COUNCIL MEMBERS
Position No.
1. Tod Gunther
2. Chris Moore
3. Don Tracy
4. Jeff Sproul
5. Stanley Holland
6. Greg Hogan
7. Melodi Koenig

ORTING CITY COUNCIL
Regular Business Meeting Agenda
104 Bridge Street S, Orting, WA
Zoom – Virtual
December 10th, 2025
7:00 p.m.

Deputy Mayor Melodi Koenig, Chair

1. CALL MEETING TO ORDER, PLEDGE OF ALLEGIANCE, AND ROLL CALL.

This meeting is being held in person and through the platform zoom. A link for virtual participation can be found on the agenda or on the City's website:
https://us06web.zoom.us/j/88137199912?pwd=CknJapgN4fu20TR03LsU4OmmWxDCnN.1
Telephone: 1-253-215-8782 - Meeting ID: 881 3719 9912 and the passcode 927047.
Livestream: https://www.piercecountytv.org/97/City-of-Orting

2. REQUEST FOR ADDITIONS OR MODIFICATIONS TO THE AGENDA.

3. PUBLIC COMMENTS.

Comments may be sent to the Assistant City Administrator/City Clerk at clerk@cityoforting.org by 3pm on December 10th, 2025, and will be read into the record at the meeting. In person attendees may provide public comments at the meeting. In the case of a question, the chair will refer the matter to the appropriate administrative staff member or committee. Written comments that come in after the 3pm deadline will be read into the record at the next Council meeting.

4. PUBLIC HEARING

A. AB25-77 – Orting Municipal Code Update Title 12 – CGA Committee.

Motion: To adopt Ordinance No. 2025-1147, an ordinance of the city of Orting, Washington, adopting revisions to the Orting Municipal Code, Title 12, Subdivision Regulations; providing for severability; and establishing an effective date.

B. AB25-82 – Orting Municipal Code Update Title 13 – CGA Committee.

Motion: To adopt Ordinance No. 2025-1149, an ordinance of the city of Orting, Washington, adopting revisions to the Orting Municipal Code (OMC), Title 13, Development Regulations; providing for severability; and establishing an effective date.

C. AB25-83 – Orting Municipal Code Update Title 15 – CGA Committee.

Motion: To adopt Ordinance No. 2025-1150, an ordinance of the city of Orting, Washington, adopting revisions to the Orting Municipal Code (OMC), Title 15, Development Code Administration; providing for severability; and establishing an effective date.

5. CONSENT AGENDA.

A. Claims Voucher.

Claims voucher list dated December 10th, 2025, which includes voucher numbers 58022 through 58091 in the amount of $882,099.73 and electronic funds transfers in the amount of $0.00 for a grand total of $882,099.73.

Americans with Disabilities Act – reasonable accommodations provided upon request (360) 893-2219.

Next Regular Meeting: December 31st, 2025 – 7:00pm

B. Payroll Voucher.
Payroll electronic deposit transmissions in the amount of $429,171.91 for a grand total of $429,171.95 for the period covering November 16-30, 2025.
C. Meeting Minutes of November 25th, 2025.

Motion: To approve the consent agenda as prepared.

6. NEW BUSINESS.

A. AB25-122 – 2026 Budget – Finance Director Tammy Moter.

Motion: To adopt Ordinance No. 2025-1154; adopting the City of Orting 2026 Budget and Job Classifications and Pay Ranges for Employees.

B. AB25-123 – 2025 Budget Amendment – Finance Director Tammy Moter.

Motion: To adopt Ordinance No. 2025-1155, an ordinance of the City of Orting, Washington, amending Ordinance No. 2024-1139 and Ordinance No. 2025-1151, adopting the City of Orting 2025 budget; providing for appropriation and expenditure of funds received in excess of estimated revenues; adopting various transfers; providing for severability; and establishing an effective date.

C. AB25-106 – Kansas St SW Reconstruction Construction Contract Award – Public Works Committee.

Motion: To authorize the mayor or his designee, to execute a contract with Active Construction, Inc. for Kansas St SW Reconstruction, in an amount not to exceed $4,687,687.00 with a 10% contingency of $468,768 for a total amount of $5,156,455.

D. AB25-109 - Puget Sound Energy Lighting System for Kansas St SW Reconstruction – Public Works Committee.

Motion: To authorize the mayor or his designee, to amend the contract with Puget Sound Energy for Kansas St SW Decorative Lighting installation and materials, in an amount not to exceed $252,288.90 with 10% contingency in the amount of $25,228.89 for a total authorized amount of $277,517.79.

E. AB25-107 - Kansas St SW Roadway Improvements Construction Management and Engineering Services – Public Works Committee.

Motion: To authorize the mayor or his designee, to execute the contract with Parametrix, Inc. for construction management and engineering services for improvements on Kansas St SW in the amount of $528,419.28, plus 10% contingency in the amount of $52,841.93, for a total not to exceed amount of $581,261.21.

F. AB25-117 – Legal Services Contract – CGA Committee.

Motion: To authorize the mayor or his designee to enter into a two-year agreement for legal services with Lighthouse Law Group PLLC to begin on January 1, 2026.

G. AB25-118 - On-Call Planning Consultant – Mahoney Planning, LLC – CGA Committee.

Motion: To authorize the mayor or his designee to enter into a one-year agreement for on- call planning consultant services with Mahoney Planning LLC to begin on January 1, 2026, in an amount not to exceed $100,000.

H AB25-115 – Prosecutor Contract – Public Safety Committee.

Motion: To authorize the mayor or his designee to enter into a contract for prosecutor services with Karen Lentz in an amount to not exceed $58,800.00 for 2026.

I. AB25-116 – Public Defender Contract – Public Safety Committee.

Motion: To authorize the mayor or his designee to enter into a contract for Public Defender services with Matthew Rusnak in an amount to not exceed $48,000.00 for 2026.

J. AB25-119 – Pierce County Alerting Local Agreement – Public Safety Committee.

Motion: Authorize the mayor or his designee to sign the memorandum of understanding with Pierce County for use of the Pierce County Emergency Notification System at no cost to the city.

K. AB25-124 – Collective Bargaining Agreement – AFSCME Local 120 – Administration.

Motion: To adopt Resolution 2025-22, a resolution of the City of Orting, Washington, authorizing the execution of a Collective Bargaining Agreement between the City and AFSCME, Local 120, Public Works/Office Employees, effective January 1, 2026, through December 31, 2028.

L. AB25-114 – December 26th, 2025 – City Hall Closure – CGA Committee.

Motion: To authorize the closure of City Hall on December 26th, 2025.

M. AB25-121 – December Meeting Date Discussion – Administration.

Motion: TBD.

7. EXECUTIVE SESSION.

8. ADJOURNMENT.

Americans with Disabilities Act – reasonable accommodations provided upon request (360) 893-2219.

