Commission • Planning Commission makes recommendation on draft code to City council
March 2012	• Provide 60-day notification to Department of Commerce • SEPA review and determination
April 2012	• SEPA determination public comment period
May 2012	• Governmental Services and Public Works Committee Review
June 2012	• Public hearing before the City Council

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

Section Five. **Effective Date**. This Ordinance shall be in full force and effect five days following publication.

PASSED by the City Council this 6th day of December, 2011.

( ) APPROVED by its Mayor this _____ day of _____, 2011.
( ) Vetoed

THE CITY OF OAK HARBOR

_____
Mayor

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

Published: _____

City of Oak Harbor
City Council Agenda Bill

Bill No. 9
Date: December 6, 2011
Subject: Safe Routes to School Construction: Authorization to Advertise for Bids

FROM: **Cathy Rosen, Public Works Director**
Eric Johnston, City Engineer

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:
Jim Slowik, Mayor
Doug Merriman, Finance Director
Margery Hite, City Attorney, as to form

PURPOSE
This agenda bill seeks authorization to advertise the Safe Routes to School Construction Project for competitive bidding.

AUTHORITY
The City has authority under RCW 35A.11.020 to enter into contracts for municipal operations such as the construction of capital improvements. OHMC 2.330.010 requires that all bids requiring more than one trade or craft in excess of $30,000 be subject to a competitive bid process.

FISCAL IMPACT DESCRIPTION

Funds Required: $300,000 (estimated)

Appropriation Source: Safe routes to school grant and fund 105.

SUMMARY STATEMENT
The Safe Routes to School Project will construct physical improvements to eight (8) street crossings in Oak Harbor. All of the street crossings are on arterial streets and all are routes frequented by students walking to and from schools in Oak Harbor. The primary improvements are the installation of pedestrian-activated, solar powered, in-roadway-warning-light and warning sign systems at each of the intersections. Improvements to sidewalks and curb ramps are also included in the project. The locations of the intersection improvements are as follows:

1. W Loerland Dr. & SW Roeder Dr.
2. SW Heller St. & SW 8th Ave.
3. W Whidbey Ave. & Jib St.
4. W Whidbey Ave. & Fairhaven Dr.
5. E Whidbey Ave. & NE Izett St.
6. SE Midway Blvd. (between E Whidbey Ave. & SE 4th Ave.)
7. E Whidbey Ave & SE Regatta Dr.
8. NE Regatta Dr. & NE 5th Ave.

All work is to be performed in accordance with the contract plans, contract provisions and standard specifications. The Engineer's estimate for construction of the project is $300,000.

Construction documents for the Safe Routes to Schools Project were first completed in June of this year and construction bids were solicited. The single bid received significantly exceeded the funds available and the bid was subsequently rejected by Council. The project has since been scaled back to reduce construction costs while retaining the project elements required by the Safe Routes to School Grant. Improvements to the sidewalks and curbing were minimized and the light fixtures were reduced in number to the minimum standard.

STANDING COMMITTEE REPORT

The project was discussed at the Public Works Standing Committee meetings of January 9, 2009, June 2, 2011, and October 6, 2011.

RECOMMENDED ACTION

A motion authorizing staff to proceed with advertisement of the Safe Routes to School Construction Project for competitive bidding.

ATTACHMENTS

Interlocal Agreement with Oak Harbor School District
Map showing Safe Routes to School Locations

05/09/2011 09:11:02 AM
Recording Fee $66.00 Page 1 of 5
Agreement
Island County Washington

4294786

WHEN RECORDED RETURN TO:

NAME: City of Oak Harbor, Engineering Division
ADDRESS: 865 SE Barrington Drive
CITY, STATE, ZIP Oak Harbor, WA 98277

DOCUMENT TITLE(s)
1.Interlocal Agreement - Safe Routes to School Grant Funds
2.
3.
4.

REFERENCE NUMBER(s) OF DOCUMENTS ASSIGNED OR RELEASED:
☐ Additional numbers on page _____ of document

GRANTOR(s):
1.Oak Harbor School District No. 201, a political subdivision of the State of Washington
2.
3.
☐ Additional names on page _____ of document

GRANTEE(s):
1.City of Oak Harbor, a municipal corporation
2.
3.
☐ Additional names on page _____of document

LEGAL DESCRIPTION
Not applicable

☐ Additional legal description is on page _____of document

ASSESSOR'S PROPERTY TAX PARCEL ACCOUNT NUMBER(s):
Not applicable
☐additional legal description is on page _____of document

The Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

INTERLOCAL AGREEMENT
SAFE ROUTES TO SCHOOL GRANT FUNDS

THIS INTERLOCAL AGREEMENT is made and entered into pursuant to Chapter 39.34 of the Revised Code of Washington, by and between Oak Harbor School District No. 201 a political subdivision of the State of Washington, acting by and through its School Board, (the "OHSD") and the City of Oak Harbor, a municipal corporation organized under the laws of the State of Washington, and wholly situated in Island County, Washington, (the "City"), on the date shown below.

