



**Meeting Location:**  
Council Chambers  
216 Prospect Street  
Port Orchard, WA 98366

**Contact us:**  
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**Planning Commission  
Regular Meeting  
Tuesday, March 3, 2026  
6:00 PM**

Attendees and Planning Commission members may attend in person at City Hall or via Zoom.

Pursuant to the Open Public Meetings Act, Chapter 42.30 RCW, the City Council is conducting its public meeting in a hybrid format with options for in-person attendance in the Council Chambers at City Hall or remote viewing and participation via Zoom (link below). The meeting is streamed live on the City's YouTube channel, click [here](#).

**Remote Access**

**Link:** <https://us02web.zoom.us/j/86180242823>

**Zoom Call-In:** 1 253 215 8782

**Webinar ID:** 861 8024 2823

- 1. Call to Order: 6:00 p.m.**
  - A. Pledge of Allegiance**
  
- 2. Welcome and Introduction**

Planning Commission and City Staff Introductions.
  
- 3. Audience Comments**

Topics not listed for public hearing on tonight's agenda.. Please limit comments to 3 minutes.
  
- 4. Approval of Minutes**
  - A. February 3, 2026**
  
- 5. Business Items**
  - A. DISCUSSION: Landscaping**

The City of Port Orchard is considering amendments to Port Orchard Municipal Code 20.128 to update and clarify development standards and approval process related to required landscaping.  
Staff Contact: Jim Fisk, AICP, Principal Planner
  - B. DISCUSSION: Permitting and Development Approval**

The City of Port Orchard is considering amendments to Port Orchard Municipal Code 20.22, 20.80, 20.90, and 20.98 related to Final Plat Permit Typing and process.  
Staff Contact: Jim Fisk, AICP, Principal Planner

**C. DISCUSSION: Director's Report**

Update to the Planning Commission on recent related to past and upcoming Planning Commission activity.

Staff Contact: Nick Bond, AICP, Community Development Director

**6. Adjournment**

**7. Next Planning Commission Meeting: April 7, 2026**

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**ADA Requirements**

In compliance with the American with Disabilities Act, if you need accommodations to participate in this meeting, please contact the City Clerk's office at (360) 876-4407. Notification at least 48 hours in advance of meeting will enable the City to make arrangements to assure accessibility to this meeting.

**Reminder:** Please silence all electronic devices while Planning Commission is in session.

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# CITY OF PORT ORCHARD

## DEPARTMENT OF COMMUNITY DEVELOPMENT

216 Prospect Street, Port Orchard, WA 98366

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### PLANNING COMMISSION STAFF REPORT

<b>Agenda Item No:</b> 5(a)	<b>Meeting Date:</b> March 3, 2026
<b>Subject:</b> POMC 20.128 - Landscaping	<b>Prepared by:</b> Nick Bond, AICP, Development Director
Discussion	

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**Issue:** The City of Port Orchard is considering updates to its landscaping regulations in Port Orchard Municipal Code (POMC) Chapter 20.128. The purpose of this effort is to resolve existing ambiguities, align the code with emerging regulatory requirements, and better support neighborhood connectivity, environmental performance, and long-term livability, while maintaining a predictable and transparent review process for applicants.

Staff first introduced this topic to the Planning Commission in November, following a presentation from Public Works on the City’s National Pollutant Discharge Elimination System (NPDES) permit obligations. Public Works continues to map existing tree canopy and develop long-term canopy goals. At the February 17, 2026 City Council Work Study session, Public Works provided an update on this ongoing work. As the canopy analysis progresses, any required implementation of NPDES-related tree canopy standards will need to be integrated into POMC 20.128. Because this work is still underway, portions of the redline, particularly POMC 20.128.060, which establishes quantitative tree-planting requirements, remain unchanged at this stage. Once the canopy analysis is complete, staff will revisit those standards and adjust them as needed to support the City’s canopy goals.

At the February Planning Commission meeting, the Commission discussed whether the chapter’s applicability should be expanded to include detached houses and middle housing to ensure consistency with House Bill 1110. The redline presented at that meeting reflected this potential expansion and was subsequently forwarded to the Land Use Committee for review at its February 18, 2026 meeting. After discussion, the Land Use Committee directed staff not to include detached houses or middle housing in the applicability of POMC 20.128. The revised redline included in the March packet reflects this policy direction and removes the applicability expansion that had been included in the February draft.

Changes in the draft amendments include:

- Adding a purpose statement that emphasizes visual and pedestrian connectivity and discourages continuous perimeter fencing unless needed for safety or function.
- Clarifying chapter applicability consistent with Land Use Committee direction, limiting applicability to development types historically regulated under POMC 20.128.
- Establishing a clear, predictable process for amending approved landscape plans.

- Clarifying open-space expectations to avoid turf-only areas unless designed for active recreation, and requiring meaningful vegetation, native plantings, or programmed amenities.
- Creating enforceable invasive-species control standards, including targeted requirements for Himalayan blackberry and Japanese knotweed.
- Updating buffer and perimeter standards to encourage layered planting and low-height screening rather than continuous solid fencing.
- Consolidating fence standards from POMC 20.139 and adding new blank-wall treatment requirements for large retaining walls.

The proposed updates to Table 20.128.070 are intended to give applicants more flexibility in how they design buffer treatments. Rather than relying on a one-size-fits-all approach, the revisions offer a range of options that can better respond to surrounding uses. The intent is to support compatibility between sites while maintaining appropriate levels of privacy and screening, and to encourage buffers that feel more functional, adaptable, and connected to the surrounding development pattern.

Staff remains on track for adoption in early Fall 2026, though progress may depend on Public Works' ability to complete its NPDES-related canopy work. The anticipated schedule is as follows:

- Nov–Dec 2025: Planning Commission reviewed this introduction and direction on priorities.
- Jan–Apr 2026: Staff continues to prepare draft ordinance language, illustrations, and checklists, coordinating with Public Works and Stormwater staff.
- May 2026: Planning Commission review of draft language and public comment.
- Jun–Jul 2026: Commission holds a public hearing and forwards a recommendation to City Council.
- Aug–Sep 2026: Council review and anticipated adoption in early Fall 2026.

Staff welcomes feedback on the proposed amendments and will maintain a comment matrix to track input and document how comments are addressed throughout the update process.

**Attachments:** Draft Amendments to POMC 20.128 - Landscaping

## **Chapter 20.128 LANDSCAPING\***

Sections:

[20.128.010 Purpose.](#)

[20.128.020 Applicability and compliance.](#)

[20.128.030 Landscape plans.](#)

[20.128.040 Integration with LID stormwater management facilities.](#)

[20.128.050 Plant material and installation standards.](#)

[20.128.060 Landscaping types.](#)

[20.128.070 Landscape site design standards.](#)

[20.128.080 Development within required buffers.](#)

[20.128.085 Walls and fences standards](#)

[20.128.090 Irrigation standards.](#)

[20.128.100 Maintenance of required buffers and landscaped areas.](#)

[20.128.110 Performance assurance/bonding.](#)

[20.128.120 Maintenance assurance/bonding.](#)

\* Prior legislation: Ords. 019-17 and 010-18.

### **20.128.010 Purpose.**

It is the purpose of this chapter to:

- (1) Promote well-planned and attractive landscaping that enhances the visual and aesthetic appearance of the city.
- (2) Provide space definition and landscape continuity between the built environment and the natural environment.
- (3) Provide appropriate barriers and relief from traffic, noise, heat, glare, and the spread of dust and debris.
- (4) Reduce potential negative impacts between adjacent and neighboring uses.

(5) Reduce flooding and reduce the impact of development on the city's storm drainage system.

(6) Promote tree retention and the protection of existing native vegetation.

(7) Provide for the long-term establishment and health of new landscape plantings.

(8) Aid in the conservation of energy and replenish the atmosphere with oxygen.

(9) Provide for a more pleasant and relaxing urban environment.

(10) Ensure the long term maintenance and attractiveness of landscape plantings.

(11) Maintain and enhance property values.

(12) Promote landscape designs that maintain visual and pedestrian connections between adjacent properties.

#### **20.128.020 Applicability and compliance.**

(1) Applicability. The provisions of this chapter shall apply to all new nonresidential, ~~single-family attached (three or more units)~~, and multifamily (~~three six~~ or more units) development within the city. Also:

(a) The provisions of this chapter shall apply to all new development, and building additions, remodels and site improvements per the Level I – III improvement thresholds set forth in POMC [20.127.020\(3\)\(a\)](#) through (c).

(b) The maintenance provisions of this chapter apply to existing and previously approved landscape plans and required landscape areas.

(c) Temporary Deferral. A certificate of occupancy shall be contingent upon the screening and landscaping requirements of this chapter being met. This provision may be temporarily deferred by the director in cases where it is not reasonable for the developer to install certain species of plant material prior to occupancy due to the recommended planting season not occurring at an appropriate phase in construction. In such case, the time deadline for planting such materials shall be extended only to the nearest seasonal period suitable for planting such materials. Additionally, the director shall require that the applicant obtain a temporary deferral when water restrictions are in place preventing regular irrigation or watering of plant material. The director may authorize a temporary deferral through the issuance of a temporary certificate of occupancy or through the approval of a performance bond in accordance with this title.

(d) Review in Conjunction with Other Permits. Landscape plan review shall be performed in conjunction with other permit applications (i.e., land disturbing activity, stormwater drainage, building permit, etc.). Appeals of decisions related to the application of this chapter shall be connected to the underlying permit application to which the landscape code has been applied.

(e) The provisions of this chapter may also apply to subdivisions and short plats as specified in Chapter [20.100 POMC](#), but shall not apply to the construction of an ~~individual detached house, duplex, or backyard cottage~~ [accessory dwelling unit](#).

(2) Exceptions. The director may waive the provisions of this chapter for light industrial (LI) zoned properties which do not front Old Clifton Road or SR-160 depending on the type of use, number of anticipated employees and customers, and the site's physical relationship and anticipated impacts to adjacent and neighboring zones, uses and development.

### **20.128.030 Landscape plans.**

(1) In order to implement the requirements of this section, landscape plans for the entire site are required as part of the following permit application submittals:

(a) Building permit applications.

(b) Preliminary plat applications.

(c) [Preliminary s](#)Short plat applications.

(d) [Preliminary b](#)Binding site plan applications.

(e) Conditional use permit applications (where new construction, or expansion of a building is proposed, or where landscaping is required to meet conditions for granting approval).

(f) Stormwater drainage permit applications.

(g) Land disturbing activity permit applications.

[\(h\) Preliminary unit lot subdivisions](#)

(2) In order to implement the requirements of this section, landscape plans for the entire site shall be required as part of a land disturbing activity permit application submittal if the scope of the permit application does not include restoration to predisturbance conditions or if the landscape plan approval is not issued under another permit approval as listed in subsection (1) of this section. [Landscape plans submitted as part of preliminary applications listed above shall be permitted through the development's associated Land Disturbing Activity Permit.](#)

(3) Plans shall be developed by a Washington state licensed landscape architect, a Washington-certified professional horticulturalist (CPH), or a Washington certified professional landscape designer (APLD-WA).

(4) Landscape plans shall include:

(a) Boundaries and dimensions of the site.

(b) Location of existing and proposed easements, streets, curbs, utilities, sidewalks and any other hard surfaces.

(c) Location of buildings and structures, parking lots, driveways, loading areas, outdoor mechanical equipment, signs, refuse enclosures, overhead utilities, water meter location, swales, parking lot lighting, existing and proposed retaining walls or fences, and any existing vegetation that is to remain on the site.

(d) The location and design of landscape areas to be preserved and planted, and plant list to include the location, number, height at maturity, and type of plant material by botanical and common name.

(e) Proposed irrigation system if a permanent or temporary system is proposed. All landscaped areas including adjacent right-of-way must be provided with an underground irrigation system.

(f) Specifications for soil amendments to provide suitable long-term growing conditions.

(g) North arrow and scale.

(h) Planting detail section drawings.

(i) Name, address, and phone number of the person preparing the plan.

(j) Calculations demonstrating compliance with this chapter.

(k) Landscape planting, hardscape, and material precedents (imagery) depicting (approximately) the landscape plantings, hardscape, and materials to be used in the project.

(5) Applicants shall familiarize themselves with existing site conditions, and are encouraged to meet with staff to discuss appropriate design options and alternatives for accomplishing the screening and landscaping objectives of this chapter prior to preparing and submitting a landscape plan.

(6) Applicants are encouraged to integrate landscape plans and stormwater system designs consistent with the city's adopted stormwater management manual.

(7) A previously approved landscape plan may be amended through a Type I administrative decision. Amendments shall be limited to modifications of the existing plan and shall not constitute approval of a new landscape plan. Any proposed changes must comply with the current standards of POMC Chapter 20.128 for the areas subject to amendment. The applicant must submit a revised landscape plan clearly identifying the areas of change and demonstrating compliance with applicable code requirements.

#### **20.128.040 Integration with LID stormwater management facilities.**

The required landscape design requirements in this chapter may be integrated with low impact development (LID) stormwater management facilities and best management practices (BMPs) unless site and soil conditions make LID infeasible, subject to the approval of the director and public works department. LID facilities shall not compromise the purpose or intent of required landscaping and landscaping shall not result in the disruption of the LID facilities' functions. LID facilities shall be designed and constructed in accordance and with the LID Technical Guidance Manual for Puget Sound (current edition).

#### **20.128.050 Plant material and installation standards.**

(1) Native Plant Species. New landscaping materials shall include species native to the region or hardy, waterwise, and noninvasive species appropriate in the climatic conditions of the region (decorative annuals are an exception). Generally acceptable plant materials must be those identified as hardy in Zone 8b as described in United States

Department of Agriculture's Plant Hardiness Zone Map. The selection of plant species should include consideration of soil type and depth, the amount of maintenance required, spacing, exposure to sun and wind, the slope and contours of the site, compatibility with existing native vegetation preserved on the site, water conservation where needed, and the impact of landscaping on visibility of the site for purposes of public safety and surveillance.

(2) Tree Standards and Guidelines.

(a) Tree heights may be called for within this chapter or elsewhere within this title:

(i) Large Tree. Capable of growing 35 feet high or greater under normal growing conditions.