Next Regular Meeting: December 31st, 2025 – 7:00pm

City of Orting
Council Agenda Summary Sheet

	Agenda Bill #	Recommending Committee:	Study Session Dates	Regular Meeting Dates
Subject: Orting Municipal Code (OMC) Title 12 Update	**AB25-77**	**CGA - 2.5.2025** **CGA – 7.2.2025**	**7.16.2025**	**11.25.2025** **12.10.2025**
	Department:	Community Development Department		
	Date Submitted:	**11.29.2025**		
Cost of Item:		N/A		
Amount Budgeted:		N/A		
Unexpended Balance:		N/A		
Bars #:		N/A		
Timeline:		Take action on December 10, 2025		
Submitted By:		**Kim Gunderson, Planning Consultant**		

Fiscal Note: None

Attachments: Ordinance 2025-1147 with OMC Title 12 (final edited version)

SUMMARY STATEMENT:

The City is in need of holistic updates to the Orting Municipal Code (OMC) as they are applied by the Community Development Department (CDD). CDD staff regularly maintain a log of updates to provisions throughout the OMC needed for staff to apply the OMC consistently, apply best practice in our field, correct ambiguity, align the OMC with new or revised RCW, and reflect the current goals and intentions of the Orting City Council. The body of work presented via AB25-77 is not limited to work governed by RCW; rather, it is a voluntary effort recommended by staff to improve the readability, applicability, and defensibility of the OMC.

Staff intend to present recommended edits to OMC Title 12, Subdivision Regulations, to the City Council at its November 25, 2025 regular meeting. The edits being presented to City Council in November represent a legislative body of work that has been recommended for Council's approval by Orting's Planning Commission. At the November 25 meeting, staff will request Council to set a public hearing on the adoption of Ordinance 2025-1147 at its regular session on December 10, 2025.

Substantively, recommended edits to Title 12:

- Reassign the decisionmaker of plat vacations and plat alterations to City Council, as required by RCW 58.17.215
- Reassign the decisionmaker of preliminary plats to an Administrative function with public noticing
- Protect legal nonconformities in review procedures of Boundary Line Adjustments
- Specify the City's expectations for plat frontage improvements
- Create approval criteria for new unit lot subdivisions

RECOMMENDED MOTION: <u>Motion</u>:

To adopt Ordinance No. 2025-1147, an ordinance of the city of Orting, Washington, adopting revisions to the Orting Municipal Code, Title 12, Subdivision Regulations; providing for severability; and establishing an effective date.

CITY OF ORTING

WASHINGTON

ORDINANCE NO. 2025-1147

AN ORDINANCE OF THE CITY OF ORTING, ADOPTING REVISIONS TO THE ORTING MUNICIPAL CODE TITLE 12, SUBDIVISION REGULATIONS; ENTERING LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Orting ("City"), Washington is a fully planning city under the state Growth Management Act ("GMA"), Chapter 36.70A Revised Code of Washington ("RCW"), planning under RCW 36.70A.040; and

WHEREAS, the City has established priorities that highlight the importance and desire of amending the Orting Municipal Code (OMC) to improve clarity, remove ambiguities, ease its understanding and application, represent the goals and priorities of the City, and implement new legislation required of fully planning cities under the GMA, and for code cities to comply with chapter 35.21 RCW; and

WHEREAS, the City's Planning Commission has reviewed proposed updates to Titles 12 of the OMC ("the project") following engaged workshops with City staff and has considered the proposal in light of received public feedback; and

WHEREAS, on July 3, 2025, the City's State Environmental Policy Act (SEPA) Responsible Official issued a Determination of Nonsignificance for the project; and

WHEREAS, on October 6, 2025, the City's Planning Commission held a public hearing on the project and recommended the City Council approve the project; and

WHEREAS, on December 10, 2025, the City Council held a public hearing on the project and considered the Planning Commission's recommendation to approve the project; and

WHEREAS, the City Council finds that the project meets the criteria set forth in OMC 15-12-4, and aligns or implements aforementioned RCW or WAC provisions, and implements the goals and priorities established by the City; and

WHEREAS, the City Council desires to update Orting Municipal Code provisions that are out of date or unrepresentative of current or best practice, to better reflect the adopted goals and policies of the City; and

WHEREAS, the City Council has determined it is in the best interest of the City of Orting to amend Orting Municipal Code, Title 12, Subdivision Regulations; and

NOW, THEREFORE, the City Council of the City of Orting, Washington, do ordain as follows:

Section 1. Findings. The City Council adopts the recitals set forth above and incorporates those recitals as if fully set forth herein. The City Council also adopts those recitals as findings of fact justifying enactment of this Ordinance. The City Council may adopt additional findings when a public hearing is held or when presented with evidence.

Section 2. OMC Title 12, Revised. Orting Municipal Code Title 12, Subdivision Regulations, is hereby revised as set forth in **Exhibit A** attached hereto and fully incorporated herein by reference.

Section 3. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this Ordinance, including the correction of clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

Section 4. Savings Clause. Those portions of ordinances which are repealed or amended by this Ordinance remain in force and effect until the effective date of this Ordinance. Such repeals and amendments must not be construed as affecting any existing right acquired under the ordinances repealed or amended, nor as affecting any proceeding instituted thereunder, nor any rule, regulation, or order promulgated thereunder, nor the administrative action taken thereunder. Notwithstanding the foregoing actions, obligations under such ordinances or permits issued thereunder and in effect on the effective date of this Ordinance continue in full force and effect, and no liability thereunder, civil or criminal, is in any way modified. Further, it is not the intention of these actions to reenact any ordinances or parts of ordinances previously repealed or amended, unless this Ordinance specifically states such intent to reenact such repealed or amended ordinances.

Section 5. Transmittal to State. Pursuant to RCW 36.70A.106, a complete and accurate copy of this Ordinance shall be transmitted to the Department of Commerce within ten (10) days of adoption.

Section 6. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 7. Effective Date. This ordinance shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 10 day of December, 2025.

CITY OF ORTING

_____

Joshua Penner, Mayor

ATTEST/AUTHENTICATED:

_____

Kimberly Agfalvi, CMC
Assistant City Administrator/City Clerk

Approved as to form:

_____

Daniel G. Lloyd
Lighthouse Law Group
City Attorney

Filed with the City Clerk:
Passed by the City Council:
Ordinance No.

Date of Publication:
Effective Date:

TITLE 12
SUBDIVISION REGULATIONS

CHAPTER 1
INTRODUCTION

SECTION:

12-1-1: Title

12-1-2: Purpose

12-1-3: Authority

12-1-4: Scope

12-1-5: Exemptions

12-1-6: Effect Of Filing Completed Application

12-1-7: [Reserved]

12-1-1: TITLE:

This title shall be known as the ORTING SUBDIVISION CODE. (Ord. 792, 7-29-2004)

12-1-2: PURPOSE:

The general purposes of this title are:

A. To regulate the subdivision of land;

B. To promote the public health, safety, and general welfare in accordance with standards established by the state including the growth management act 1 and plats 2 ;

C. To promote effective use of land;

D. To facilitate adequate provision for water, sewage, utilities, drainage, parks and recreation areas, sites for schools and school grounds and other public requirements;

E. To provide for proper ingress and egress;

F. To provide for the expeditious review of proposed subdivisions which conform to zoning standards and local plans, minimum development standards and policies;

G. To require that land subdivisions are uniformly monumented and are conveyed by accurate legal description. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

Notes

1. RCW 36.70A et seq.
2. RCW 58.17 et seq.

12-1-3: AUTHORITY:

The city council delegates the responsibility for making final determinations on boundary line adjustments, short plats, binding site plans, preliminary plats, and final plats to the administrator. The city council shall have the authority to make final decisions on preliminary planned unit developments (PUDs), and final PUDs. The planning commission shall conduct public hearings and submit recommendations for approval or denial of preliminary and final PUDs to the city council for final decisions and shall make final decisions on final plat vacations and alterations. Further description of the land subdivision permit authorities is in title 15, chapter 4 of this code. (Ord. 792, 7-29-2004)

12-1-4: SCOPE:

Any division, redivision, platting, subdivision, or any division of land containing a dedication of any part thereof to any public purpose (such as a public street or a highway), shall comply with the provisions of this title. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

12-1-5: EXEMPTIONS:

This Title shall not apply to divisions and activities described in Revised Code of Washington 58.17.040; provided, that in order to determine whether a boundary line adjustment meets the requirements for an exempt action, approval must be received as set forth in section 12-3-3 of this title. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

12-1-6: EFFECT OF FILING COMPLETED APPLICATION:

A. Ordinances In Effect: A proposed division or subdivision of land, as defined in chapter 2 of this title, shall be considered under the subdivision code; and zoning or other land use control ordinances in effect at the time that a fully completed application for preliminary plat approval or short plat approval of the subdivision has been submitted.

B. Restrictive Conditions Imposed: The limitations imposed by this section shall not restrict conditions imposed under the state environmental policy act ("SEPA"), Revised

Code of Washington chapter 43.21C, and the city's SEPA regulations set forth in title 15, chapter 14 of this code. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

12-1-7: [RESERVED]:

CHAPTER 2
DEFINITIONS

SECTION:

12-2-1: General Provisions

12-2-2: DEFINITIONS

12-2-1: GENERAL PROVISIONS:

As used in this title, unless otherwise specifically stated, the words or phrases defined in this chapter shall have the meanings indicated below. Where a term is defined in title 12 and in other titles of this code, the definition of the term in title 12 shall apply to its use in this title. Where a term is used in this title and is not defined in this title, the City may rely on the definition of the term as it is defined in the current edition of the Merriam Webster dictionary. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

12-2-2: DEFINITIONS:

ADMINISTRATOR: The city administrator, or his/her designee.

ALLEY: A minor public right of way used primarily for vehicular service access to the rear or side of properties.

APPLICANT: A person, party, firm, corporation, or other legal entity seeking development approval from the city by submitting an application for any of the activities covered by these regulations.

ARTERIAL: A street or highway of great continuity which serves or is intended to provide capacity for fast or heavy traffic. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

BINDING SITE PLAN: An alternative method of land division for the sale or lease of commercial or industrial properties, condominiums and manufactured home parks that is more flexible than traditional subdivision procedures.

BLOCK: A group of lots, tracts, or parcels within well defined and fixed boundaries.

BOUNDARY LINE ADJUSTMENT: The adjustment of a boundary line between existing lots which results in no more lots than existed before the adjustment.

BUILDING: A structure having a roof for the shelter of persons or property.

BUILDING AREA, BUILDING SITE: An area within a lot upon which a building to accommodate the principal use of the lot could be practicably built, bound by the setbacks.

BUILDING COVERAGE: The total ground coverage of all buildings, structures, roof overhangs, and eaves measured from the outside edges, external walls, supporting members or roof edges.

BUILDING SETBACK LINE: The line indicating the minimum horizontal distance between the property line and the building. (Ord. 792, 7-29-2004; amd. Ord. 830, 6-28-2006; Ord. 2024-1136, 12-11-2024)

CITY: The city of Orting.

CITY COUNCIL: The city council of Orting.

COMMUNITY DEVELOPMENT DIRECTOR: The Director of the City of Orting's Department of Community Development.

CLOSED RECORD HEARING: A hearing, conducted by a single hearing body or officer authorized by the local government to conduct such hearings, that creates the local government's record through testimony and submission of evidence and information, under procedures prescribed by the local government by ordinance or resolution. A closed record hearing may be held prior to a local government's decision on a project permit to be known as a "closed record predecision hearing." A closed record hearing may be held on an appeal, to be known as a "closed record appeal hearing," if no closed record predecision hearing has been held on the project permit.

COMPREHENSIVE PLAN: The Orting comprehensive plan adopted in 1996, as amended.

CRITICAL AREAS: Areas of environmental sensitivity, which include the following areas and ecosystems: a) wetlands; b) areas with a critical recharging effect on aquifers used for potable water; c) fish and wildlife habitat conservation areas; d) frequently flooded areas; and e) "geologically hazardous areas", as defined by title 11 of this code.

CUL-DE-SAC: A short street intersecting with another street at one end and terminated by a vehicular turnaround at the other end. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

DEDICATION: The deliberate appropriation of land or rights in land by its owner for any general and public use, reserving to himself or herself no other rights than such as are compatible with the full exercise and enjoyment of the public use to which the property has been devoted. The intention to dedicate shall be evidenced by the owner by the presentment for filing of a final plat or short plat showing the dedication thereon; and the acceptance by the public shall be evidenced by the approval of such plat for filing by the city.

DESIGN STANDARDS: Dimensional and other quantitative standards, including, but not limited to, lot sizes and dimensions, setbacks, building placement and design requirements

for improvements such as streets, sidewalks, storm drainage facilities and other standards used by the city. Design standards may be codified or adopted for use by City staff to determine an applicant's compliance. Provisions of this code or the City of Orting Development Standards are sources of design standards.

DEVELOPER: See definition of Applicant in this chapter.

DEVELOPMENT: Any land use permit or action regulated by this title and titles 13 and 15 of this code, including, but not limited to, subdivisions, planned unit developments, binding site plans, rezones, conditional use permits, or variances.

DEVELOPMENT CODE: Orting municipal code, this title and titles 13 and 15.

DWELLING, ATTACHED MULTIFAMILY: A dwelling unit constructed in a group of two (2) or more units attached by common walls or walls in which each unit extends from foundation to roof.

DWELLING UNIT: A building or portion thereof providing complete housekeeping facilities for one household. Dwelling unit does not include recreation vehicles or mobile homes. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

EASEMENT: A grant by the owner of land, to others, of the use of a portion of the land for specific purposes. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

FINAL DECISION: The final action by the administrator, planning commission, hearing examiner, or city council.

FINAL PLAT: See definition of Plat, Final in this chapter. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

HEARING EXAMINER: The official appointed by the mayor to adjudicate land use decisions as set forth in this code. (Ord. 792, 7-29-2004)

IMPROVEMENTS, PUBLIC: Any sanitary sewer, storm sewer, drainage ditch, permanent best management practice (BMP) for stormwater treatment or control, water main, roadway, parkway strip, sidewalk, planting strip, crosswalk, off street parking area, or other facility for which the city may ultimately assume the responsibility for ownership, maintenance, and operation. (Ord. 792, 7-29-2004; amd. Ord. 2019-1057, 1-8-2020; Ord. 2024-1136, 12-11-2024)

LOT: A fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts or parcels.

LOT, CORNER: A lot situated at the junction of and bordered by two (2) intersecting city streets, alleys and driveways are not considered public streets for the purposes of determining corner lots.

LOT DEPTH: The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot line(s).