RECITALS

A. The City of Oak Harbor and Oak Harbor School District jointly prepared and applied for a Safe Routes to School grant through a program administered by the Washington State Department of Transportation to improve safety for school age pedestrian walking to and from schools in the City of Oak Harbor

B. The State of Washington awarded a $339,925 grant to the Oak Harbor School District for the improvements.

C. The City of Oak Harbor is a Certified Agency with the Washington State Department of Transportation for the administration of transportation grant funded construction projects

D. The Project is consist with the goal and policies for pedestrian safety listed in the City of Oak Harbor Comprehensive Plan Transportation Element.

E. The City has the appropriate statutory authority pursuant to Chapter 35A.11 RCW, and is ready, willing, and able to complete the Project described herein, and the parties are entering into this Agreement to carry out such purpose.

F. Entry into this Agreement is authorized under Chapter 39.34 of the Revised Code of Washington, the Interlocal Cooperation Act.

AGREEMENT

1. For and in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

2. Purpose. The purpose of this Agreement is to allow the OHSD to reimburse the City for costs of a pedestrian safety improvement Project known as the Safe Routes to School project, said improvements are more particularly described in the Safe Routes to School Grant Application submitted to WSDOT on May 1, 2008 and made part of this Agreement as Exhibit A. In completing the project the City will: Act as the Certified agency AND Design and construct (including all engineering, permitting, administration and all other work) the roadway and sidewalk improvements described in the agreement AND Purchase laser speed detection devices and use said devices for enforcement of speed limits within school zones. The OHSD will retain responsibility for all other aspects and requirements of the grant project.

3. Project Time / Budget. Work on the Project shall be substantially complete within 24 months from the effective date of this Agreement. For purposes of RCW 39.34.030(3)(d), the City will establish and maintain a Project construction budget. The City will be responsible for acquiring, holding and disposing of Project property. Unless otherwise agreed by the parties by subsequent written instrument, the OHSD shall not own any real or personal property acquired with the funds distributed to the City hereunder.

4. Construction. The OHSD shall have no responsibility for the design, construction or Project management of said Project. The City shall have the sole authority to determine its design, construction and Project management, and to enter into partnerships, contracts, or other legal arrangements with potential investors and/or users thereof to assist in financing and/or construction and permitting, in the manner allowed by law.

5. Allowable uses. All funds disbursed by the OHSD to the City under this Agreement shall be used by the City solely for Project costs considered permitted uses under the terms of the Highways and Local Programs State Funding Agreement entered into between the OHSD and the Washington State Department of Transportation which is made part of this Agreement as Exhibit B The City hereby warrants and guarantees that the said Project shall be completed for uses as described therein.

6. Financing. The reimbursement to the City from OHSD for this Project will be in the not to exceed amount of $314,925. Upon receipt of a request for reimbursement and documentation evidencing that the City has paid Project costs allowable under this Agreement, the OHSD shall pay said reimbursement request within ninety (90) days of receipt.

7. Repayment Guarantee. In the event that it is determined that any portion of the funds provided by the OHSD is used for any purpose not authorized under this Interlocal Agreement, the City hereby guarantees that it will repay to the OHSD all such funds, together with accrued interest at the same rate as if the funds had been invested with the Washington State Local Government Investment Pool. Any repayments due to the OHSD shall be paid by the City within ninety (90) days of written request made by the OHSD.

8. Documentation. The City shall maintain for a period of six (6) years proper records documenting that the funds provided by the OHSD were used solely for the purposes contained herein. The City shall make Project records available for inspection or audit by the OHSD or its duly authorized representatives.

9. Indemnification. The City shall be solely responsible for administration of the Project. The City shall at all times protect, indemnify and save harmless the OHSD from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, reasonable counsel fees, and expenses) imposed upon or reasonably incurred by or asserted against the OHSD on account of (i) any failure of the City to comply with any of the terms of this Agreement or (ii) any loss or damage to real or personal property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to the Project or the use or financing thereof or (iii) any use of the Project in violation of applicable law (including environmental laws); provided, the City has no obligation to indemnify the OHSD for any claim or liability resulting from the OHSD's negligence or willful misconduct. This paragraph shall survive the completion, expiration, and/or termination of this Agreement.