(ii) Medium Tree. Capable of growing over 15 feet high and less than 35 feet high under normal growing conditions.

(iii) Small Tree. Capable of growing up to 15 feet high under normal growing conditions.

(b) Unless otherwise noted herein, required trees shall meet the following standards at the time of planting:

(i) Required deciduous trees shall be fully branched, have a dominant leader branch, have a minimum caliper of one and one-half inches (as measured six inches above the root ball), and a minimum height of six feet at the time of planting as measured from the top of the leader branch to the top of the root ball.

(ii) Required evergreen trees shall be fully branched and a minimum of six feet in height, measured from the treetop to the ground, at the time of planting.

(iii) Required trees of any species within parking areas shall be a minimum caliper of one-and-one-half inches (as measured 24 inches above the root ball) and a minimum height of 10 feet at the time of planting.

(3) Shrub Standard. Shrubs, except for ornamental grasses, shall be a minimum of one-gallon size at the time of planting.

(4) Ground Cover Standards and Guidelines.

(a) Ground covers shall be planted and spaced to result in total coverage of the required landscape area within three years as follows, or as per recommendations by Washington State licensed landscape architect, Washington-certified professional horticulturalist (CPH), or other qualified individual. Ground cover plants other than turf forming grasses must be planted in triangular spacing at the following rates:

(i) Four-inch pots at 18 inches on center.

(ii) One gallon or greater sized containers at 24 inches on center.

(iii) Alternative plant spacing may be appropriate depending on the specific plants. When applicable, plant spacing information must be included with permit application submittals from published sources, such as the Sunset Western Garden Book, from Internet sources, or from cut sheets provided by a nursery. Such sources must be identified for verification purposes.

(b) Grass areas shall be sodded or hydroseeded unless otherwise approved by the director. Grass shall only be permitted in active open space areas, as described in

POMC 20.100.130 or 20.127.350, or within parking lot landscaping and buffer areas, provided that grass does not exceed 30 percent of the total landscaped area within a parking lot or buffer. Use of drought-tolerant groundcover is encouraged in all other areas to promote water conservation and reduce maintenance. Grass is acceptable as ground cover in landscaped areas, but generally not preferred for water conservation and maintenance purposes (lawn areas designed as play areas are an exception).

(c) Ground cover areas shall contain at least two inches of composted organic material at finished grade.

(5) Tree and Plant Diversity.

(a) If there are more than eight required trees, no more than 40 percent of them may be of one species.

(b) If there are more than 24 required trees, no more than 20 percent of them may be of one species.

(c) If there are more than 24 required shrubs, no more than 75 percent of them may be of one species.

(6) Soil Augmentation and Mulching.

(a) Existing soils shall be augmented with a two-inch layer of fully composted organic material tilled a minimum of six inches deep prior to initial planting.

(b) Landscape areas shall be covered with at least two inches of mulch to minimize evaporation. Mulch shall consist of organic materials such as bark chips and wood grindings or yard waste, sawdust, and/or manure that is fully composted. Washed rock may also be used as a mulch.

(7) Landscape Installation Standards.

(a) All required landscaping shall be in-ground, except when in raised planters. Plant materials shall be installed to current nursery industry standards.

(b) Plant materials shall be properly supported to ensure survival. Support devices such as guy wires or stakes shall not interfere with vehicular or pedestrian movement. Where support is necessary, stakes, guy wires or other measures shall be removed as soon as the plant can support itself.

(c) Existing trees and plant materials to be retained shall be protected during construction. Protection measures may include silt fencing, chain link fencing, or

other sturdy fencing placed at the dripline of trees to be retained. Grading, topsoil storage, construction material storage, vehicles, and equipment shall not be allowed within the dripline of trees to be retained.

(d) Installation of landscaping materials must take into consideration access to utility vaults, pedestals, and other public and private utility facilities.

(e) Trees and major shrubs at mature size should avoid interference with windows, decks, pedestrian walkways or other travelled ways, or lighting.

(8) Removal of Invasive and Noxious Species.

(a) As part of landscape installation, all invasive species (including but not limited to Scotch broom and Himalayan blackberry) and noxious weeds (such as Japanese Knotweed) as identified on the current Kitsap County Noxious Weed List present on the site shall be removed and controlled. Landscape plans shall include a strategy for ongoing management of these species to prevent reestablishment.

**20.128.060 Landscaping types.**

(1) Type A Landscaping.

(a) Type A landscaping shall function as a full screen and visual barrier. This landscaping is typically found between residential and nonresidential areas and used to screen unwanted views.

(b) Type A landscaping shall minimally consist of:

(i) Trees. Predominately evergreen (more than 50 percent) at the following rates on landscape strips:

(A) One large tree per 300 square feet or 30 linear feet.

(B) One medium tree per 220 square feet or 22 linear feet.

(C) One small tree per 150 square feet or 15 linear feet.

At least 70 percent of the trees shall be large.

(ii) Shrubs. Predominately evergreen provided at a rate of one shrub per four linear feet of landscaped strip and spaced no more than eight feet on center.

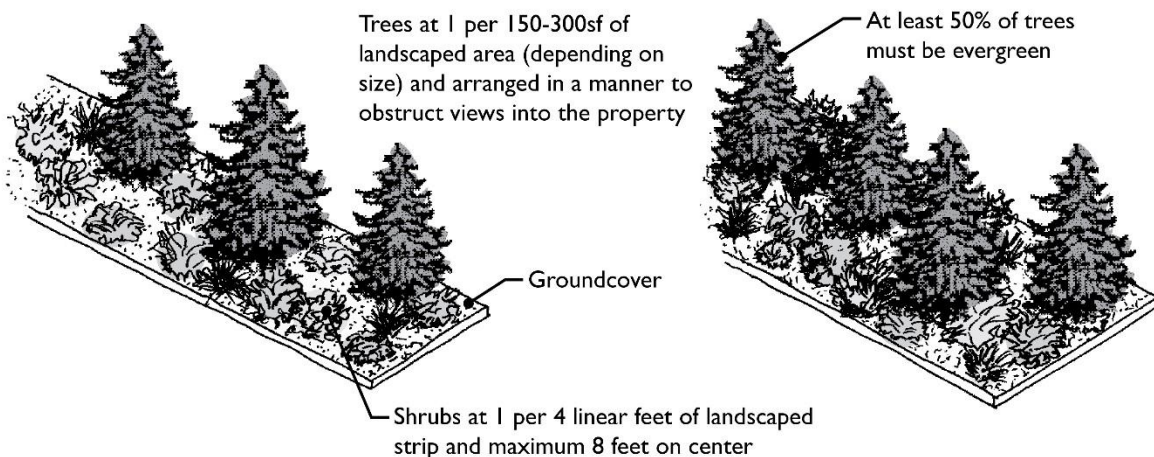
(iii) Plant Diversity. Trees and shrubs must comply with POMC [20.128.050\(5\)](#).

(iv) Ground Cover. Planted at a density to cover the landscape buffer per POMC [20.128.070](#) within three years.

(v) The selected plant materials and configuration will be able to screen 70 percent of the unwanted views within five years of planting and fully screen the unwanted view within six years. This requirement will account for the size of materials planted and their typical growth rate.

Figure 20.128.060(1)

Type A Landscaping Standards



(2) Type B Landscaping.

(a) Type B landscaping is a “filtered screen” that functions as a visual separator. This landscaping is typically found between differing types of residential development and used to screen unwanted views from the pedestrian environment.

(b) Type B landscaping shall minimally consist of:

(i) Trees. At least 50 percent deciduous trees and at least 30 percent evergreen trees at the following rates on landscape strips:

(A) One large tree per 300 square feet or 30 linear feet.

(B) One medium tree per 220 square feet or 22 linear feet.

(C) One small tree per 150 square feet or 15 linear feet.

At least 70 percent of the trees shall be large.

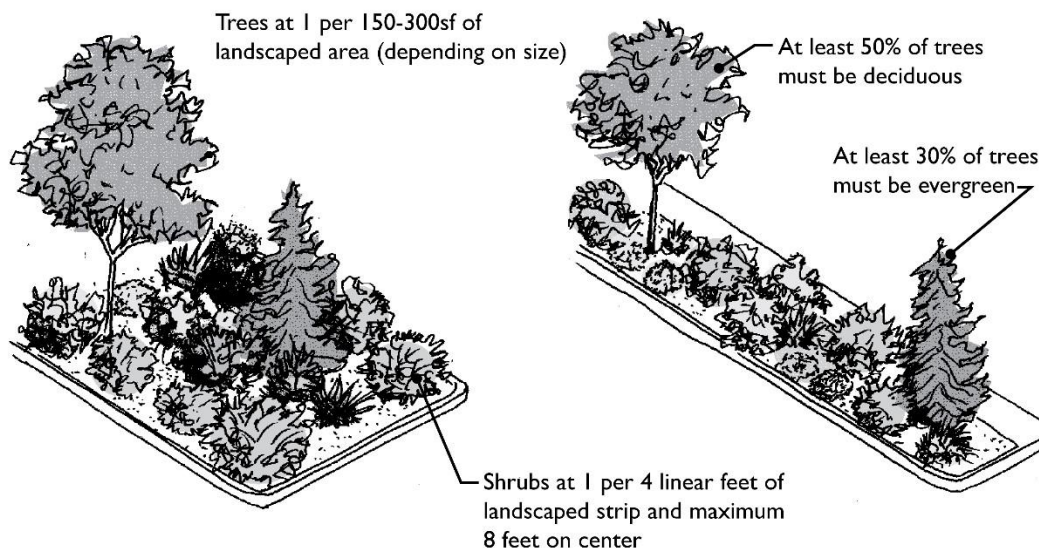
(ii) Shrubs. Provided at the rate of one shrub per four linear feet of landscaped strip and spaced no more than eight feet on center.

(iii) Plant Diversity. Trees and shrubs must comply with POMC [20.128.050\(5\)](#).

(iv) Ground Cover. Planted at a density to cover the landscape buffer per POMC [20.128.070](#) within three years.

(v) The selected plant materials and configuration will meet the purpose of the standards within five years of planting. This requirement will account for the size of materials and the growth rate.

Figure 20.128.060(2)  
Type B Landscaping Standards



### (3) Type C Landscaping.

(a) Type C landscaping is a “see-through screen” that functions as a partial visual separator to soften the appearance of parking areas and building elevations. This landscaping is typically found along street frontages or between multifamily developments.

(b) Type C landscaping shall minimally consist of:

(i) Trees. At least 70 percent deciduous trees at the following rates on landscape strips:

(A) One large tree per 300 square feet or 30 linear feet.

(B) One medium tree per 220 square feet or 22 linear feet.

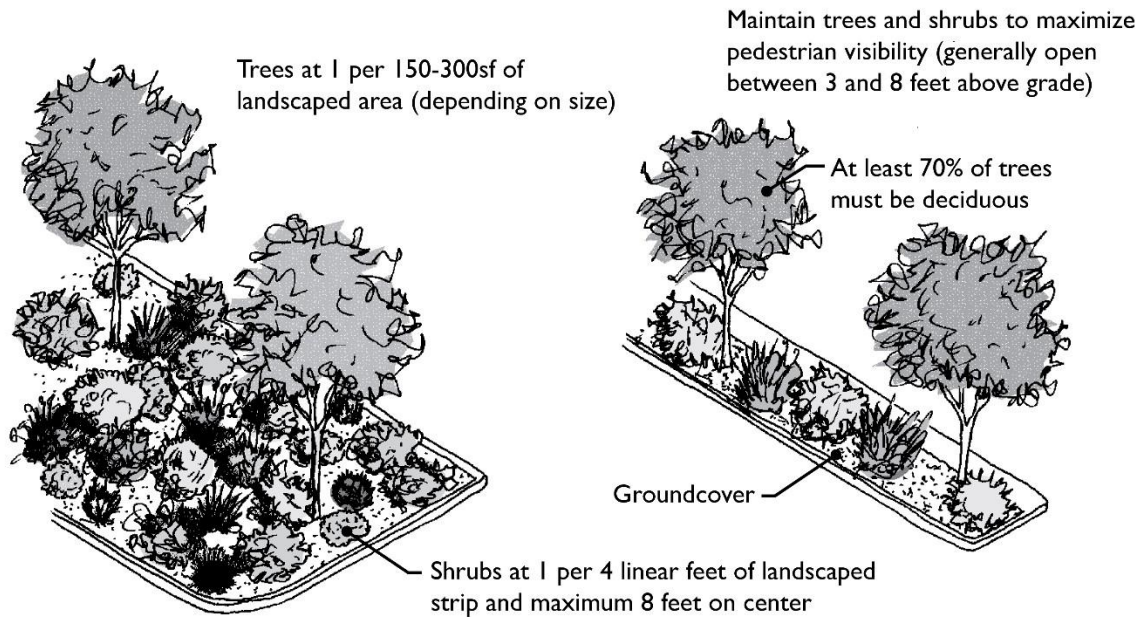
(C) One small tree per 150 square feet or 15 linear feet.

At least 70 percent of the trees shall be large.

- (ii) Shrubs. Provided at the rate of one shrub per four linear feet of landscaped strip and spaced no more than eight feet on center.
- (iii) Ground Cover. Planted at a density to cover the landscape buffer per POMC [20.128.070](#) within three years.
- (iv) Plant Diversity. Trees and shrubs must comply with POMC [20.128.050](#)(5).
- (v) Tree and shrub placement shall be designed to maximize pedestrian visibility (generally between three and eight feet above grade once trees have matured).
- (vi) The selected plant materials and configuration will meet the purpose of the standards within five years of planting. This requirement will account for the size of materials and the growth rate.

(c) Where Type C landscaping is designed to also function as a rain garden, adjustments in the spacing of trees, shrubs, and ground cover will be allowed provided the rain garden meets the function requirements of subsection (6) of this section and the intended function of Type C landscaping as defined in subsection (3)(a) of this section.

Figure 20.128.060(3)  
Type C Landscaping Standards



(4) Type D Landscaping.

(a) Type D landscaping refers to all other landscaped areas that do not qualify as Type A – C landscaping. While native and low maintenance trees and shrubs are encouraged in these areas, lawn areas may be used for recreational or design purposes. These areas may also include flower beds and perennial beds.