LOT, FLAG OR PIPESTEM: A large lot not meeting minimum street frontage requirements where access to the street is provided by a narrow, private driveway. Development on flag lot created after November 1, 2005, shall be subject to review and design standards set forth in chapter 8 of this title.

LOT, INTERIOR: A lot located within a group of lots other than on intersecting streets having only one street frontage.

LOT LINE ADJUSTMENT: See definition of Boundary Line Adjustment in this chapter.

LOT LINE, FRONT: The line separating any lot or parcel of land from a street right of way. On a through lot, the line abutting the street providing primary access to the lot. In the case of a corner lot, the front line shall be considered to be along both street lot lines.

LOT LINE, REAR: The lot line opposite and most distant from the front lot line, and in the case of a triangular, irregular or other odd shaped lot, the line bordering the lot, generally parallel to, and at the maximum distance from the front lot line.

LOT LINE, SIDE: Any lot line not a front lot line or a rear lot line.

LOT LINES OR PROPERTY LINES: The boundary lines of a parcel of land.

LOT OF RECORD: An area or parcel of land as shown on an officially recorded plat or subdivision, or an area or parcel of land to which a deed or contract is officially recorded as a unit of property, or which is described by metes and bounds or as a fraction of a section.

LOT, PARENT: Legal lot which establishes the exterior boundary of a unit lot subdivision.

LOT, THROUGH: A lot fronting on two (2) streets that is not a corner lot.

LOT, UNIT: Portion of a parent parcel, the fee of which may be independently transferred upon recording of a unit lot subdivision.

LOT WIDTH: The distance between the side lot lines measured at right angles to the line establishing the lot depth at a point midway between the front lot line and the rear lot line. Any area used as an access easement shall be excluded from the computation of the lot width.

LOT, ZERO LINE: The common property line separating two (2) lots upon which the dwelling on one of the lots may be located without a setback providing a proper firewall rating is utilized. All other aspects are the same as in conventional development. When lots are proposed for this type of development, site plan approval shall be required as part of a subdivision approval. (Ord. 792, 7-29-2004; amd. Ord. 812, 10-26-2005; Ord. 2021-1073, 3-10-2021; Ord. 2024-1136, 12-11-2024)

(Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

NONCONFORMING LOT: A lawfully established lot which does not conform to the current provisions of the development code. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

PARTY OF RECORD: Any person who has testified at a hearing or has submitted a written statement related to a development action and who provides the city with a complete address.

PERSON: Any person, firm, business, corporation, partnership or other association or organization, marital community, municipal corporation, or governmental agency.

PLAN, FINAL: The final drawing of a subdivision and dedication, containing all elements and requirements set forth in this title for approval by the city and recording by the county auditor.

PLANNING COMMISSION: The Orting city planning commission as appointed by the city council.

PLAT: A scale drawing of a subdivision showing lots, blocks, streets or tracts or other divisions or dedications of land to be subdivided.

PLAT, ALTERATION: A modification of a previously recorded plat, short plat, binding site plan, or any portion thereof, that results in modifications to conditions of approval, the addition of new lots or more land, or the deletion of existing lots or the removal of plat or lot restrictions or dedications, that are shown on the recorded plat, except as otherwise allowed by law. An alteration does not include a boundary line adjustment.

PLAT, FINAL: A precise drawing of a subdivision and dedications which conforms to the approved preliminary plat, meets all the conditions of preliminary approval and meets the requirements of the Pierce County auditor for recording.

PLAT, FINAL SHORT: A precise drawing of a short subdivision and dedications which conforms to the approved preliminary short plat, meets all the conditions of approval and meets the requirements of the Pierce County auditor for recording.

PLAT, PRELIMINARY: A neat and approximate scale drawing of a proposed subdivision, showing the existing conditions and the proposed layout of streets, lots, blocks and other information needed to properly review the proposal.

PLAT, PRELIMINARY SHORT: A neat and approximate scale drawing of a proposed short subdivision, showing the existing conditions and the proposed layout of streets, lots, blocks and other information needed to properly review the proposal.

PLAT, SHORT: The plat of a short subdivision.

PLAT, VACATION: An action to extinguish the effect and force of a finalized binding site plan, plat, or short plat or portion thereof, such that the property, or portion thereof, reverts to its pre-subdivision parcel configuration.

PRIVATE DRIVEWAY: A paved or graveled surface a minimum of fifteen feet (15') in width that provides access to a lot from a public or private right-of-way.

PUBLIC FACILITIES AND UTILITIES: Land or structures owned or operated for the benefit of the public use and necessity, including, but not limited to, public facilities defined in Revised Code of Washington 36.70A.030, as amended.

PUBLIC HEARING, OPEN RECORD: An open record hearing at which evidence is presented and testimony is taken.

PUBLIC OPEN SPACE: Any publicly owned land, including, but not limited to, parks, playgrounds, waterways, and trails.

PUBLIC WORKS STANDARDS: Those specifications and standard design details, as adopted and amended by the City Department of Public Works, that are intended to regulate the construction of public works, or improvements that will be dedicated to the public, that are associated with public and private development within the City. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

ROADWAY: The portion of a street available for vehicular traffic; where curbs are laid, the portion between curbs; where no curbs are laid, that portion between the edges of the shoulder.

ROADWAY BUFFER/CUTTING PRESERVE: A greenbelt lying outside and adjacent to the right-of-way line of collector and arterial roadways. Roadway buffers/cutting preserves shall be separate, designated tracts and depicted on the face of a plat or binding site plan as required by the City as a condition of approval. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

SHORT PLAT: See definition of Subdivision, Short in this chapter.

SIDEWALK: The portion of a street or crosswalk, paved or otherwise surfaced, intended for pedestrian use only.

SITE PLAN: A scale drawing which shows the areas and locations of all buildings, streets, roads, improvements, easements, utilities, open spaces and other principal development features for a specific parcel of property.

SITE PLAN, BINDING: A site plan reviewed and approved pursuant to title 13 of this code, containing the inscriptions or attachments setting forth the limitations and conditions of use for a specific parcel of property and meeting the requirements of the Pierce County auditor for recording.

STREET, COMMUNITY ARTERIAL: A street used to collect and distribute traffic from higher capacity arterials to local access streets.

STREET, LOCAL COMMERCIAL ACCESS: A street used to provide access to properties in commercial or industrial areas.

STREET, LOCAL RESIDENTIAL ACCESS: A street used to provide access to residential property.

STREET, NEIGHBORHOOD COLLECTOR: A street used to collect and distribute traffic from residential access streets within residential neighborhoods.

STREET, PRIMARY ARTERIAL: A street or highway used to expedite through traffic between communities.

SUBDIVISION: The division or redivision of land into ten (10) or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership, including resubdivision of previously subdivided land, except as provided in this title.

SUBDIVISION, SHORT: The division or redivision of land into nine (9) or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership, except as provided in this title. (Ord. 792, 7-29-2004; amd. Ord. 2021-1073, 3-10-2021)

TRACT OR PARCEL: A portion of a subdivision having fixed boundaries, not including a lot. (Ord. 792, 7-29-2004)

UNIT LOT SUBDIVISION: The division of a parent parcel (the initial parcel from which unit lots are subdivided) into several unit lots (one of the individual divisions created from the subdivision of a parent lot). Sites developed or proposed to be developed with single family, townhouses, rowhouses, and cottage housing may be subdivided into individual unit lots to allow the separate ownership of each residential unit (together with the land below it), as permitted in the applicable zones. (Ord. 2024-1136, 12-11-2024)

YARD: The lot area between lot lines and the building area.