The City shall maintain, during the life of the Agreement, Industry Standard Occurrence Commercial General Liability Insurance in the amount of $1,000,000.00 Per Occurrence and $2,000,000.00 Aggregate, including Premises/Operations, Products/Completed Operations, Blanket Contractual Liability and Personal Injury Coverage, to protect the City from claims for damages for bodily injury, including wrongful death, as well as from claims of property damage which may arise from any operations under this contract whether such operations be by the City or by anyone directly employed by or contracting with the City.

The City shall maintain, during the life of this Agreement, Business Automobile Liability Insurance in the amount of $1,000,000.00 Bodily Injury and Property Damage per combined single limit to protect the City from claims which may arise from the performance of this Contract, whether such operations are by the City or by anyone directly or indirectly employed by the City.

10. No Separate Legal Entity. It is not the intention that a separate legal entity be established to conduct this cooperative undertaking. For purposes of RCW 39.34.030(4)(a), the City's chief administrative officer shall administer the Project.

11. Modification of the Agreement. This Agreement may be modified only by the written consent of each party.

12. Arbitration. Any dispute between the parties concerning the application of or violation of the express terms of this Agreement shall be resolved through arbitration. For purposes of arbitration, each party shall pick its own arbitrator and the two arbitrators within ten (10) days shall pick a third arbitrator. If the two arbitrators do not agree within ten (10) days to pick a third arbitrator, either party may apply to the Superior Court of Island County to select a third arbitrator. A majority decision of the arbitrators shall be final and conclusive.

Except where expressly provided in this Agreement, the arbitration shall be governed by Ch. 7.04A RCW. Washington statutes of limitation apply to arbitration proceedings under this Agreement. The cost of arbitration shall be borne by each party paying for its own arbitrator and its attorney fees and costs. Should all parties participate in an arbitration, those parties' arbitrators shall meet and choose an arbitrator who shall join in deciding the matters in the dispute in the manner set forth above. The arbitrator will be compensated by the parties as follows: Each party shall pay one half the costs of all arbitration including the compensation for the third arbitrator. Each party shall pay the cost for the arbitrator it selects.

13. Term of Agreement and Termination. This Agreement shall become effective on full execution hereof and compliance with Section 14, and shall expire upon the payment in full to the City, if any, owed by the OHSD pursuant to Section 6 of this Agreement.

14. Filing of Agreement. Under RCW 39.34.040, prior to its entry into force this Agreement must be either filed with the Island County Auditor or, alternatively, listed by subject on the City's Internet website.

15. Survival. Sections 5, 7, 8, 9, 10 and 13 of this Agreement shall survive the termination of this Agreement.

OAK HARBOR SCHOOL BOARD
ISLAND COUNTY, WASHINGTON

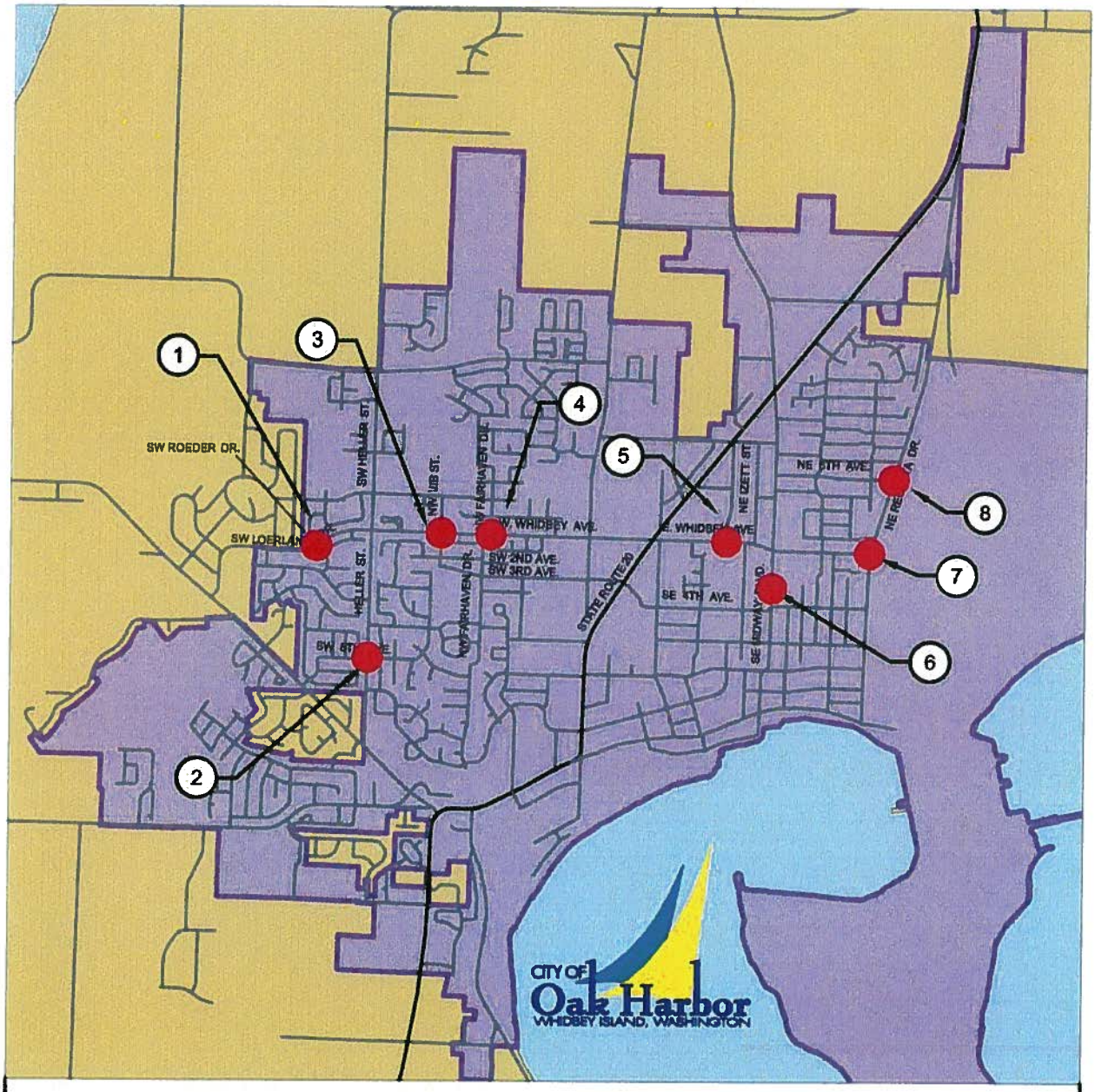
By: _____ Date: 4/25/11
Dave Sherman, Chair