(b) Type D landscaping may include any combination of plant materials provided they comply with POMC [20.128.050](#).

(5) Low Hedge. A low hedge is intended to function as an attractive visual divider of space rather than a visual buffer between uses and properties. To qualify as a hedge landscaping type, the planting must be at least 30 inches wide and 30 inches tall. The hedge include plant materials that typically grow no taller than five feet at maturity or are maintained between 30 inches and 48 inches tall. Additional limits on hedges may be imposed by the public works director within required sight triangles at intersections. Shrubs or other hedge plant materials must be placed at a rate of one per four linear feet of landscaped strip or otherwise recommended for shrub species. Plant spacing information must be included with permit application submittals from published sources, such as the Sunset Western Garden Book, from Internet sources, or from cut sheets provided by the nursery.

Figure 20.128.060(5)



Low Hedge Examples

(6) Rain Garden. A rain garden is a landscaped depression that collects, absorbs, and filters stormwater runoff from rooftops, driveways, patios, and other hard surfaces. They can also function as an attractive visual divider of space. To qualify as a rain garden, the following elements must be included:

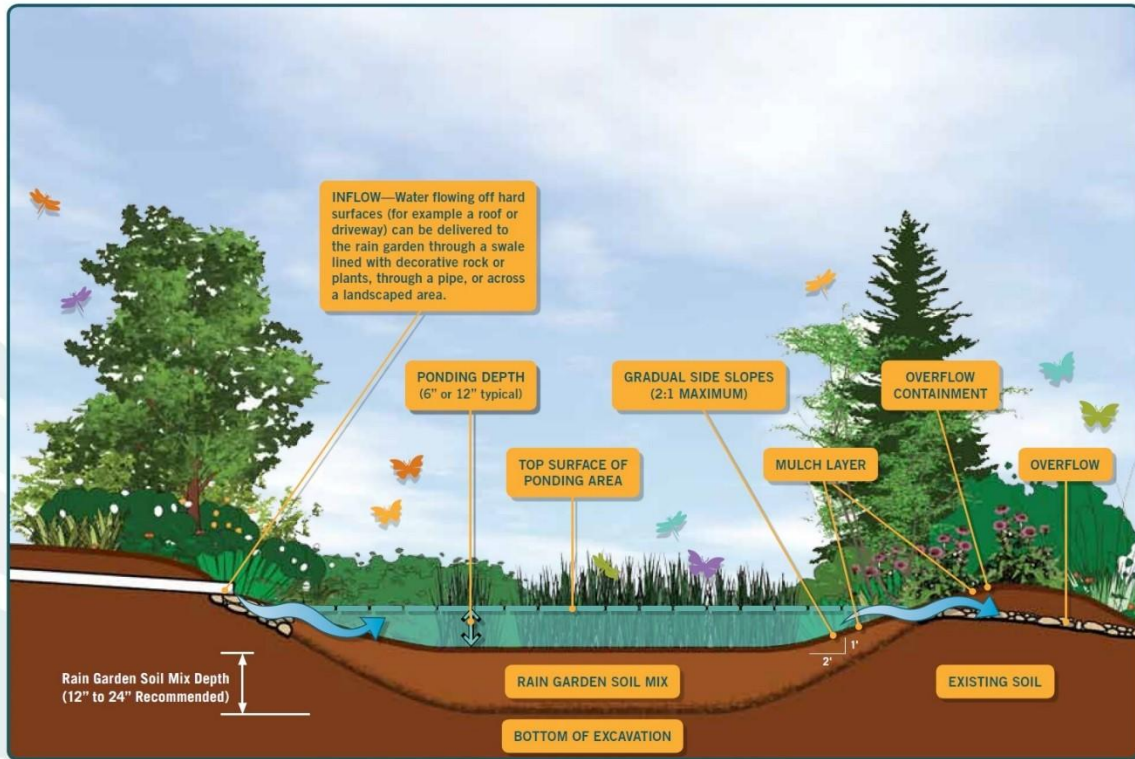
(a) Garden located and designed to capture impervious area runoff.

(b) Six to 12 inches ponding depth.

(c) Twelve to 24 inches rain garden soil depth with two to three inches surface mulch layer.

- (d) Gradual side slopes (maximum 2:1).
- (e) Overflow design elements with measures to protect erosion.
- (f) Generous plantings (capable of reaching 100 percent ground cover) of a variety of small trees, shrubs, ground covers, and grasses. Select plants suitable for the three planting zones within the garden and around the perimeter.

Figure 20.128.060(6)  
Rain Garden Examples



**20.128.070 Landscape site design standards.**

(1) Required Landscape Buffer Standards. Screening between certain uses may be called for in Table 20.128.070 below or elsewhere in this chapter:

(a) The provisions of this section do not apply to, and landscape buffers are not required for, development with a designated storefront block frontage (POMC [20.127.100](#) through [20.127.260](#)) unless required as a condition of a permit (such as a conditional use permit or subdivision) or SEPA.

(b) Where mature trees and vegetation exist within the required buffer areas, the preservation of said mature trees and vegetation may be preferable to new plant materials. The director may require up to 50 percent additional buffer width and/or specific planting conditions to better ensure the survival of existing mature trees and/or augment existing plantings to meet the intent of the standards.

(c) The letters A, B, and C refer to the required landscape buffer type(s) (described in POMC [20.128.060](#)). Where more than one buffer type is referenced at the intersection of the column and the row, only one of the listed buffer types is required.

(d) Where the cells at the intersection of the column and the row are empty, there are no landscaping buffer requirements for the particular situation.

(e) If a \* appears after a use or term within the table, then the use or term is defined in Chapter [20.12](#) or [20.39](#) POMC.

(f) Where superscript numbers are included in a cell, see the corresponding note matching the number below the table.

(g) For the application of building additions, remodels and site improvements, the provisions of POMC [20.127.020](#)(3) shall apply.

(h) Departures. Alternative buffer treatments may be approved per POMC [20.127.060](#) for any of the buffer types required below, provided they meet the purpose of this chapter.

Table 20.128.070

Required Buffer Treatment for Developing Uses

Developing use	<del>Existing A</del> <u>abutting uses and zoning designations</u>								
	Street, park or trail	R1, R2, <del>R6</del> , GB zones	R3, R4, R5 zones	RMU, NMU, GMU, DMU, CMU, BPMU zones	CC, CH zones	IF zone	IL zone	IH zone	CI, PF zones
<del>Single-family attached* (3 or more units) or multifamily Multifamily* (3 or more units)</del>	See subsection (2) below.	<del>Fence, <u>low hedge</u>, <u>plus or</u> BC-5'</del>	<del>Fence, <u>low hedge</u>, <u>plus or</u> BC-5'</del>	<del>Fence, <u>or low hedge</u>, and BC-5' and path</del>	<del>Fence and BC-5' and path</del>	<del>Fence <u>plus</u> and AB-10'</del>	<del>Fence <u>plus</u> and AB-10'</del>	<del>Fence <u>plus</u> and AB-10'</del>	<del>Fence <u>plus</u> and BC-5'</del>
Low intensity nonresidential use*		<del>Fence <u>or low hedge</u>, <u>plus</u> and ABC-5'</del>	<del>Fence <u>or low hedge</u>, <u>plus</u> and ABC-5'</del>	<del>Fence <u>or low hedge</u>, and BC-5' or path</del>	<del><u>Low hedge</u>, Fence or BC-5' or path</del>	<del>Fence <u>plus</u> and ABC-10'</del>	<del>Fence <u>plus</u> and ABC-10'</del>	<del>Fence <u>plus</u> and ABC-10'</del>	<del>Fence <u>plus</u> and ABC-10'</del>
Moderate intensity nonresidential use*		<del>Fence <u>or low hedge</u>, <u>plus</u> and ABC-10'</del>	<del>Fence <u>or low hedge</u>, <u>plus</u> and ABC-10'</del>	<del>Fence <u>or low hedge</u>, and or BC-5' or path</del>	<del>Fence <u>or low hedge</u>, and BC-5' or path</del>	<del>Fence, <u>low hedge</u>, <u>plus</u> and ABC-10'</del>	<del>Fence <u>plus</u> and ABC-10'</del>	<del>Fence <u>plus</u> and ABC-10'</del>	<del>Fence <u>plus</u> and ABC-10'</del>
High intensity nonresidential use*		<del>Fence <u>plus</u> and</del>	<del>Fence <u>plus</u> and</del>	<del>Fence <u>or and</u> BC-5'</del>	<del>Fence <u>or and</u> BC-5'</del>	<del>Fence <u>plus</u> and</del>	<del>Fence <u>plus</u> and</del>	<del>Fence <u>plus</u> and</del>	<del>Fence <u>plus</u> and</del>

Table 20.128.070

Required Buffer Treatment for Developing Uses

Developing use	<del>Existing A</del> <u>abutting uses and zoning designations</u>								
	Street, park or trail	R1, R2, <del>R6</del> , GB zones	R3, R4, R5 zones	RMU, NMU, GMU, DMU, CMU, BPMU zones	CC, CH zones	IF zone	IL zone	IH zone	CI, PF zones
		ABC-15'	ABC-15'	<del>or path</del>	<del>or path</del>	ABC-10'	ABC-10'	ABC-10'	ABC-15'
Use featuring an open storage yard*		Fence <del>plus and</del> ABC-10'	Fence <del>plus and</del> ABC-10'	Fence <del>plus and</del> ABC-5' or A-10'	Fence <del>plus and</del> ABC-5' or A-10'	Fence or A-5' or B-10'	Fence or A-5' or B-10'	Fence or A-5' or B-10'	Fence <del>plus and</del> ABC-10'
Heavy industry*		Fence <del>plus and</del> ABC-20'	Fence <del>plus and</del> ABC-20'	Fence <del>plus and</del> ABC-5' or A-10'	Fence <del>plus and</del> ABC-5' or A-10'	Fence <del>plus and</del> ABC-5' or A-10'	Fence <del>plus and</del> ABC-5' or A-10'	Fence <del>plus and</del> ABC-5' or A-10'	Fence <del>plus and</del> ABC-20'

(2) Street, Park, or Trail Buffers.

(a) For landscaping between uses or structures and streets, also see the applicable block frontage standards in POMC [20.127.100](#) through [20.127.260](#). Plant materials, installation, and maintenance are subject to the standards of this chapter.

(b) For nonresidential, ~~single-family attached (three units or more)~~, and multifamily development (~~three-six~~ six units or more), see POMC [20.127.220](#) for trail/park block frontage standards. Alternative designs will be considered based on the unique context of the site, the development, and the park/trail provided the designs

promote safety for park/trail users, and mitigate any potential negative impacts of the proposed use on the park/trail.

(c) For storage yards, a minimum 10-foot wide planting strip with Type A landscaping is required between any street and such storage yard.

### (3) Surface Parking Lot Landscaping.

#### (a) Parking Lot Perimeters.

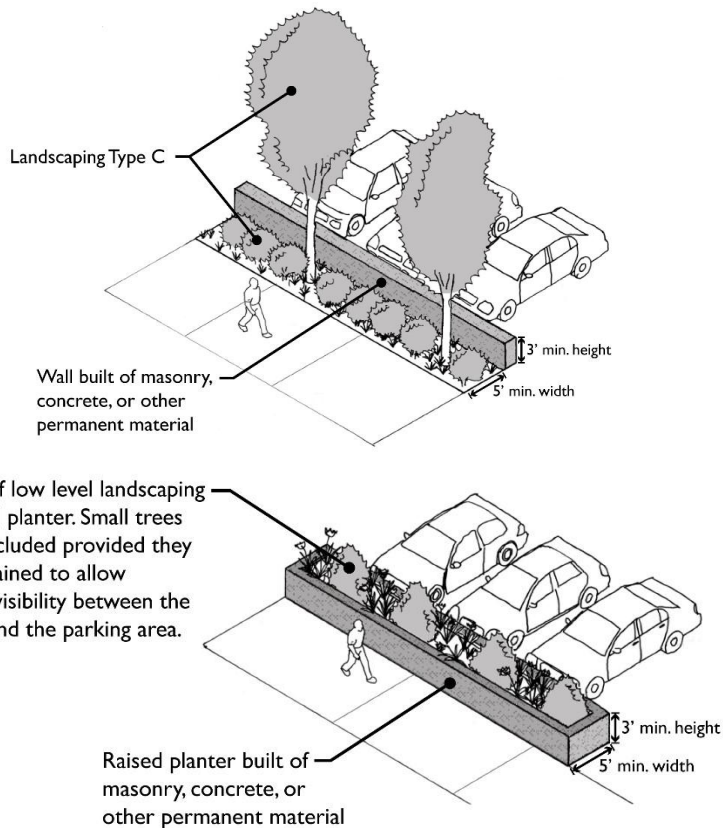
(i) For parking lots abutting public right-of-way, use Type C landscaping at a width equal to or greater than the minimum building setback specified for the applicable block frontage type specified in POMC [20.127.100](#) through [20.127.260](#). For parking lots on sites without an applicable block frontage type, the parking lot landscape buffer shall be at least 10 feet deep.

(ii) For parking lots along internal private roadways in commercial areas, provide a planting strip at least six feet wide with Type C landscaping.

(iii) For parking lots along internal lot lines, use Type A or B landscaping at least 10 feet deep, except where a greater buffer width is required per the standards in Table 20.128.070.

Departures will be considered provided they meet the purpose of this chapter. Examples of acceptable departures may include decorative low walls with landscaping, decorative elevated planters, or landscaping with a trellis. In no case may landscaping buffers be less than five feet wide. The minimum height of planters or walls, where used, is three feet. The maximum height of walls where used shall be five feet.

Figure 20.128.070(3)(a)  
Parking Lot Perimeter Landscaping Departure Examples



Above are two possible departure parking lot landscaping buffer designs that may be acceptable in **more**-urbanized areas, such as downtown.

(b) Internal Parking Lot Landscaping.

(i) Trees and Shrubs Required.

(A) For every 1,000 square feet of vehicular use area, at least one deciduous tree must be planted.