YARD, FRONT: The area between the front lot line and the building line extending the full width of the lot. On a through lot, the front yard shall be the area between the front lot line from which primary access is taken and the building setback line. On a corner lot there shall be two (2) front yards.

YARD, REAR: The area between the rear lot line and the building area extending the full width of the lot.

YARD, SIDE: The side setback area between the side lot lines and the building area, extending the full length of the building area. On corner lots the side yard is that which is opposite from the front yard, except when a corner lot is also a through lot, then the side yard shall be the area along the interior side lot line. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

ZONE, ZONE DISTRICT: A defined area of the city within which the use of land is regulated and certain uses are permitted and other uses are excluded as set forth in title 13 of this code. (Ord. 792, 7-29-2004)

CHAPTER 3
BOUNDARY LINE ADJUSTMENTS

SECTION:

12-3-1: Requirements For Complete Application

12-3-2: Type Of Application

12-3-3: Criteria For Approval

12-3-4: Recording

12-3-1: REQUIREMENTS FOR COMPLETE APPLICATION:

An applicant for a boundary line adjustment shall submit the following:

A. Map; Scale: A map at a scale of not less than one inch equal to fifty feet (1" = 50'), which depicts the existing property configuration, including all lot line dimensions. Digitally submitted plans shall be a digital portable document format (PDF).

B. Legal Description: A legal description of the existing property configuration and proposed property configuration, prepared by a licensed professional land surveyor.

C. Application: A completed application form, and all other contents of applications, fees, and supplemental information or special studies needed, as described in title 15 of this code. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

12-3-2: TYPE OF APPLICATION:

A boundary line adjustment is an administrative decision, made by the administrator. The application shall be processed as set forth in title 15, chapter 9 of this code. (Ord. 792, 7-29-2004)

12-3-3: CRITERIA FOR APPROVAL:

The administrator shall approve an application for a boundary line adjustment if it is determined that:

A. Additional Lot Or Division: No additional lot, tract, parcel, site or division shall be created by the proposed adjustment;

B. Insufficient Area And Dimensions: No lot is modified which contains insufficient area and dimensions to meet the minimum requirements of the zone in which the affected lots are situated, unless the existing lot(s) are legally nonconforming to the lot area and dimensional requirement of the zone in which the affected lots are situated, in which case an application for nonconforming review shall be made and approved by the city before the lots may be modified under this chapter. In no instance may a nonconforming lot expand, enlarge, extend, or increase its nonconforming character except as may be otherwise allowed via OMC 13-5-9 or OMC 13-6-6;

C. Drainage; Utilities: No lot is created or modified which does not have adequate drainage, water supply and sanitary sewage disposal, and access for vehicles, utilities and

fire protection, and no existing easement in favor of the public is rendered impractical to serve its purpose;

D. Consistent With Zoning Regulations: The boundary line adjustment is consistent with the applicable provisions of title 13 of this code, unless otherwise allowed by OMC 12-3-3(B);

E. Straight Line: The adjusted boundary line shall run in a straight line over its entire length except when natural boundaries, existing structures, or existing rights of way preclude such a straight line. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

12-3-4: RECORDING:

The applicant shall be responsible for recording the boundary line adjustment with the Pierce County auditor. (Ord. 792, 7-29-2004)

CHAPTER 4
PRELIMINARY SHORT SUBDIVISIONS (PLATS)

SECTION:

12-4-1: Requirements For Complete Application

12-4-2: Type Of Application

12-4-3: Criteria For Approval

12-4-4: Special Requirements For Unit Lot Subdivision

12-4-5: Construction Of Improvements

12-4-6: Prohibition On Further Division

12-4-7: Time Frame For Approval

12-4-8: Recording

12-4-1: REQUIREMENTS FOR COMPLETE APPLICATION:

A. Short Plat Drawing: Standard drawing size is twenty-four inches (24") by thirty-six inches (36”). Digitally submitted plans shall be a portable document format (PDF).

B. Pertinent Data: A proposed preliminary short plat must include pertinent survey data compiled as a result of a survey made by or under the supervision of a professional land surveyor registered in the state and engaged in land surveying.

C. Application Contents: In addition to the requirements for a complete application set forth in Title 15 of this code (including, but not limited to: application forms, fees, and

supplemental information or special studies), an applicant for a preliminary short plat shall submit the following:

1. A scaled sketch or map prepared by a licensed surveyor using a scale of not less than one inch equal to fifty feet (1" = 50') or larger of the entire contiguous tract owned by the applicant which shall show:

a. The owners of adjacent land and the names of any adjacent parcels or subdivisions;

b. Lines marking the boundaries of the existing and proposed lots;

c. Approximate locations of existing streets and ways or easements for such streets and ways within and adjacent to the tract and other improvements on and adjacent to the subject parcel;

d. Legal description of the tract and legal descriptions of existing lots and any proposed lots prepared by a licensed surveyor;

e. Name and address of the owner(s) of the parcels and/or tracts;

f. Dimension, elevation, and location of all existing utilities, including mains, valves, , catch basins, cleanouts and meters.

2. A certificate giving full and complete description of the lands divided as they appear on the short plat, including a statement that the short subdivision has been made with free consent and in accordance with the desires of the owner(s). If the short plat includes a dedication, the certificate shall also contain the dedication of any streets and other areas to the public, and individual(s), religious society or societies or to any corporation, public or private, as shown on the short plat and a waiver of all claims for damages against any governmental authority which may be occasioned to the adjacent land by the established construction, drainage, and maintenance of the road. The certificate shall be signed and acknowledged before a notary public by all parties having any interest in the lands subdivided.

3. All preliminary short plats must be accompanied by a title report confirming that the title of the lands as described and shown on the plat is in the name of the owner signing the certificate. 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 donee(s), grantee(s) for his, her or their use for the purpose intended by the donors or grantors as aforesaid. (Ord. 792, 7-29-2004; amd. Ord. 2021-1073, 3-10-2021; Ord. 2024-1136, 12-11-2024)

12-4-2: TYPE OF APPLICATION:

A preliminary short plat is a Type 2 (Administrator) decision, with the final decision being made by the administrator. The application shall be processed with procedures for such applications as set forth in Title 15, Chapter 9 of this code. (Ord. 792, 7-29-2004; amd. Ord. 2021-1073, 3-10-2021)

12-4-3: CRITERIA FOR APPROVAL:

The administrator shall only approve a preliminary short subdivision (plat) after making a determination of:

A. Compliance: Whether the application complies with Chapter 8 of this Title and Title 15 of this code;

B. Specific Provisions: If appropriate provisions are made for, but not limited to, the public health, safety and general welfare, for open spaces, drainageways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and shall consider all other relevant facts, including unencumbered sidewalks and other planning features that assure safe walking conditions for students who walk to and from school. Frontage improvements shall be required except when existing street improvements are determined to meet minimum city standards and specifications by the public works director or designee, or where assurance for dedication and improvement of the remaining part of the street is provided to the satisfaction of the public works director or designee. Whenever a tract to be subdivided borders on an existing half or partial street, the other part of the street shall be dedicated within such tract. All improvements required under this subsection shall be dedicated public infrastructure, unless allowed otherwise by the City Administrator on a case-by-case basis;