Attest:
_____
Richard J. Schulte, Clerk of the Board

CITY OF OAK HARBOR

By: _____ Date: 4-11-2011
Jim Slowik, Mayor

Attest:
_____
CONNIE WHEELER, City Clerk



SAFE ROUTES TO SCHOOL LOCATIONS

1. WEST LOERLAND DR. & SW ROEDER DR.
2. SW HELLER ST. & SW 8TH AVE.
3. W. WHIDBEY AVE. & JIB ST.
4. W. WHIDBEY AVE. & FAIRHAVEN DR.
5. E. WHIDBEY AVE. & NE IZETT ST.
6. SE MIDWAY BLVD. BETWEEN E. WHIDBEY AVE. & SE 4TH AVE.
7. E. WHIDBEY AVE. & REGATTA DR.
8. NE REGATTA DR. & NE 5TH AVE.

City of Oak Harbor
City Council Agenda Bill

Bill No. 10
Date: December 6, 2011
Subject: Hiring/Firing Freeze

FROM: **Paul Schmidt**
City Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:
Jim Slowik, Mayor
Doug Merriman, Finance Director
Margery Hite, City Attorney, as to form

PURPOSE

The purpose of the agenda bill is from a motion by Councilmember Almberg and second by Councilmember Munns to discuss the possibility of a temporary hiring/firing freeze of City employees.

AUTHORITY

OHMC 1.04.020(3)
Public Notice for full council agenda – Introduction of action.

(3) Matters introduced by a councilmember which are seconded by another councilmember and not on the agenda shall be set over to another full council meeting for consideration and action, if any. Every councilmember-initiated agenda item shall be stated by the initiating councilmember for the agenda in the form of a proposed action item such as council discussion, a motion, resolution or ordinance. As an exception to the provision of this subsection, the following matters after motion and second may be considered and acted upon during the same meeting they are introduced:

(a) Matters declared an emergency;
(b) Directions to staff to prepare documents or reports or both for consideration; or
(c) Scheduling of meetings. (Ord. 1578 § 4, 2010; Ord. 1115 § 1, 1997; Ord. 1031 § 1, 1996; Ord. 817 § 1, 1988.

FISCAL IMPACT DESCRIPTION

Funds Required: N/A

Appropriation Source: N/A

SUMMARY STATEMENT

At the Special City Council meeting on November 28, 2011, Councilmember Almberg made a motion in accordance to OHMC1.04:

> "to place on the agenda for December 6th, whether a six-month freeze on any hiring and firing decisions should be imposed until City Council has had the opportunity to consider the budgetary and operational impacts. The motion was seconded by Councilmember Munns."

STANDING COMMITTEE REPORT

N/A

RECOMMENDED ACTION

None

ATTACHMENTS

None.