(B) Trees and shrubs must be planted within 15 feet of the parking lot to count as parking lot landscaping.

(C) When a development contains 20 or more parking spaces, 50 percent of the trees and shrubs must be planted in islands or medians located within the parking lot.

(ii) Landscaping Type.

(A) Type C landscaping shall be utilized for landscaping islands internal to parking lots.

(B) At least 75 percent of the required deciduous trees must be large trees. Medium and small trees are acceptable where overhead electric lines would interfere with normal growth.

(C) Rain gardens and swales may be integrated into required planting areas.

(iii) Landscaped Island Sizes. At a minimum, tree islands shall be a minimum of 256 square feet. Planting islands must be at least six feet deep and wide.

(iv) Landscaped Island Spacing. Parking bays shall be broken up with landscaped islands or medians to avoid long monotonous rows of parking. Tree islands shall be evenly distributed throughout the parking lot in order to provide an even tree canopy throughout the lot.

(v) Each parking space must be located within 75 feet of a tree measured from the closest point of the parking space to the tree trunk.

Departures will be considered provided they meet the purpose of this chapter.

(4) Foundation Planting. Except for building facades which meet the storefront block frontage standards in POMC 20.127, Aall street-facing elevations must have landscaping along any exposed foundation. The landscaped area may be along the outer edge of a porch instead of the foundation. This landscaping requirement does not apply to portions of the building facade that provide access for pedestrians or vehicles to the building. The foundation landscaping must meet the following standards:

(a) The landscaped area must be at least three feet wide.

(b) There must be at least one three-gallon shrub for every three lineal feet of foundation.

(c) Ground cover plants must fully cover the remainder of the landscaped area.

Figure 20.128.070(4)



Foundation Planting

Foundation plantings would be required along this exposed concrete foundation.

(5) Existing Vegetation.

(a) Existing healthy, native, and noninvasive vegetation may be used to fulfill the requirements of this chapter.

(b) When existing vegetation is proposed to be used to fulfill the requirements of this chapter, that vegetation shall be shown on required landscape plans as “existing vegetation to be retained” and prior to land disturbing activities, these areas shall be flagged in the field and be protected by construction fencing. In the event that existing vegetation proposed to be used to fulfill the requirements of this chapter is altered, damaged, or removed during development or construction activity, this area shall be restored to its original state after the development or construction activity is complete, or, shall be replanted in accordance with a new revised landscaping plan developed and approved in accordance with this chapter.

(6) Stormwater Facilities.

(a) Plant-based stormwater treatment facilities such as rain gardens (see POMC [20.128.060\(6\)](#)) and swales may be used to meet the requirements of this section as provided elsewhere in this chapter.

(b) Stormwater detention facilities such as ponds and collection basins may not be used to meet the requirements of this section unless designed per subsection (6)(a) of this section.

**20.128.080 Development within required buffers.**

This section applies to buffers that are required per Table 20.128.070.

(1) Pedestrian walkways are allowed within buffers, subject to the following standards:

- (a) Walkways shall not exceed five feet in width.
- (b) Walkways shall cross buffers at an angle between 60 and 90 degrees.
- (c) Walkways may only run along the length of a buffer if the buffer is at least 40 feet in width, and the walkway is located within the inner 25 percent of the buffer.

(2) Utilities are not permitted in buffers within a residential subdivision, unless no reasonable alternative exists. However, utilities may be installed in an easement that is located along street frontage and parallel to the street. If utilities are placed in a buffer, they shall be located and installed in a way that minimizes disturbance of the buffer area: not parallel, but crossing at an angle between 60 and 90 degrees. If stormwater drainage channels are placed in a buffer at an angle less than 60 degrees, the buffer width shall be increased by the width of the utility easement or disturbance, or at least 10 feet, whichever is greater.

**20.128.085 Walls and fences standards.**

(1) General Standards. The following standards shall apply to all commercial and non-commercial development:

(a) Fences and walls shall either be finished (i.e., without exposed supports or stringers) on both sides, or else shall be installed so that the finished side faces any street.



Figure 10: Fence with finished side facing a street (left); fence finished on both sides (center); fence with finished side not facing a street (right).

(b) Fences and walls shall follow the contour of the ground as far as practicable. Fences on sloped ground may be installed on an incline, or may be installed in stepped sections, with or without an accompanying retaining wall; however, inclined fences and stepped fences and/or walls shall have the fence and/or fence section height measured in the same manner as level fences and shall comply with

the maximum height restrictions as provided in this section. Adjustments for grade shall occur at the bottom of the fence to every extent possible. See Figure 11.



Figure 11: Fences on slopes.

(c) Solid fencing or wall sections more than 200 feet long located along a street shall include architectural features, such as masonry, brick or wood-framed columns to break up the street facing side of the fence. The minimum separation between those features shall be no less than 15 feet.

Examples of acceptable (upper rows) architectural features and unacceptable (bottom row) architectural features are shown in Figure 12.



Figure 12. Fences that are broken up with architectural features (top two rows) and those that are not broken up (bottom row).

(d) Approved columns or posts may exceed the height of the fence by one foot and must meet all permit and setback requirements.

(e) Fences shall be maintained in good repair. It shall be a violation of the zoning code to allow a fence to fall into disrepair.

(2) Fence Height. The following standards shall apply to all residential development:

(a) If a minimum linear distance of 10 feet separates a fence and retaining wall, a fence may be erected to a height of six feet above the highest finished grade within the 10-foot distance.

(b) All fences in the primary front yard of single-family, middle-housing or multifamily residential uses shall not exceed four feet in height and a minimum 35 percent open area (see Figures 13, 14).

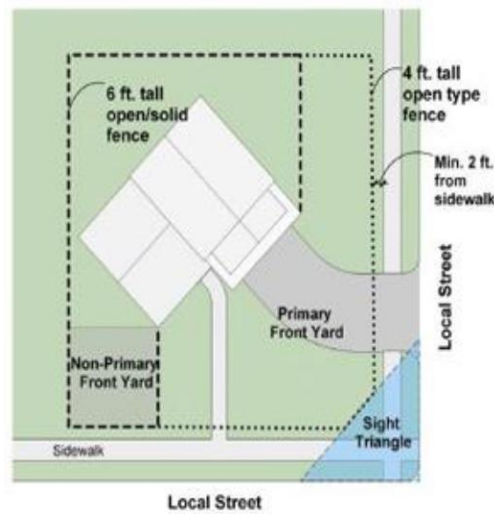


Figure 13. Fence type and height – Front vs. side and rear yard.



Figure 14: Fences with at least 35 percent open area – open type fence.

(c) All fences in the rear yard, side yard, nonprimary front yard of single-family, middle-housing residential, and multifamily uses may be solid and shall not exceed six feet in height.

(d) A combination fence and retaining wall may be erected to a height of six feet above the highest finished grade or eight feet above the lowest finished grade, at the location of the fence, except that at no time shall the fence portion exceed six feet above the highest finished grade at any point (see Figure 15).

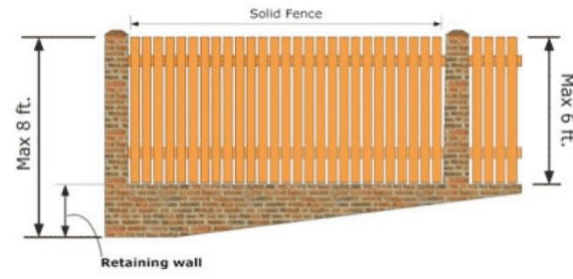


Figure 15: Fence and retaining wall on grade.

(e) A retaining wall may not elevate a fence to any height more than allowed by this section.

(f) An entry feature or trellis may have a maximum height of 10 feet and maximum width of 10 feet.

(g) Entry-Side Fencing for Multifamily Residential Buildings.

(i) No solid fencing of any height is permitted on the entry-side of a multifamily building.

(ii) For the purposes of this section, entry-side means any façade of a multifamily building containing a building entrance, including any area within 20 feet of that façade, regardless of the building's location on the site or its orientation to a public or private street.

(iii) Fencing located on the entry-side of a multifamily building shall maintain a minimum 35 percent open area and shall not exceed four feet in height.

(iv) Where a multifamily building has multiple entrances, these standards apply to each corresponding entry-side.

(v) These requirements apply in addition to the standards of subsections (a) through (f). Where conflicts occur, the more restrictive standard shall apply

(3) Fence and Wall Placement. The following standards shall apply to all residential development:

(a) No portion of a fence or wall shall extend beyond the property line of the fenced property into the public right-of-way unless allowed by a street use permit.

(b) All fences or walls including fence support systems such as posts, pillars and columns shall be set back at least to the property line and a minimum of two feet from the back edge of a sidewalk or walkway to allow for safe passage by persons on a sidewalk or traveled walkway or where no sidewalk or walkway exists then at least two feet behind the edge of asphalt or back of curb.

(c) Vehicular gates must be set back at a minimum 20 feet from the travel surface of the street or back of curb to meet vehicle stacking requirements.

(d) Gates adjacent to sidewalks, walkways, alleys and public rights-of-way shall open inward to the private property.

(e) A fence along common property lines may be placed at the furthest point forward of the adjacent property if the adjacent property allows for fence placement that differs from the adjoining property.

(f) Solid fences or walls may be erected to a height of eight feet to separate a property from an arterial street or a frontage road adjacent to a highway. The director shall consider the aesthetic, visual, and noise reduction characteristics of the fence or wall. A building permit may be required for fences exceeding six feet in height and for walls.

(g) Where a corner lot is permitted to have a solid fence along a nonprimary front property line that coincides with an adjacent property's primary front yard, no fence will be permitted that creates a site distance hazard for vehicles exiting that property or for pedestrians walking along a sidewalk or traveled walkway.

#### (4) Residential Fence and Wall Materials.

(a) Approved materials for fence construction include, but are not limited to, commercial quality wood, brick, masonry, metal, stone, wrought iron, manufactured vinyl or PVC fence material or any other material approved by the director, unless otherwise prohibited by this chapter.

(b) Barbed wire or razor wire is not allowed on any property used for residential purposes or any property that has residential zoning.

(c) Electrical fencing is allowed only on properties where legal agricultural uses exist and shall be used solely for the enclosure of livestock. This provision does not prohibit invisible fences.

(d) Combination fences of lattice and other decorative materials may be used in conjunction; however, at no time shall the combination exceed the overall fence height limitation.

(e) Prohibited fence materials shall include, but are not limited to, aluminum siding, vehicle parts, smooth face concrete masonry units/blocks, cloth or plastic tarps, scrap wood or any other material not customarily sold for fencing.

(f) Plastic or temporary construction fence may not be used as a permanent fence material.

(g) Approved materials for wall construction include, but are not limited to: stone, commercial quality brick, decorative masonry units, or decorative concrete or any other material approved by the director unless otherwise prohibited by this chapter.

(5) Blank Wall Treatment. The following standards apply to all walls and retaining walls permitted under this chapter:

(a) Blank Wall Prohibition. Any wall or retaining wall exceeding 30 feet in continuous length or 4 feet in height that is visible from a public street, private street, driveway, sidewalk, pedestrian pathway, or common open space shall not present an untreated blank wall surface.

(b) Required Treatment. Walls and retaining walls subject to this subsection must incorporate blank wall treatment, which may include, but is not limited to:

(i) Architectural features such as modulation, scoring, reveals, pilasters, textured or patterned materials, or integrated artwork.

(ii) Landscape screening such as shrubs, vines, terraced planting, or other vegetative treatments capable of providing visual relief within two growing seasons.

(iii) Any other treatment or combination of treatments that provides comparable visual interest and is approved by the Director.

(c) Material Compatibility. Blank wall treatments shall be compatible with the approved wall materials listed in subsection 20.128.085(g) and shall be constructed of durable, high-quality materials intended for long-term outdoor use.

(d) Retaining Wall Tiering. Where retaining walls are tiered, each tier shall be considered part of the overall wall system. Landscaping or architectural treatment must be provided between tiers or on the face of each tier to avoid the appearance of a continuous blank wall.

#### **20.128.090 Irrigation standards.**

The purpose of this standard is to ensure that plants will survive the critical establishment period when they are most vulnerable.

All required landscaped areas in the city must comply with at least one of the following:

(1) A permanent built-in irrigation system with an automatic controller will serve the proposed landscape area, and the system will be installed and operational before the city grants an occupancy permit or final inspection for the development.

(2) A temporary irrigation system will serve the proposed landscape area, provided the applicant can successfully demonstrate that the proposed temporary irrigation system will provide sufficient water to ensure that the plant materials to be planted will survive installation and, once established, will survive without watering other than natural rainfall.

(3) A permanent or temporary irrigation system will not serve the proposed landscape area, provided:

(a) The director finds the landscape area otherwise fulfills the requirements of this section; and

(b) The applicant submits all of the following with the site plan application:

(i) A statement from a Washington State licensed landscape architect, Washington-certified professional horticulturalist (CPH), or other qualified individual certifying that the materials to be planted will survive without watering other than natural rainfall.

(ii) A plan for monitoring the survival of required vegetation on the approved site plan for at least one year and for detection and replacement of required vegetation that does not survive with like-kind material or other material approved by the director.

(iii) A statement from the applicant agreeing to install an irrigation system if the director finds one is needed to ensure survival of required vegetation, based on the results of the monitoring plan.

#### **20.128.100 Maintenance of required buffers and landscaped areas.**

(1) Maintenance Responsibility. The owners of the property and their agents, heirs, or assigns shall be responsible for the installation, preservation, and maintenance of all planting and physical features (installed or vegetated natural areas) required under this chapter. Damage to these areas shall result in the revegetation requirements or fines per Chapters [2.64](#) and [20.02](#) POMC.

(2) Inspections after Second ~~and Fifth~~ Year. The director shall inspect the site two ~~and five~~ years after the issuance of a permanent certificate of occupancy in order to ensure compliance with the approved landscape plan and to ensure that the landscaping is properly maintained. Failure to maintain required landscape areas on a permanent basis may result in fines according to Chapters [2.64](#) and [20.02](#) POMC.

(3) Maintenance Responsibility, Replacement of Damaged Vegetation, and Associated Fines.