C. Extension Agreement: A developer extension agreement, in accordance with Title 9, Chapter 4 of this code, has been executed, as needed based on the determination of the City Engineer; and

D. Public Interest: Whether the public interest will be served by the short subdivision and dedication.

Development Agreement: As part of the approval, the city and the applicant may enter into a development agreement in accordance with Title 15, Chapter 15 of this code. (Ord. 792, 7-29-2004; amd. Ord. 2021-1073, 3-10-2021; Ord. 2024-1136, 12-11-2024)

12-4-4: SPECIAL REQUIREMENTS FOR PRELIMINARY UNIT LOT SHORT SUBDIVISION:

A. Purpose: This subsection complies with RCW 58.17.060 as amended by the state legislature in 2023 and sets out procedures for unit lot short subdivisions. These procedures allow the division of a parent lot into nine (9) or fewer separately owned unit lots. Portions of the parent lot not subdivided for individual unit lots shall be owned in common by the owners of the individual unit lots, or by a homeowners' association comprised of the owners of the individual unit lots. A unit lot short subdivision provides for fee-simple ownership of lots of which dwellings are place which can advance affordable housing opportunities and increase housing options.

B. Applicability: The process for a preliminary unit lot short subdivision can be used for existing development including duplexes, cottage developments, multifamily attached dwellings such as townhouse developments, or a combination thereof. The provisions of this section apply exclusively to the unit lot short subdivision of land proposed to be developed with dwellings in which the proposed building type and use is permitted. In all instances, unit lot short subdivisions shall apply to the division or redivision of land into nine (9) or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership.

C. General Requirements.

1. Unit lots shall be subject to all applicable requirements of the Titles 11,13, 14, and 15 of this code, except as otherwise modified by this section.

2. Development on individual unit lots within the unit lot short subdivision need not conform to the minimum lot area, minimum density, or dimensional requirements, provided, however, that any structure located upon a unit lot shall comply with the maximum building height requirements; provided further that unit lot short subdivisions shall comply with the dimensional standards set forth in OMC 12-4-4(D)(2). The overall development of the parent parcel shall meet the development and design standards of the underlying Land Use District.

3. Setbacks or buffers shall be required from any critical area or shoreline features per Title 11 of this code and the Orting Shoreline Master Program.

4. Within the parent parcel, required parking for an attached multifamily dwelling unit may be provided on a different unit lot than the lot with the dwelling unit if the right to use that parking is formalized by an easement or covenant recorded with the Pierce County auditor.

5. A unit lot short subdivision shall make adequate provisions through easements for ingress, egress, emergency services, and utilities access to and from each unit lot created by reserving such common areas or other areas over, under, and across the parent parcel as necessary to comply with all applicable development standards. Such easements shall be recorded with the Pierce County auditor.

6. Access easements, joint use agreements, covenants, and maintenance agreements identifying the rights and responsibilities of property owners and any homeowners association shall be established for the use and maintenance of common garage, parking, and vehicle access areas, landscaping, underground utilities, common open space, exterior building facades and roofs, any portions of the parent parcel not subdivided for individual unit lots, and other similar features, and shall be recorded with the Pierce County auditor.

D. Requirements And Limitations For Preliminary Unit Lot Short Subdivisions (Plats):

1. Notes shall be included on the preliminary unit lot short plat recorded with the Pierce County auditor as follows:

a. The short plat shall be clearly labeled with the phrase “Unit Lot Short Subdivision.”

b. The individual unit lots are not separate buildable sites. Additional development of the individual unit lots may be limited per the development standards applicable to the parent parcel.

c. Approval of the design and layout of the development was granted through review of the development of the parent parcel.

d. Subsequent platting, additions, or modifications to buildings or appurtenant structures and uses may not create a nonconformity of the parent parcel.

2. A preliminary unit lot short subdivision shall comply with the following:

a. The parent parcel of a unit lot short subdivision shall comply with all applicable standards of the underlying zoning district.

b. All duplexes shall comply with OMC 13-5-1H.

c. All cottage housing development shall comply with OMC 13-6-5.

d. Maximum impervious area of all combined buildings and other hard surfaces located on the parent parcel shall not exceed the maximum building coverage and maximum hard surface coverage permitted by the underlying zone.

e. Structures abutting the perimeter lot lines of the parent parcel are subject to the setback requirements of OMC 13-5-1 Table 1 as measured from the parent parcel lot line, as well as any landscaping and screening requirements set forth in OMC 13-5-2.

f. Setbacks between structures on the parent parcel shall meet building code and fire code separation requirements.

E. Type Of Approval: Preliminary unit lot short subdivisions shall be administered following the same process as preliminary short subdivisions (plats), set forth as a Type 2 process in Title 15 of this code.

F. Criteria for Approval: The administrator shall only approve a preliminary unit lot short subdivision (plat) after making a determination of:

A. Compliance: Whether the application complies with Chapter 8 of this Title and Title 15 of this code;

B. Specific Provisions: If appropriate provisions are made for, but not limited to, the public health, safety and general welfare, for open spaces, drainageways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school. Frontage improvements shall be required except when existing street improvements are determined to meet minimum city standards and specifications by the public works director or designee, or where assurance for dedication and improvement of the remaining part of the street is provided to the satisfaction of the public works director or designee. Whenever a tract to be subdivided borders on an

existing half or partial street, the other part of the street shall be dedicated within such tract. All improvements required under this subsection shall be dedicated public infrastructure, unless allowed otherwise by the City Administrator on a case-by-case basis;

C. Extension Agreement: A developer extension agreement, in accordance with Title 9, Chapter 4 of this code, has been executed, as needed based on the determination of the City Engineer; and

D. Public Interest: Whether the public interest will be served by the short subdivision and dedication.

E. Development Agreement: As part of the approval, the city and the applicant may enter into a development agreement in accordance with Title 15, Chapter 15 of this code.(Ord. 2024-1136, 12-11-2024)

12-4-5: CONSTRUCTION OF IMPROVEMENTS:

An approved preliminary unit lot short plat or preliminary short plat shall not be filed for record until the applicant has constructed or bonded for all improvements required by the city following its review of an application for a final short plat governed by chapter 6 of this title. (Ord. 792, 7-29-2004)

12-4-6: PROHIBITION ON FURTHER DIVISION:

Property in short subdivisions and unit lot short subdivisions may not be further divided in any manner within a period of five (5) years without the filing of a final short subdivision, except that when the short plat contains less than nine (9) parcels, nothing in this section shall prevent the owner who filed the short plat from filing an alteration within the five (5) year period to create up to a total of nine (9) lots within the original short plat boundaries. This requirement shall be stated on the face of the short plat. (Ord. 792, 7-29-2004; amd. Ord. 2021-1073, 3-10-2021)

12-4-7: TIME FRAME FOR APPROVAL:

The administrator shall make a decision on approval or denial of a short plat application within sixty-five (65) days of the determination that the application is complete unless the applicant consents to an extension of time. This sixty-five (65) day period excludes time required to comply with Chapter 43.21C RCW and Title 15, Chapter 14 of this code, and any time exclusions as set forth in Title 15, Chapter 9 of this code. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

12-4-8: RECORDING:

Upon approval of the final short plat, which shall be shown by affixing the signatures of the community development director, the city engineer and fire chief, the drawing shall be recorded with the Pierce County Auditor at the expense of the applicant. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

CHAPTER 5
PRELIMINARY PLATS

SECTION:

12-5-1: Requirements For Completed Application

12-5-2: Type Of Approval

12-5-3: Criteria For Approval

12-5-3.5: Special Requirements For Unit Lot Subdivision

12-5-4: Findings And Conclusions

12-5-5: Time Frame For Approval

12-5-1: REQUIREMENTS FOR COMPLETED APPLICATION:

A. Preliminary Plats: Standard drawing sheet size is twenty-four inches by thirty six inches (24" x 36"). Digitally submitted plans shall be a portable document format (PDF).