(a) The owners of the property and their agents, heirs, or assigns must be responsible for maintaining all required landscaping and screening areas in a healthy, growing condition.

(b) All landscaping and screening areas must be maintained reasonably free of weeds and trash, must be treated for pest/diseases in accordance with the approved landscape plan, and must be maintained so as to prevent mulch, straw, dirt, or other materials from washing onto streets, sidewalks, and adjoining properties.

(c) Limbing up trees and “topping” or shearing off trees is prohibited, unless required for public safety reasons approved by the director.

(d) The property owner shall take actions to protect trees and landscaping from unnecessary damage during all facility and site maintenance operations.

(e) Any dead, unhealthy, or missing vegetation, or vegetation disfigured by severe or excessive pruning, unusual weather occurrence or natural catastrophe, or other natural occurrence such as damage by wild or domestic animals, must be replaced with equivalent vegetation that conforms to the plant materials and installation standards in POMC [20.128.050](#), other applicable standards of this title, and the approved site plan.

(f) The owner shall have one growing season to replace or replant after receiving notice from the director. The director shall consider the type and location of the required vegetation area in making a determination on the extent of replanting requirements.

(g) Failure to maintain all plantings in accordance with this section shall constitute a violation of the Port Orchard Municipal Code and may result in fines in accordance with Chapter [20.02](#) POMC.

(4) Landscape Maintenance Plan. The paragraph and list below regarding a landscape maintenance/management plan shall be placed on the landscape plan prior to plan approval, along with any other notes applicable to site landscaping. This statement may be individualized based on the specific characteristics of each site and its landscaping plan requirements. The maintenance plan shall be prepared by a Washington State licensed landscape architect, Washington-certified professional horticulturalist (CPH), or other qualified individual.

The owners of the property and their agents, heirs, or assigns shall be responsible for the installation, preservation, and maintenance of all planting and physical features shown on

this plan. The owners shall be responsible for maintenance of the vegetation, including but not limited to:

- (a) Fertilization.
- (b) Pruning.
- (c) Pest control.
- (d) Mulching.
- (e) Mowing (if any).
- (f) Protection of the root zones from equipment, construction and storage of materials.
- (g) Watering.
- (h) Other continuing maintenance operations.

Failure to maintain all plantings in accordance with this plan shall constitute a violation of the Port Orchard Municipal Code and may result in fines.

**20.128.110 Performance assurance/bonding.**

(1) In the event that landscaping improvements cannot be installed prior to final plat, final short plat, final unit lot subdivision, final binding site plan or ~~format~~temporary certificate of occupancy, a cash deposit, letter of credit or other assurance acceptable to the city equal to 150 percent of the estimated landscaping and installation costs must be required. Such deposit must be accompanied by a letter which stipulates completion of all landscape development no later than the next autumn planting season following issuance of ~~the a~~ temporary certificate of occupancy or recording date of a final plat, final short plat, final unit lot subdivision, final binding site plan~~final approval~~, whichever is later. If these conditions are not met, the city may use the deposit to install the landscaping.

**20.128.120 Maintenance assurance/bonding.**

(1) Prior to granting a (permanent) certificate of occupancy and/or granting final approval of site improvements, the owner of the subject property shall provide a two-year landscape maintenance bond, cash set-aside, or other assurance acceptable to the city (hereafter “assurance”) in an amount equal to 125 percent of the estimated landscaping and installation costs for the project. It shall be the owner’s responsibility to request a landscape maintenance inspection at least two years after city acceptance upon final landscaping installation inspection. The assurance shall not be released by the city unless the city finds upon inspection that the landscaping has been maintained and is in good

health. If the city finds that the landscaping has not been maintained or is not in good health, the city may at its option require the owner to maintain and restore the required landscaping to healthy conditions prior to releasing the landscape maintenance assurance, or may itself perform work to correct the deficiencies using the provided assurance. In the event that a significant amount of the required landscaping requires replacement as determined by the director, the city may require an additional two-year landscape maintenance assurance on all or a portion of the required landscaping.

(2) Where invasive or noxious species are identified on a site subject to landscaping requirements, the director may require an extended maintenance bond term of up to three years to ensure effective removal and control. The bond shall cover replanting, weed management, and monitoring to verify compliance with the approved landscape plan.



# CITY OF PORT ORCHARD

## DEPARTMENT OF COMMUNITY DEVELOPMENT

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### PLANNING COMMISSION STAFF REPORT

<b>Agenda Item No:</b> 5(b)	<b>Meeting Date:</b> March 3, 2026
<b>Subject:</b> POMC 20.22, 20.80, 20.90 and 20.98 – Final Plat Processing Discussion	<b>Prepared by:</b> Nick Bond, AICP, Development Director

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**Issue:** The City of Port Orchard is continuing its evaluation of potential updates to its final plat review procedures within POMC Chapters 20.22, 20.80, 20.90, and, newly added since the February Planning Commission meeting, POMC 20.98 related to bonding. The purpose of this code update effort is to align local procedures with state law and to establish an administrative pathway for final plat approval, including circumstances where bonding may be accepted administratively.

In late 2025, staff initiated a review of the City’s subdivision procedures to identify opportunities to streamline final plat processing and ensure consistency with state law. Initial analysis focused on POMC Chapters 20.22 (Procedures), 20.80 (Subdivisions), and 20.90 (Final Plats). Staff presented preliminary findings to the Planning Commission in February 2026, outlining concerns that the City’s current final plat process may be unnecessarily duplicative and procedurally burdensome.

At the February 2026 Planning Commission meeting, staff provided an overview of state law requirements for final plat approval and discussed the ministerial nature of final plat review. The Commission expressed support for exploring an administrative approval pathway. To that end, staff prepared draft amendments for further discussion. Additionally, it became apparent that while an administrative final plat approval process may streamline the review process, an administrative mechanism to authorize the acceptance of bonds is necessary for effective implementation.

As discussed at the February Planning Commission meeting, under the City’s existing code, final plats are processed as Type IV permits, requiring:

- Public notice
- A public hearing before a recommending body (Planning Commission or Hearing Examiner)
- A recommendation to the City Council

In practice, this results in a second public hearing at a point when the applicant has already completed all required improvements consistent with the preliminary plat approval and any associated conditions, typically reviewed through a Land Disturbing Activity Permit (LDAP).



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Preliminary subdivisions, processed as Type III permits, already undergo a full public hearing before the Hearing Examiner. The Hearing Examiner’s decision includes Conditions of Approval that address code requirements and, when appropriate, issues raised through public comment, such as enhanced vegetation buffers or other site-specific mitigation measures. This preliminary decision provides applicants with clear, predictable standards to meet during LDAP review and construction.

Requiring another public hearing after those conditions have been satisfied is redundant and may introduce unnecessary uncertainty into what should be a straightforward compliance check.

State law provides that while a legislative body may retain authority for final plat approval, it may also delegate that authority by ordinance to a planning commission or administrative staff. Because final plat review is a ministerial process, limited to confirming that the applicant has met the conditions of preliminary approval and applicable regulations, approval must be granted once those requirements are met. A public hearing is not required for a final plat.

Since the February Planning Commission meeting, staff has developed draft amendments that would:

- Establish an administrative process for final plat approval
- Clarify procedural steps and responsibilities within POMC 20.22, 20.80, and 20.90
- Incorporate updates to POMC 20.98 (Bonds) to address:
  - When bonding may be accepted for incomplete but minor improvements
  - How bonds may be reviewed and approved administratively
- The relationship between bonding and the administrative final plat approval process

These additions ensure that the City’s bonding provisions are consistent with state law and support the streamlined administrative review pathway.

Staff expects to schedule a public hearing for the April Planning Commission meeting and will bring forward a draft ordinance that aligns with the redline included in tonight’s packet. That ordinance will focus only on the specific sections proposed for amendment, while the full chapter redlines are provided simply to give the Commission additional context if needed. After holding the public hearing, taking any testimony, and completing deliberations, the Planning Commission would then be asked to forward a recommendation to the City Council.

**Attachments:** Redline amendments to Port Orchard Municipal Code 20.22, 20.80, 20.90, and 20.98

# CHAPTER 20.22 PERMITTING AND DEVELOPMENT APPROVAL – PERMIT PROCESS TYPES

## § 20.22.010. Classification.

The review and approval of land use and development permit applications shall be classified as either Type I, II, III, IV, or V based on who makes the decision, the amount of discretion exercised by the decision maker, the level of impact associated with the decision, the amount and type of public input sought, and the type of appeal opportunity. The types of decisions are set forth in this chapter. The application procedures identified in this chapter shall be pursuant to Chapter 20.24 POMC.

## § 20.22.020. Determination of types – Table.

- (1) **Determination of Proper Decision Type.** The director shall determine the proper review procedure for all land use and development permit applications and actions. If there is a question as to the appropriate type of process, the director shall resolve it in favor of the higher process type number.
- (2) **Optional Consolidated Permit Processing.** An application that involves two or more procedures may be processed collectively under the highest numbered procedure required for any part of the application or processed individually under each of the procedures identified by the code. The applicant may determine whether the application shall be processed collectively or individually. If the application is processed under the individual procedures option, the highest numbered type procedure must be processed prior to the subsequent lower numbered procedure. If the individual procedure option is chosen, the applicant will be eligible for any fee reduction contained in the current fee schedule.

Table 20.22.020 – Permit Review Type Classifications				
Type I Director Decision Judicial Appeal	Type II Director Decision HE Appeal	Type III HE Decision Judicial Appeal	Type IV City Council Decision Judicial Appeal	Type V City Council Decision GMHB Appeal
Building Permit <sup>1</sup> (Subtitle X of this title)	Short Plat, Unit Lot Subdivisions, Preliminary, Alteration of Preliminary, Alteration of Final, Vacation of Final (Chapters 20.86 and 20.96 POMC)	Preliminary Plat, Preliminary Plat Major Modifications, Alteration of Final, Vacation of Final (Chapters 20.88 and 20.96 POMC)	Final Plat (Chapter 20.90 POMC)	Development Agreement (Chapter 20.26 POMC)
Binding Site Plan, Final (Chapter 20.94 POMC)	Temporary Use Permit (Chapter 20.58 POMC)	Variance (Chapter 20.28 POMC)	Site-Specific Rezone without Comprehensive Plan Amendment (Chapter 20.42 POMC)	Comprehensive Plan Amendment – Land Use Map Amendment, Text Amendment (Chapter 20.04 POMC)
Preliminary Plat – Minor Modifications (Chapter 20.88 POMC)	Binding Site Plan – Preliminary, Alteration of Preliminary, Alteration of Final, Vacation of Final (Chapter 20.94 POMC)	Conditional Use Permit (Chapter 20.50 POMC)		Legislative Zoning Map Amendment (Chapter 20.06 POMC)

Table 20.22.020 – Permit Review Type Classifications

Type I Director Decision Judicial Appeal	Type II Director Decision HE Appeal	Type III HE Decision Judicial Appeal	Type IV City Council Decision Judicial Appeal	Type V City Council Decision GMHB Appeal
Minor Land Disturbing Activity Permit (Chapter 20.140 POMC and POMC § 20.150.100)	Stormwater Drainage Permit (Chapter 20.150 POMC)	Shoreline Substantial Development Permit, Conditional Use Permit, and Nonadministrative Variance (Chapter 20.164 POMC)		POMC Title 20 Code Amendment (Chapter 20.06 POMC)
Boundary Line Adjustment (Chapter 20.84 POMC)	Sign Permit (if SEPA required) (Chapter 20.132 POMC)	Planned Residential Developments		Annexations <sup>2</sup>
Code Interpretation (Chapter 20.10 POMC)	Shoreline Substantial Development Permit, Administrative (Chapter 20.164 POMC)	Final Plat – Alteration or Vacation (Chapter 20.96 POMC)		
Legal Nonconforming Permit (Chapter 20.54 POMC)	Sign Variance (Chapter 20.132 POMC)	View Protection Overlay District (VPOD) Variance (POMC § 20.38.860)		
Short Plat, Final (Chapter 20.86 POMC)	Major Land Disturbing Activity Permit (Chapter 20.140 POMC and POMC § 20.150.100)	Flood Damage Prevention Variance (Chapter 20.170 POMC)		
Sign Permit (if SEPA not required) (Chapter 20.132 POMC)	Variance – Administrative (Chapter 20.28 POMC)	Flood Damage Prevention Appeal (Chapter 20.170 POMC)		
Master Sign Plan	<a href="#">Final Plat (Chapter 20.90 POMC)</a>			
Shoreline Permit Exemption (Chapter 20.164 POMC)				
Temporary Use Permit, Extension (Chapter 20.58 POMC)				

Notes:

Untyped review and decision actions: preapplication meeting (Chapter 20.24 POMC), design review board review and recommendation (POMC § 20.127.030), tax exemption for multifamily development (Chapter 3.48 POMC), capacity reservation certificate (Chapter 20.180 POMC), public works design variation, right-of-way permit (Chapter 12.04 POMC), street use permit (Chapter 12.24 POMC), water/sewer connection permit (Chapter 13.04 POMC).

<sup>1</sup> If a building permit application does not require SEPA review, no public notice is required. If a building permit application requires SEPA review, public notice shall be provided consistent with the requirements for Type II applications pursuant to Chapter 20.25 POMC.

<sup>2</sup> A development agreement that is consolidated with a Type I, II, III, or IV project permit application may be appealed pursuant to Chapter 36.70C RCW.

**§ 20.22.030. Type I (administrative decision, judicial appeal).**

(1) General. Type I applications are defined pursuant to POMC § 20.22.020. All Type

I actions must meet all applicable requirements of the POMC in addition to the requirements specified in this subtitle.

- (2) Preapplication Conference. Type I applications do not require a preapplication conference.
- (3) Notice of Application. Type I applications do not require a notice of application, unless environmental review is required under SEPA pursuant to Chapter 20.160 POMC.
- (4) Review of Application.
  - (a) The director shall commence permit review pursuant to Chapter 20.24 POMC. The director shall determine which city departments are responsible for reviewing or commenting on an application and shall ensure the affected departments receive a copy of the application, or appropriate parts of the application.
  - (b) Following a determination of technical completeness and determination of consistency pursuant to POMC § 20.24.090, the director shall approve, deny, or approve with conditions all Type I applications. Conditions may be imposed directly on the plans (red-lining) or through other documentation reflected on the plans to ensure the requirements of city codes and regulations are met without going through another correction cycle before permit issuance.
- (5) Decision.
  - (a) Unless a permit type has been excluded from the permit decision timelines established in POMC § 20.24.110, pursuant to RCW 36.70B.140, all Type I applications are subject to the permit decision timelines. If no correction cycles are required, review should be complete within approximately 30 calendar days from the date of technical completeness. Correction cycles will extend review time in proportion to the time the city must wait for an applicant to submit additional or corrected information.
  - (b) The decision of the director may be reflected on the plans or permit itself or may be documented in a written report or letter of approval.
- (6) Notice of Decision. Public notice of a Type I decision is not required. The applicant shall be notified in writing or by email that the permit is ready to issue or the application is approved.
- (7) Administrative Appeal. There is no administrative appeal of a Type I decision except for decisions that are appealable to the building board of appeals in accordance with this title and the International Codes as adopted by the city.
- (8) Judicial Appeal. A Type I decision not appealable to the building board of appeals may be appealed directly to superior court.

**§ 20.22.040. Type II (administrative decision, hearing examiner appeal).**

- (1) General. Type II applications are defined pursuant to POMC § 20.22.020. All Type II applications must meet all applicable requirements of the POMC in addition to the requirements specified below.
- (2) Preapplication Conference. Type II actions are required to participate in a preapplication conference pursuant to POMC § 20.24.010. A limited preapplication conference may be allowed for projects that do not require substantial review by other departments such as variances and design review without SEPA or street improvement requirements.
- (3) Notice of Application. Type II applications require a notice of application pursuant to Chapter 20.25 POMC.
- (4) Review of Application.
  - (a) The director shall commence permit review pursuant to Chapter 20.24 POMC. The director shall determine which city departments are responsible for reviewing or commenting on an application and shall ensure the affected departments receive a copy of the application, or appropriate parts of the application.
  - (b) Following a determination of technical completeness and determination of consistency pursuant to POMC § 20.24.090, the director shall approve, approve with conditions, or deny all Type II applications. Conditions may be imposed directly on the plans (red-lining), through other documentation reflected on the plans, or in a written staff report or other decision document, to ensure the requirements of city codes and regulations are met without going through another correction cycle before permit issuance.
- (5) Public Hearing. No public hearing is required for Type II decisions.
- (6) Decision. Type II decisions are subject to the maximum 100-day timeline requirement pursuant to POMC § 20.24.110. A decision for a Type II action shall be made in writing by the director and shall include the following information:
  - (a) A description of the proposal and a listing of permits or approvals included in the application;
  - (b) A statement of the applicable criteria and standards in this code and other applicable law;
  - (c) A statement of background information and facts relied upon by the department which show the application does or does not comply with the approval criteria;
  - (d) A summary of public comment received and how the department or applicant responded to the public comments or concerns; and
  - (e) The decision to deny or approve the application and, if approved, any

conditions of approval necessary to ensure the proposed development will comply with applicable law.

- (7) Notice of Decision. Public notice of a Type II decision shall be provided pursuant to POMC § 20.24.100. Notice of a short plat or binding site plan shall be provided in the same manner as notice of application as set forth in Chapter 20.25 POMC.
- (8) Administrative Appeal. A Type II decision, except for shoreline substantial development permits and shoreline variances, may be appealed to the hearing examiner within 14 calendar days of the notice of decision. A decision on a shoreline substantial development permit or shoreline variance may be appealed to the State Shorelines Hearings Board pursuant to Chapter 20.164 POMC. Shoreline appeal procedures and information are available from the department or from the State Department of Ecology. Administrative appeals of director decisions to the hearing examiner are to be made on forms provided by the city and shall include the following information:
  - (a) A brief statement regarding how the appellant is significantly affected by or interested in the matter appealed;
  - (b) A specific clear and comprehensible statement of the appellant's issues on appeal, noting appellant's specific exceptions and objections to the decision or action being appealed;
  - (c) The specific relief requested, such as reversal or modification; and
  - (d) Signature, address, and phone and fax number of the appellant, and name and address of appellant's designated representative, if any.

(9) Judicial Appeal. The decision of the hearing examiner on a Type II appeal may be appealed to superior court.

~~(9)~~(10) For Final Plats, no notice of application or public hearing is required. Decisions are ministerial and may be appealed to the Hearing Examiner within 14 days.

### **§ 20.22.050. Type III (hearing examiner decision, judicial appeal).**

- (1) General. Type III applications are defined pursuant to POMC § 20.22.020. All Type III applications must meet all applicable requirements of the POMC in addition to the requirements specified below.
- (2) Preapplication Conference. Type III applications are required to have a preapplication conference pursuant to POMC § 20.24.010.
- (3) Notice of Application. Type III applications require a notice of application pursuant to Chapter 20.25 POMC.
- (4) Review of Application.
  - (a) The director shall commence permit review pursuant to Chapter 20.24 POMC. The director shall determine which city departments are responsible for reviewing or commenting on an application and shall ensure the affected

departments receive a copy of the application or appropriate parts of the application.

- (b) Following a determination of technical completeness and determination of consistency pursuant to POMC § 20.24.090, the director shall prepare a written recommendation to the hearing examiner. The director's recommendation shall provide a description of the proposal, a listing of the permits or approvals included in the application, a statement of the criteria and standards applicable to the proposal, and a review of the background information and facts relied upon by the director for the recommendation. The recommendation shall enumerate any conditions needed to ensure the application meets each of the applicable decision criteria.
  - (c) If a director recommendation is not available to the hearing examiner as provided in this section, the hearing examiner may reschedule or continue the hearing upon their own motion or upon the motion of a party, or the hearing examiner may decide the matter without the recommendation.
  - (d) The director's recommendation, and any additional staff reports, shall be consistent with RCW 36.70B.060(5).
- (5) Public Hearing. A Type III action requires an open record hearing before the hearing examiner.
- (a) At least 14 calendar days before the date of the hearing, public notice of the hearing shall be provided consistent with the requirements of POMC § 20.25.050.
  - (b) The director's recommendation shall be made available on the date the hearing notice is issued.
  - (c) SEPA appeals for Type III decisions may be consolidated with a public hearing as provided for in POMC § 20.160.240(5).
  - (d) The burden of proof shall be on the applicant to demonstrate that the proposal conforms to applicable codes and standards; except that for any SEPA DNS appeal, the burden of proof is on the appellant.
  - (e) The public hearing shall be conducted pursuant to the hearing examiner's adopted rules and procedures and shall be recorded on audio or audiovisual tape. The hearing examiner may remand an application to staff at their discretion to allow staff to administratively address an issue or irregularity with the application or the processing thereof.
- (6) Decision.
- (a) A written decision for a Type III action shall be issued by the hearing examiner within 14 calendar days after the date the record closes, and not later than 170 calendar days after the issuance of the determination of technical completeness pursuant to POMC § 20.24.110, whichever is earlier, unless the applicant has

consented in writing to an extension of this time period. The hearing examiner's decision shall include the following information:

- (i) A description of the proposal and a listing of permits or approvals included in the application;
- (ii) A statement of the applicable criteria and standards in the municipal code and other applicable law;
- (iii) A statement of background information and facts relied upon by the hearing examiner which show the application does or does not comply with the approval criteria and standards;
- (iv) A summary of public testimony and public comment received and how the department or the applicant responded to the public testimony and public comments; and
- (v) The decision to deny or approve the application and, if approved, any conditions of approval necessary to ensure the proposed development will comply with applicable law.

(b) Notice of Decision. Public notice of a Type III decision shall be provided pursuant to POMC § 20.24.100.

(7) Reconsideration.

- (a) The hearing examiner may reconsider a Type III decision if a written request for such administrative appeal is filed by a party of record within 14 calendar days of the date of the notice of decision. Grounds for requesting reconsideration shall be limited to the following:
  - (i) The decision or conditions of approval are not supported by facts in the record;
  - (ii) The decision contains an error of law;
  - (iii) There is newly discovered evidence potentially material to the decision which could not reasonably have been produced prior to the open record predecision hearing; or
  - (iv) The applicant proposes changes to the proposal in response to deficiencies identified in the decision.
- (b) Any request for reconsideration shall be mailed to all parties of record on the same day as the request is mailed or delivered to the hearing examiner.
- (c) A request for reconsideration shall stop the running of the judicial appeal period on a Type III decision for seven calendar days. During this time period, the hearing examiner shall decide whether reconsideration is appropriate. If the hearing examiner decides to reconsider the decision, the judicial appeal period will be placed on hold until the reconsideration process is complete and

a new decision is issued. If the hearing examiner decides to reconsider a decision, all parties of record shall be notified.

- (d) The hearing examiner shall, by order, set a schedule for other parties of record to respond in writing to the reconsideration request and shall issue a decision no later than 14 calendar days following the due date for submittal of written responses. A new judicial appeal period shall commence from the date of the hearing examiner's decision on reconsideration.
- (8) Judicial Appeal. Type III decisions, except shoreline conditional use permits and any associated shoreline permits, may be appealed to superior court. Shoreline decisions are appealable to the State Shorelines Hearings Board.

**§ 20.22.060. Type IV (city council decision, judicial appeal).**

- (1) General. Type IV applications are defined pursuant to POMC § 20.22.020. All Type IV applications must meet all applicable requirements of the POMC in addition to the requirements specified below.
- (2) Preapplication Conference. Type IV applications are required to have a preapplication conference pursuant to POMC § 20.24.010.
- (3) Notice of Application. Type IV applications require a notice of application pursuant to Chapter 20.25 POMC.
- (4) Review of Application.
  - (a) The director shall commence review of the permit application pursuant to Chapter 20.24 POMC. The director shall determine which city departments are responsible for reviewing or commenting on an application and shall ensure the affected departments receive a copy of the application or appropriate parts of the application.
  - (b) Following a determination of technical completeness and determination of consistency pursuant to POMC § 20.24.090, the director shall prepare a written recommendation to the hearing body. The director's recommendation shall provide a description of the proposal, a listing of the permits or approvals included in the application, a statement of the criteria and standards applicable to the proposal, and a review of the background information and facts relied upon by the director for the recommendation. The recommendation shall enumerate any conditions needed to ensure the application meets each of the applicable decision criteria.
  - (c) If a SEPA determination of nonsignificance (DNS) is issued for the proposal, the DNS will be issued in conjunction with the director's recommendation to the hearing body.
  - (d) Within 14 calendar days of holding a public hearing, the hearing body shall

issue a recommendation on the application to the city council.

- (5) **Public Hearing.** A Type IV action requires an open record hearing for a recommendation before either the hearing examiner or planning commission, pursuant to the requirements of the individual permit application requirements.
  - (a) At least 14 calendar days before the date of the hearing, public notice of the hearing shall be provided consistent with the requirements of POMC § 20.25.050.
  - (b) The director's recommendation shall be made available on the date the hearing notice is issued.
  - (c) SEPA appeals for Type IV decisions may be consolidated with a public hearing as provided for in POMC § 20.160.240(5). The burden of proof shall be on the applicant to demonstrate that the proposal conforms to applicable codes and standards; except that for any SEPA DNS appeal, the burden of proof is on the appellant.
  - (d) The public hearing shall be conducted pursuant to the hearing body's adopted rules and procedures and shall be recorded on audio or audiovisual tape.
- (6) **Decision.** Following receipt of a recommendation from the hearing body, the city council shall approve, approve with conditions, or deny a Type IV application by ordinance. Pursuant to POMC § 20.24.110, the city council's decision must be issued within 170 calendar days of the issuance of the determination of technical completeness, unless the applicant has consented in writing to an extension of this time period.
- (7) **Administrative Appeal.** There is no administrative appeal of Type IV decisions.
- (8) **Judicial Appeal.** A Type IV decision may be appealed to superior court.

**§ 20.22.070. Type V (legislative actions).**

- (1) **General.**
  - (a) Type V actions are defined pursuant to POMC § 20.22.020. All Type V proposals are legislative actions, but not all legislative actions are Type V decisions. Legislative actions involve the creation, amendment, or implementation of policy or law by ordinance. In contrast to other types of actions, legislative actions apply to large geographic areas and are of interest to many property owners and citizens.
  - (b) Type V actions are not subject to the application procedures in Chapter 20.24 POMC, unless otherwise specified.
- (2) **Public Hearing.**
  - (a) The planning commission shall hold a public hearing and make recommendations to the city council on Type V actions. A notice for the public hearing shall be provided pursuant to POMC § 20.25.050.
  - (b) The city council may hold a public hearing on Type V actions prior to passage of an ordinance or entry of a decision.

§ 20.90.030

§ 20.90.040

- (c) The planning commission and/or city council may require more than one public hearing for Type V actions.
  - (d) Notice of a public hearing shall be provided to the public at least 14 calendar days prior to the hearing by publishing notice as provided for in POMC  
§ 20.25.050. In addition to publishing notice and posting notice at City Hall, at least 14 calendar days prior to the hearing the city shall mail notice of the public hearing to the applicant, relevant government agencies, and other interested parties who have requested in writing to be notified of the hearing. If the legislative action is for a comprehensive plan amendment, notice of the public hearing shall also be posted and mailed pursuant to Chapter 20.04 POMC. The city may also provide optional methods of public notice as provided in Chapter 20.25 POMC.
- (3) Review. Review of Type V actions shall be pursuant to the applicable POMC chapter for each action.
  - (4) Decision. The city council shall issue a final decision on all Type V actions by passage of an ordinance.
  - (5) Appeals. A Type V decision may be appealed to the Growth Management Hearings Board pursuant to the regulations set forth in RCW 36.70A.290.
  - (6) Legislative Enactments Not Restricted. Nothing in this section, chapter, or Chapter 20.24 POMC shall limit the authority of the city council to make changes to the city's comprehensive plan, as part of a regular revision process, or to make changes to the city's municipal code.

## CHAPTER 20.80 SUBDIVISIONS – GENERAL PROVISIONS

### § 20.80.010. Title.

- (1) The ordinance codified in this subtitle shall be known as the city of Port Orchard subdivision code.
- (2) This chapter shall be entitled "Subdivisions – General Provisions." The provisions of this chapter shall apply to all chapters within this subtitle.