B. Application Contents: In addition to the requirements for a completed application as set forth in title 15 of this code, an applicant for a preliminary plat shall submit the following:

1. Map; Scale: A scaled map or sketch prepared by a licensed surveyor using a scale not less than one inch to fifty feet (1" = 50') or larger, showing:

a. Topographical and other data depicting:

(1) Boundary lines, including bearing and distance;

(2) Easements, including location, width and purpose;

(3) Streets on and adjacent to the tract, including name and right of way width and location; type, width and elevation of surfacing, walks, curbs, gutters, culverts, etc.;

(4) Ground elevations on the tract, based on a datum plane approved by the city engineer; for land that slopes less than approximately two percent (2%), show spot elevations at all breaks in grade, along all drainage channels or swales, and all selected points not more than one hundred feet (100') apart in all directions; for land that slopes more than approximately two percent (2%), either show contours with an interval of not more than five feet (5') if ground slope is regular and such information is sufficient for planning purposes, or show contours with an interval of not more than two feet (2') if

necessary because of irregular land or need for more detailed data for preparing plans and construction drawings;

(5) Other conditions on adjacent land, including approximate direction and gradient of ground slope, including any embankments or retaining walls; character and location of buildings, railroads, power lines, towers, and other nonresidential land uses or platted land within three hundred feet (300') of the subject property. Refer to subdivision plat by name, recording date, volume and page number, and show lot size, and dwelling units;

(6) Location of, and distance from, the regulatory floodplain, as defined in OMC Title 14, Flood Control.

b. Utilities on and adjacent to the parcel, including location and size of sanitary, storm and combined sewers; location and size of water mains; location of gas lines, fire hydrants, electric and telephone poles, and streetlights. If water mains and sewers are not on or adjacent to the parcel, indicate the direction and distance to, and size of nearest ones;

c. Other conditions on the parcel including watercourses, marshes, rock outcrop and critical areas;

d. Zoning district designations, on and adjacent to, the parcel;

e. Proposed public improvements, including highways or other major improvements planned by public authorities for future construction on or near the parcel;

f. Vicinity map showing location of the parcel;

g. Sites, if any, to be reserved or dedicated for parks, playgrounds, or other public uses;

h. Sites, if any, for multi-family dwellings, shopping centers, churches, industry or other proposed uses exclusive of single-family dwellings;

i. Minimum building setback lines;

j. Site data, including number of residential lots, typical lot size, and acres in parks, etc.;

k. Plat name, scale, north arrow and date;

l. Typical cross sections of the proposed grading, roadway and sidewalk;

m. Proposed sanitary, storm water and water systems plan with points of connection and sizes indicated;

2. Title And Certificates: Title and certificates, including a legal description according to official records in the office of the Pierce County auditor; pertinent survey data compiled as a result of a survey made by or under the supervision of a land surveyor registered in the state and engaged in land surveying which contains notation stating acreage, scale, north arrow, datum, bench marks, certification of registered civil engineer or surveyor, date of survey;

3. Covenants: Draft of proposed covenants, if any.

4. SEPA environmental checklist. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

12-5-2: TYPE OF APPROVAL:

A preliminary plat is approved, approved with conditions, or denied by the Administrator as a Type 2 permit type. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

12-5-3: CRITERIA FOR APPROVAL:

The Administrator shall consider the following criteria for approval and shall make written findings as a part of the decision on the preliminary plat application that these criteria have been satisfied:

A. Conformity: Whether the preliminary plat conforms to chapter 8 of this title and with title 15 of this code;

B. Specific Provisions: If appropriate provisions are made for, but not limited to, the public health, safety and general welfare, for open spaces, drainageways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and shall consider all relevant facts, including unencumbered sidewalks and other planning features that assure safe walking conditions for students who walk to and from school. Frontage improvements shall be required except when existing street improvements are determined to meet minimum city standards and specifications by the public works director or designee, or where assurance for dedication and improvement of the remaining part of the street is provided to the satisfaction of the public works director or designee. Whenever a tract to be subdivided borders on an existing half or partial street, the other part of the street shall be dedicated within such tract. All improvements required under this subsection shall be dedicated public infrastructure, unless allowed otherwise by the City Administrator on a case-by-case basis; and

C. Public Interest: Whether the public interest will be served by the subdivision and dedication. (Ord. 792, 7-29-2004)

12-5-3.5: SPECIAL REQUIREMENTS FOR UNIT LOT SUBDIVISION:

A. Purpose: This subsection sets out procedures for unit lot subdivisions. These procedures allow the division of a parent lot into ten (10) or more separately owned unit lots. Portions of the parent lot not subdivided for individual unit lots shall be owned in common by the owners of the individual unit lots, or by a homeowners' association comprised of the owners of the individual unit lots. A unit lot subdivision provides for fee-

simple ownership of lots of which dwellings are place which can advance affordable housing opportunities and increase housing options.

B. Applicability: The process for a unit lot subdivision can be used for existing development including duplexes, cottage developments, multifamily attached dwellings such as townhouse developments, or a combination thereof. The provisions of this section apply exclusively to the unit lot short subdivision of land proposed to be developed with dwellings in which the proposed building type and use is permitted. In all instances, unit short subdivisions shall apply to the division or redivision of land into ten (10) or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership.

C. General Requirements:

1. Unit lots shall be subject to all applicable requirements of the Titles 11 and 13 of this code, except as otherwise modified by this section.

2. Development on individual unit lots within the unit lot subdivision need not conform to the minimum lot area, minimum density, or dimensional requirements, provided, however, that any structure located upon a unit lot shall comply with the maximum building height requirements; provided further that unit lot short subdivisions shall comply with the dimensional standards set forth in OMC 12-4-4D2. The overall development of the parent parcel shall meet the development and design standards of the underlying Land Use District.

3. Setbacks or buffers shall be required from any critical area or shoreline features per Title 11 of this code.

4. Within the parent parcel, required parking for an attached multifamily dwelling unit may be provided on a different unit lot than the lot with the dwelling unit if the right to use that parking is formalized by an easement or covenant recorded with the Pierce County auditor. Any such easement shall be represented on the face of the plat.