### § 20.80.020. Authority.

This subtitle is adopted pursuant to the provisions of Chapter 58.17 RCW and the general police powers granted to the city pursuant to Chapters 35A.13 and 35A.63 RCW and other applicable laws. [Pursuant to RCW 58.17.100, City Council delegates final plat approval authority to the Community Development Director as an administrative decision under Chapter 20.22 POMC.](#)

### § 20.80.030. Purpose.

The purpose of this subtitle is to provide rules, regulations, requirements, and standards for the subdivision of land, for obtaining binding site plans, unit lot subdivisions, and of the adjustment of existing lot lines within the city, ensuring:

- (1) That the highest feasible quality in subdivisions will be obtained;
- (2) That the public health, safety, general welfare, and aesthetics of the city shall be promoted and protected, complying with the provisions of Chapter 58.17 RCW;
- (3) That orderly growth, development, and the conservation, protection, and proper use of land shall be promoted;
- (4) That the proper provisions for all public facilities, including connectivity, circulation, utilities, and services, shall be made;
- (5) That maximum advantage of site characteristics shall be taken into consideration;
- (6) Undue and unnecessary burdens are not placed on either the applicant or the city; and
- (7) That the process shall be in conformance with provisions set forth in this title and the Port Orchard comprehensive plan.

### § 20.80.040. Applicability.

- (1) The provisions of this subtitle shall apply to all lot line adjustments and the division of any land within the corporate limits of the city of Port Orchard for sale, lease, transfer, or building development into two or more parcels, except as expressly stated in this subtitle.

§ 20.90.030

§ 20.90.040

- (2) Land use review procedures provided in Subtitle II (Permitting and Development Approval) of this title shall apply in addition to applicable provisions within this subtitle.
- (3) No person, firm, or corporation proposing to make, or having made, any division of land as described above within the city limits shall enter any contract for the sale of, or shall offer to sell, any part of the division without having first obtained its approval as a short plat, subdivision plat, unit lot subdivision, or binding site plan in accordance with this subtitle, unless such agreement for sale complies with RCW.
- (4) All contiguous land shall be included in a plat application. Multiple applications or applications and/or exemptions shall not be utilized as a substitute for comprehensive subdividing in accordance with the requirements of this subtitle. The applicant shall certify that they have included all contiguous land in a plat application and that they do not own or otherwise have a legal interest in ownership of contiguous parcels.
- (5) Any land being divided into nine or fewer parcels, lots, tracts, or sites shall conform to the short plat provisions of this subtitle. Nothing in this subtitle shall prevent a landowner who has short-platted a parcel into fewer than nine lots from filing a short plat within a five-year period to create up to a total of nine lots within the boundary of the original short plat. Any land being divided into 10 or more parcels, lots, tracts, or sites for any purpose, and any land which has been divided under the short plat process within five years, shall conform to the provisions of the preliminary and final plat procedures of this subtitle. The only exception to this provision shall be those lands being subdivided through the binding site plan procedures of this subtitle.

**§ 20.80.050. Exemptions.**

Pursuant to RCW 58.17.040, the following activities are not considered short plats or plats and the provisions of this subtitle shall not apply:

- (1) Cemeteries and other burial plots while used for that purpose;
- (2) Divisions made by testamentary provisions, or the laws of descent;
- (3) Divisions of land into lots or tracts classified for industrial or commercial use when the city has approved a binding site plan for the use of the land in accordance with this subtitle;
- (4) 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 has approved a binding site plan for the use of the land in accordance with this subtitle;
- (5) Lot line adjustments made pursuant to this subtitle;
- (6) A division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose. "Personal wireless service" means any federally licensed personal wireless service. "Facilities" means unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters and support structures;
- (7) A division of land related to the acquisition or exchange of land by public agencies for public use, except human occupancy, including but not limited to subdivisions

§ 20.90.030

§ 20.90.040

made for road construction purposes;

- (8) Portions of property deeded to the city for the limited purpose of providing a right-of-way and/or utility facilities, such as but not limited to the installation of linear utility facilities, such as electric power lines, telephone lines, water supply lines, sewer service lines, cable lines or other utility facilities of a similar or related nature; or a pump house, reservoir or well site; provided the remaining property is not reduced in size below the minimum square footage required by applicable zoning, that no conflict is created with any applicable design standards for the property, and that written approval from the community development director is received;
- (9) Division of land due to condemnation or sale under threat thereof by an agency or division of government vested with the power of condemnation; if sale is made under threat of condemnation, such threat must be evidenced by the government agency filing affidavit so stating with the county auditor.

**§ 20.80.060. Document forms.**

All short plats, final plats, unit lot subdivisions, replats or binding site plans shall contain the elements listed in RCW 58.17.160. In addition, the legal description of the subdivision, unit lot subdivision, binding site plan, or boundary line adjustment, and easements, dedications, acknowledgements, and other statements, shall appear substantially in the form as follows, based on the type of land division to be recorded:

- (1) Easements (Sample Utility Easement).

An easement is reserved for and granted to (the names of all the utilities, public and private, serving the area) and their respective successors and assigns under and upon the exterior ten (10) feet of front boundary lines of all lots and tracts, in which to install, lay, construct, renew, operate, maintain and remove utility systems, lines, fixtures and appurtenances attached thereto, for the purpose of providing utility services to the subdivision and other property, together with the right to enter upon the lots and tracts at all times for the purposes stated, with the understanding that any grantee shall be responsible for all unnecessary damage it causes to any real property owner in the subdivision by exercise of rights and privileges herein granted.

- (2) Dedication. Roads not dedicated to the public must be clearly marked on the face of the plat. Any dedication, donation or grant as shown on the face of the plat shall be considered to all intents and purposes as a quitclaim deed to the said donee or donees, grantee or grantees, for their use for the purpose intended by the grantors or donors.

Know All Persons by these Presents that we, the undersigned owners in the fee simple or contract purchaser and mortgage holder of the land hereby platted, hereby declare this plat and dedicate to the use of the public forever all streets and avenues shown thereon and use thereof for all public purposes not inconsistent with the use thereof for public highway purposes; also the right to make all necessary slopes for cuts and fills upon the lots and blocks shown on this plat in the original reasonable grading of the streets and avenues shown hereon. The undersigned owners hereby waive all claims for damages against any governmental authority which may be occasioned to the adjacent land by the established construction, drainage and maintenance of said road. This subdivision has been made with our fee consent and in accordance with our

desires.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this \_\_ day of \_\_\_\_\_

[Signature blocks and Notary Certificate to follow.]

- (3) Acknowledgements or Notary Certificate. The forms for notary certificates are set forth in RCW 42.44.100.
- (4) Surveyor's Certificate.

I hereby certify that the plat of \_\_\_\_\_ is based upon a complete and actual survey and subdivision of Section \_\_, Township \_\_, Range \_\_, East W.M.; that the courses and distances are shown correctly thereon, that the monuments have been set and the lot and block corners staked correctly on the ground; that this is a true and correct representation of the lands actually surveyed and that I have fully complied with the provisions of the statutes and platting regulations.

\_\_\_\_\_  
Certificate: \_\_\_\_\_

Expiration: \_\_\_\_\_

Date: \_\_\_\_\_

- (5) City Engineer's Approval.

I hereby certify that this final/short plat/unit lot subdivision, is consistent with all applicable Town/City improvement standards and requirements in force on the date of preliminary/short plat approval. I have approved this final/short plat/unit lot subdivision as to the layout of streets, alleys and other rights-of-way, design of bridges, sewage and water systems and other structures. Examined and approved by me this \_\_ day of \_\_, 20\_\_.

\_\_\_\_\_  
City Engineer.

- (6) Community Development Director's Approval.

I hereby certify that this final/short plat/unit lot subdivision is consistent with all applicable Town/City improvement standards and requirements in force on the date of preliminary/short plat approval. I have approved this final/short plat/unit lot subdivision, as to the layout of streets, alleys and other rights-of-way, design of bridges, sewage and water systems and other structures. Examined and approved by me this \_\_ day of \_\_, 20\_\_.

\_\_\_\_\_  
Community Development Director.

- (7) ~~City Council~~ Final Plat Approval.

SURVEYOR'S CERTIFICATE

§ 20.90.030

§ 20.90.040

I hereby certify that this plat is based upon a complete and actual survey and subdivision of Section \_\_\_\_, Township \_\_\_\_, Range \_\_\_\_, East W.M.; that the courses and distances are shown correctly thereon; that the monuments have been set and the lot and block corners staked correctly on the ground; that this is a true and correct representation of the lands actually surveyed and that I have fully complied with the provisions of the statutes and platting regulations.

\_\_\_\_\_  
Registered Land Surveyor

Certificate No. \_\_\_\_\_ Date: \_\_\_\_\_

CITY ENGINEER'S APPROVAL

I hereby certify that this final plat is consistent with all applicable City improvement standards and requirements in force on the date of preliminary plat approval. I have approved this final plat as to layout of streets, alleys, rights-of-way, design of bridges, sewage and water systems, and other structures.

\_\_\_\_\_  
City Engineer Date: \_\_\_\_\_

COMMUNITY DEVELOPMENT DIRECTOR'S APPROVAL

Pursuant to RCW 58.17.100 and delegated authority under POMC, I hereby approve this final plat, finding that it conforms to the terms of preliminary plat approval and applicable City and State law.

\_\_\_\_\_  
Community Development Director Date: \_\_\_\_\_

HEALTH/WATER-SEWER RECOMMENDATION

Recommendation for approval provided by:

\_\_\_\_\_  
Local Health Department / Water-Sewer Utility Date: \_\_\_\_\_

CITY FINANCE DIRECTOR CERTIFICATION

I hereby certify that all taxes and delinquent assessments for which the property may be liable as of the date of certification have been duly paid, satisfied, or discharged.

\_\_\_\_\_  
City Finance Director Date: \_\_\_\_\_

COUNTY TREASURER CERTIFICATION

This is to certify that all taxes heretofore levied and which have become a lien upon the lands herein described have been fully paid and discharged according to the records of my office.

\_\_\_\_\_  
County Treasurer Date: \_\_\_\_\_

COUNTY AUDITOR RECORDING

Filed at the request of \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and recorded in Volume \_\_\_\_\_ of Plats, Page(s) \_\_\_\_\_, Records of \_\_\_\_\_ County, Washington.

\_\_\_\_\_  
County Auditor Approved by the City Council of the City of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
~~Mayor~~

ATTEST:

\_\_\_\_\_  
~~City~~

~~Clerk~~

(8) City Finance Director Approval.

I hereby certify that all taxes and delinquent assessments for which the property may be liable as of the date of certification have been duly paid, satisfied or discharged.

Executed this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Finance Director

(9) County Treasurer Approval.

This is to certify that all taxes heretofore levied and which has become a lien upon the lands herein described, have been fully paid and discharged, according to the records of my office, up to and including the year \_\_.

Executed this \_ day of \_\_, 20\_\_ . County

Treasurer  
\_\_\_\_\_

(10) County Auditor.

Filed at the request of \_\_\_\_\_, this day of \_\_\_\_\_

§ 20.90.030

§ 20.90.040

\_\_\_\_\_, 20\_\_, and recorded in Volume \_\_\_\_\_ of Plats,  
page(s) \_\_\_\_\_, Records of \_\_\_\_\_ County, Washington.

\_\_\_\_\_  
County Auditor

**§ 20.80.070. Consent to access.**

All persons applying for approvals under this subtitle shall permit free access to the land subject to the application to all agencies with jurisdiction considering the proposal for the period of time extending from the date of application to the time of final action.

**§ 20.80.080. Limitation of liability.**

It is the specific intent of this subtitle and procedures adopted under this subtitle to place the obligation of complying with the requirements of this subtitle upon the permittee, and no provision is intended to impose any duty upon the city, or any of its officers, employees, or agents. Nothing contained in this subtitle is intended to be or shall be construed to create or form the basis for liability on the part of the city, or its officers, employees, or agents, for any injury or damage resulting from the failure of the permittee to comply with the provisions of this subtitle, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this subtitle or any procedures adopted under this subtitle by the city, its officers, employees, or agents.

**§ 20.80.090. Severability.**

If any part, sentence, paragraph, subsection, section, or clause of this subtitle is adjudged unconstitutional, or held invalid, the remainder of the subtitle or the application of the provisions to other persons, property, structures, or circumstances shall not be affected. Whenever any condition or limitation is included in an order authorizing a planned development or any site plan approval, it shall be conclusively presumed that the authorizing officer or body consider such condition or limitation necessary to carry out the spirit and purpose of this subtitle or the requirement of some provision hereof, and to protect the public health, safety, and welfare, and that the officer or body would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful.

## CHAPTER 20.90 SUBDIVISIONS – FINAL PLAT

### § 20.90.010. Decision type – Review procedure.

A final plat is a Type ~~IV~~-II land use decision and shall be subject to the requirements of and processed in accordance with the procedures for such applications and decisions as set forth in Chapter 20.22 POMC. However, Final Plats do not require a public hearing or notice of application. A Final Plat Decision shall be issued by the Community Development Director consistent with POMC 20.90.040 and may be appealed to the Hearing Examiner.

### § 20.90.020. Application.

- (1) Items Required for All Final Plat Applications. A complete final plat application shall include all of the following items listed in this section. The number of required copies shall be as indicated on the final plat application form.
  - (a) The completed application form provided by the city, which shall include the name, address and telephone number of the subdivider, property owner, and the date of submission.
  - (b) A final plat map meeting the requirements of preliminary plat approval, Chapter 20.88 POMC, and Chapter 58.17 RCW, in the form required by and including the certifications and dedications described in POMC § 20.88.050. Every plat containing a dedication filed for record must be accompanied by a recent title report confirming that the title of the lands as described and shown on said plat is in the name of the owners signing the certificate or instrument of dedication. Street names and lot address numbers shall be shown on the plat. Hard copies shall be 18 inches by 24 inches or larger, scaled at not less than one inch equals 100 feet.
  - (c) A recordable survey and surveyor's signature meeting the requirements of Chapter 58.09 RCW and RCW 58.17.250.
  - (d) If the public facilities and improvements required by the preliminary plat will not be constructed prior to final plat (as allowed by a bond or other security with a development agreement, pursuant to Chapter 20.26 POMC), the subdivider's engineer shall provide cost information for the construction and installation of all public facilities not installed at time of final plat application, including, but not limited to, the following:
    - (i) Water mains and appurtenances, including the costs of any other associated improvement by item, including water services;
    - (ii) Storm drainage facilities;
    - (iii) Sanitary sewer;
    - (iv) Pedestrian/bike connections;
    - (v) Landscaping, including street trees; and

- (vi) Other on- or off-site improvements as required.
- (e) As-built drawings.
- (f) Final plat compliance matrix.
- (g) Complete legal description of the property to be subdivided.
- (h) A vicinity map, approximately 800 feet to the inch.
- (i) Mathematical map check (lot closures).
  - (j) Electronic submittal of all documents included in the final plat application, in high-resolution PDF or DWG format as appropriate.
- (2) Items That May Be Required for Final Plat Application. The items listed in this section shall be included with the final plat application if applicable, as determined by the director or the city engineer. The number of required copies shall be as indicated on the final plat application form.
  - (a) Bill of sale for any infrastructure donated to the city.
  - (b) Performance/maintenance bonds or other security with cost information by engineer.
  - (c) Recorded off-site easements or dedications.
  - (d) Water/sewer acceptance letter from West Sound Utility District.
  - (e) Subdivision covenants, codes and restrictions (CCRs).
  - (f) Stamped storm detention/retention system as-built verification.
  - (g) Recorded storm system covenant.

**§ 20.90.030. Prescribed form.**

The final plat shall be submitted to the city in the form and manner prescribed in this section.

- (1) Form.
  - (a) The final plat containing all of the information specified in this chapter shall be prepared in a neat and legible manner in permanent drawing ink or equivalent on mylar film or better. The applicant shall also submit an electronic copy to the city of the approved final plat. All documents, maps, survey calculations, and notes shall contain the name of the subdivision, the name(s) of the applicant(s), and the name of the registered land surveyor responsible to the applicant(s); and
  - (b) The plat map shall be 18 inches by 24 inches or larger with a one-half-inch border on the top, bottom, and right-hand margins and a two-and one-half-inch border on the left-hand or binding margin.
- (2) Specific Requirements. The final plat shall clearly show the following information:
  - (a) The lines and names of all streets and other public ways, pedestrian/bike path

§ 20.90.030

§ 20.90.040

connections, parks, playgrounds, and easements intended to be dedicated for public use and/or common areas granted for use of inhabitants of the subdivision;

- (b) The lines and names of all existing or platted streets or other public ways, pedestrian/bike connections, parks, playgrounds, and easements adjacent to the subdivision, including municipal boundaries, township lines, and section lines;
- (c) The lengths and bearings of all straight lines, curve radii, curve delta, arcs, and semitangents (where appropriate) of all curves;
- (d) All bearings and dimensions along the lines of each lot together with any other data necessary for the location of any lot lines in the field. All bearings shall be referenced to the Washington Coordinate System, WM Zone;
- (e) All easements and associated restrictions and maintenance provisions;
- (f) Building setbacks;
- (g) Tracts or areas set aside for environmental protection, tree retention, community open space, common access or any other restricted use with associated restrictions and maintenance provisions clearly defined;
- (h) The area of all lots and tracts expressed in square feet;
- (i) Suitable primary control points, approved by the city engineer, on descriptions and ties to such control points, to which all dimensions, angles, bearings and similar data given on the plat shall be referred;
- (j) The location of all permanent monuments;
- (k) The names of all subdivisions immediately adjacent thereto;
- (l) The date, north arrow, scale, datum plane, and date of survey;
- (m) The boundary of the tract with the courses and distances marked thereon as determined by a field survey made by a registered land surveyor of the state;
- (n) A vicinity sketch map of approximately 800 feet to the inch;
- (o) Street names;
- (p) The stamp and signature of a surveyor licensed in the state of Washington;
- (q) All linear dimensions shall be given in feet and decimals of a foot to the nearest hundredth;
- (r) The scale of the plat will be 100 feet to the inch, or as approved by the director;
- (s) If the plat constitutes a replat, the lots, blocks, streets, etc., of the original plat shall be shown by dotted lines in their proper positions relative to the new arrangement of the plat, the new plat being clearly shown in solid lines so as to avoid ambiguity;
- (t) Dedications statement; and
- (u) Signature block.

**§ 20.90.040. Criteria for approval.**

The Community Development Director shall verify and document the following before granting final plat approval:~~A final plat application shall be approved if the subdivision proposed for approval:~~

- (1) Meets all general requirements for plat approval as set forth in POMC § 20.88.040; and
- (2) Substantially conforms to all terms of the preliminary plat approval; ~~and~~
- (3) Meets the requirements of Chapter 58.17 RCW, other applicable state laws, this chapter, and any other applicable city ordinances which were in effect at the time of preliminary plat approval;
- (4) Confirmation that the engineering elements of the final plat meet all applicable city standards and requirements;
- (5) Written recommendation for approval from the local health department or the agency furnishing water and sewer services;
- (6) Verification that performance and/or maintenance bonds have been provided consistent with the requirements of POMC 20.98.030 to guarantee completion of required public improvements;
- (7) A survey prepared and certified by a licensed land surveyor in compliance with RCW 58.09 and RCW 58.17.250; and
- ~~(3)~~(8) Certification that all taxes and delinquent assessments for the property have been paid.

**§ 20.90.050. Time limitation for approval.**

The final decision to approve or deny a final plat shall be made within 30 calendar days after the final plat application ~~was is determined complete~~filed, unless the applicant consents to an extension of such time period.

**§ 20.90.060. Recording – Expiration.**

- (1) All final subdivisions shall be filed for record with the office of the Kitsap County auditor. The applicant shall furnish one copy of the recorded document to the department and one copy shall be filed with the office of the Kitsap County assessor.
- (2) Approvals of final subdivisions shall automatically expire if the plans are not recorded within one year of the written approval date.
- ~~(2)~~(3) Lots may not be sold until final plat is approved and recorded with County Auditor

**§ 20.90.070. Effect of approval.**

- (1) Any lots in a final plat or filed for record shall be a valid land use, notwithstanding any change in zoning laws, for a period of 10 years from the date of filing if the final plat is within city limits, not subject to the requirements adopted under Chapter 90.58 RCW, and the date of filing is on or before December 31, 2007.
- (2) A subdivision shall be governed by the terms of approval of the final plat and the statutes, ordinances, and regulations in effect at the time of approval under RCW 58.17.150(1) and (3) for a period of 10 years after final plat approval if the final plat is not subject to requirements adopted under Chapter 90.58 RCW and the date of final plat approval is on or before December 31, 2007, unless the city council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.
- (3) Except as provided by subsection (1) of this section, any lots in a final plat filed for record shall be a valid land use, notwithstanding any change in zoning laws, for a period of seven years from the date of filing if the date of filing is on or before December 31, 2014, and for a period of five years from the date of filing if the date of filing is on or after January 1, 2015.
- (4) Except as provided by subsection (2) of this section, a subdivision shall be governed by the terms of approval of the final plat and the statutes, ordinances, and regulations in effect at the time of approval under RCW 58.17.150(1) and (3) for a period of seven years after final plat approval if the date of final plat approval is on or before December 31, 2014, and for a period of five years after final plat approval if the date of the final plat approval is on or after January 1, 2015, unless the city council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

## Chapter 20.98 Improvements

### § 20.98.010. Purpose.

The purpose of this chapter is:

- (1) To require the subdivider's submission of construction plans for development of the subdivision to the city for review and approval of specific construction details for all public facilities;
- (2) To ensure that the public facilities required as part of approvals granted under this subtitle are built according to city standards;
- (3) To address bonds between the city and property owners/subdividers, allowing a limited deferral for the construction of public facilities associated with the approval; and
- (4) To ensure that the required public facilities and public utilities are ready and available for use when needed by the users of the subdivision.

### § 20.98.020. Completion of public facilities and improvements.

No final short plat, final plat of a subdivision, unit lot subdivision or final binding site plan can be approved or recorded until all of the public facilities and other improvements as specified in the short plat, preliminary unit lot subdivision, preliminary plat, or preliminary binding site plan are constructed in a satisfactory manner and approved by the responsible departments. As an alternative to such construction, the applicant may post a bond, or execute a development agreement, with appropriate security in order to record the short plat or obtain approval of the final plat, final unit lot subdivision, or binding site plan.

### § 20.98.030. Bonds.

- (1) Performance Bond May Be Posted in Lieu of Construction. The city, in its sole discretion, may waive the requirement that the public facilities or other improvements and dedications required under this chapter be completed/satisfied prior to the recording of the short plat or approval of the final plat, final unit lot subdivision, or final binding site plan, as long as the applicant posts a bond in accordance with this section. The city's decision to allow the applicant to post a bond allows the applicant to apply for building permits for lots in the plat, unit lot subdivision, or binding site plan before the dedications have been made or the improvements constructed.
- (2) When Performance Bond Is Appropriate. The city may consider a number of factors in the determination whether to allow a bond to be posted by an applicant, including, but not limited to:
  - (a) The date of the applicant's request to post a bond in light of the deadline for recording of the short plat, or the deadline for submission of final plat, final unit lot subdivision, or final binding site plan applications, and the applicant's progress to date toward the completion of the public facilities;
  - (b) The consequences that could result from the applicant's construction of the

homes or other development contemplated by the proposed approval, before the necessary public facilities are completed/installed; and

- (c) Any other issues that may affect the public health and safety.
- (3) **Acceptable Bonds.** No bond shall be accepted by the city unless it is submitted on the form approved in advance by the city attorney and from a bonding company licensed to do business in the state of Washington. The city engineer shall determine the amount of the bond, which shall be no less than 150 percent of the estimated cost of the public facilities or improvements. The city engineer shall make a recommendation as to the length of the bond, which shall be no longer than two years after the final approval.
- (4) Warranty Bond. Once the public facilities have been constructed, the dedications made and city has inspected and approved the public facilities, the applicant shall provide the city with a warranty bond meeting all the requirements of this section to ensure the successful operation of the public facilities, for a period of two years after such inspection and approval.
- (5) Delegation of Authority for Bond Acceptance. The Community Development Director is delegated the authority to accept performance and/or maintenance bonds associated with final plat approvals, consistent with this section and POMC 20.90. Such bonds may only be accepted for improvements or dedications that, if deferred, will not create an adverse impact on the public's health, safety, or general welfare.
- (4)(6) Limitation on Delegated Authority. If a proposed bond would cover improvements that are necessary to protect the public's health, safety, or general welfare, the authority to accept such bond remains with the City Council. In such cases, the Director shall prepare a recommendation and forward the matter to the City Council for consideration and approval.

#### **§ 20.98.040. Temporary improvements.**

The applicant shall pay for and build all temporary improvements required by any approval, and shall maintain those improvements as set forth in the approval. Prior to the construction of any temporary improvement, the applicant shall provide a bond with a cash escrow or cash set aside in an amount established by the city engineer to ensure that the temporary facilities/improvements will be properly constructed, maintained, and timely removed.

#### **§ 20.98.050. Cost of improvements.**

All required public facilities and improvements shall be constructed by the applicant/property owner, at their sole expense, without reimbursement by the city, unless otherwise specified in the project permit approval or development agreement with the city. To the extent allowed by law, the city may form or cause to be formed a local improvement district or latecomers' agreement for the construction and financing of the required public facilities, excluding on-site improvements on individual lots. If such district is formed or latecomer agreement signed, the applicant/property owner shall not be released from its obligation (as set forth in the bonds, cash escrow, or cash set aside) to construct the public facilities until complete or the city is satisfied that a subsequent guarantee will cover performance.

**§ 20.98.060. Inspection and acceptance of improvements.**

- (1) General Procedure. The subdivider/property owner shall pay an inspection fee based on the estimated cost of the inspection, which fees shall be due and payable upon inspection. No building permits or certificates of occupancy shall issue until the fees are paid. If the city engineer finds that one or more of the required public facilities or other improvements have not been satisfactorily constructed in accordance with the approved plans and specifications or other applicable standards or regulations, the subdivider/property owner shall be responsible for any corrections and completion of the improvements.
- (2) Release of Security. The city will not accept dedication of required public facilities or improvements, nor release nor reduce the amount of any security posted by the subdivider, until the city engineer has submitted a certificate stating:
  - (a) That all required public facilities or other improvements have been satisfactorily completed; and
  - (b) The subdivider's engineer or surveyor has certified to the city engineer, through the submission of a detailed "as built" survey plat of the subdivision, indicating location, dimensions, materials and other information required by the city's public works standards, that the layout of the line and grade of all transportation facilities, public facilities or other improvements is in accordance with the approved construction plans for the subdivision or binding site plan.
- (3) City's Acceptance and Dedications. Upon the recommendation for approval of the city engineer, the city council shall thereafter accept the improvements for dedication in an ordinance or resolution adopted for this purpose; the approval of a final plat, absent such resolution or ordinance, shall not be deemed to constitute or imply acceptance by the city of any street, easement, park, or other improvement on the plat.
- (4) Maintenance of Improvements. The subdivider/property owner shall be required to maintain all required public facilities until the dedication of same is formally accepted by the city. Following the acceptance of the public facilities, the subdivider shall provide a warranty bond or other security to the city as required by this chapter.
- (5) Issuance of Building Permits and Certificates of Occupancy. When a bond has been accepted by the city for the construction of public facilities or other improvements in a short plat, final plat, unit lot subdivision, or final binding site plan, the city shall not issue a certificate of occupancy for any building in the development prior to the completion of the required public facilities or improvements and the acceptance of the dedication of those facilities or improvements by the city. The city engineer may authorize the issuance of up to 50 percent of the building permits for the lots in the subdivision if:
  - (a) The applicant is not in default of the subdivision improvement agreement; and
  - (b) The applicant has constructed and the city has inspected/accepted the public facilities or other improvements necessary to serve the lots for which such building permit applications have been submitted.