5. A unit lot subdivision shall make adequate provisions through easements for ingress, egress, emergency services, and utilities access to and from each unit lot created by reserving such common areas or other areas over, under, and across the parent parcel as necessary to comply with all applicable development standards. Such easements shall be recorded with the Pierce County auditor and shall be represented on the face of the plat.

6. Access easements, joint use agreements, covenants, and maintenance agreements identifying the rights and responsibilities of property owners and any homeowners association shall be established for the use and maintenance of common garage, parking, and vehicle access areas, landscaping, underground utilities, common open space, exterior building facades and roofs, any portions of the parent parcel not subdivided for individual unit lots, and other similar features, and shall be recorded with the Pierce County auditor.

D. Requirements And Limitations For Unit Lot Subdivision Plats:

1. Notes shall be included on the short plat recorded with the Pierce County auditor as follows:

a. The short plat shall be clearly labeled with the phrase “Unit Lot Short Subdivision.”

b. The individual unit lots are not separate buildable sites. Additional development of the individual unit lots may be limited per the development standards applicable to the parent parcel.

c. Approval of the design and layout of the development was granted through review of the development of the parent parcel.

d. Subsequent platting, additions, or modifications to buildings or appurtenant structures and uses may not create a nonconformity of the parent parcel.

2. A unit lot short subdivision shall comply with the following:

a. The parent parcel of a unit lot short subdivision shall comply with all applicable standards of the underlying zoning district.

b. All duplexes shall comply with OMC 13-5-1H.

c. All cottage housing development shall comply with OMC 13-6-5.

d. Maximum impervious area of all combined buildings and other hard surfaces located on the parent parcel shall not exceed the maximum building coverage and maximum hard surface coverage permitted by the underlying zone.

e. Structures abutting the perimeter lot lines of the parent parcel are subject to the setback requirements of OMC 13-5-1 Table 1 as measured from the parent parcel lot line.

f. Setbacks between structures on the parent parcel shall meet building code separation requirements.

E. Type Of Approval: Unit lot short subdivisions shall be administered following the same process as short plats or short subdivisions, set forth as a Type 2 process in Title 15 of this code. (Ord. 2024-1136, 12-11-2024)

12-5-4: FINDINGS AND CONCLUSIONS:

The Administrator shall approve, approve with conditions, or deny the preliminary plat with written findings showing that:

A. Conformity: The preliminary plat conforms to chapter 8 of this title and title 15 of this code;

B. Specific Provisions: Appropriate provisions are made for the public health, safety and general welfare and for such open spaces, drainageways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary sewage disposal, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including

sidewalks and other planning features that assure safe walking conditions for students who walk to and from school. Frontage improvements shall be required except when existing street improvements are determined to meet minimum city standards and specifications by the public works director or designee, or where assurance for dedication and improvement of the remaining part of the street is provided to the satisfaction of the public works director or designee. Whenever a tract to be subdivided borders on an existing half or partial street, the other part of the street shall be dedicated within such tract. All improvements required under this subsection shall be dedicated public infrastructure, unless allowed otherwise by the City Administrator on a case-by-case basis;

C. Extension Agreement: A developer extension agreement, in accordance with title 9, chapter 4 of this code, has been executed;

D. Public Interest: The public use and interest will be served by the platting of such subdivision and dedication; and

E. Development Agreement: As part of the approval, the city and the applicant may enter into a development agreement in accordance with title 15, chapter 15 of this code.

F. Repeal. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

12-5-5: TIME FRAME FOR APPROVAL:

The city shall make a decision on approval or denial of a preliminary plat application in a timeframe consistent with OMC Title 15. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

CHAPTER 6
FINAL PLATS

SECTION:

12-6-1: Requirements For Completed Application

12-6-2: Type Of Application

12-6-3: Time Frame For Submission Of Final Plat

12-6-4: Recommendations As Prerequisites For Final Plat Approval

12-6-5: Criteria For Approval

12-6-6: Effect Of Final Plat Approval

12-6-7: Time Frame For Approval

12-6-8: Recording

12-6-9: Phased Development

12-6-1: REQUIREMENTS FOR COMPLETED APPLICATION:

A. Construction Drawings: Submittal of as built construction drawings. Digitally submitted plans shall be digital portable file document format (PDF).

B. Certification Of City Work: Certification of work done by city in connection with the checking, computing and correcting of the plat, and for plan checking, inspecting, and testing of plat improvements, including water lines, sanitary sewer lines, stormwater retention and drainage systems, streets, curbs, gutters and sidewalks.

C. Application Contents: In addition to the requirements for a completed application set forth in title 15 of this code, the applicant shall submit the following:

1. Final plat on twenty-four inches wide by thirty-six inches (24" x 36") long, scale of one inch to fifty feet (1" = 50') or larger. Digitally submitted plans shall be a PDF. The plat must contain:

a. Primary control points, approved by the city engineer, or descriptions and "ties" to such control points, to which all dimensions, angles, bearings, and similar data on the plat shall be referred;

b. Parcel boundary lines, right of way lines of streets, easements and other rights of way, and property lines of residential lots and other tracts, with accurate dimensions, bearings, and radii, arcs, central angles of all curved arcs;

c. Name and right of way width of each street or other right of way;

d. Location, dimensions and purpose of any easement or tract;

e. Parcel or tract number to identify each lot or tract;

f. Purpose for which tracts, other than residential lots, are dedicated or reserved;

g. Minimum building setback line on all lots and other tracts;

h. Location and description of monuments by symbol. Unless otherwise approved, monuments shall be placed at street intersections, centers of cul- de-sacs, and points of curve and tangency in curvilinear streets;

i. Reference to plats of adjoining land by their recorded name, date, volume and page number;

j. Certification by licensed land surveyor or licensed professional civil engineer substantially giving a full and correct description of the lands divided as they appear on the plat, including a statement that the subdivision has been made with the free consent and in accordance with the desires of the owner(s). If the plat contains a dedication, the certificate shall also contain the dedication of all streets and other areas to the public, and individual(s), religious society or societies or to any corporation, public or private, as shown on the plat and a waiver of all claims for damages against any governmental

authority which may be occasioned to the adjacent land by the established construction, drainage, and maintenance of the road. The certificate shall be signed and acknowledged before a notary public by all parties having any interest in the lands subdivided.

k. Location of the regulatory floodplain, as defined in OMC Title 14, Flood Control.

2. Every plat containing a dedication filed for record must be accompanied by a title report confirming that the title of the lands as described and shown on the plat is in the name of the owners signing the certificate.

3. An offer of dedication may include a waiver of right of direct access to any street from any property, and if the dedication is accepted, any such waiver is effective. Such waiver may be required by the city as a condition of approval. 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 recipient or recipients, grantee or grantees for his, her, or their use for the purpose intended by the donors or grantors as aforesaid.

4. Plat name, scale, north arrow, date and legend of symbols.

5. Plans and profiles of all utilities and street improvements showing approval of the design by the city engineer.

6. Certificate of completion of one of the following alternatives, as directed by the city, shall accompany the final plat:

a. All improvements have been installed in accord with the requirements of these regulations and accepted by the city upon the recommendation of the city engineer as certified by the city clerk;

b. Approved plans are on file with the city engineer for all required utilities and street improvements and a cash or surety bond as required in section 12-8-1 of this title has been posted with the City Clerk and deposited with the City Clerk.

7. Signatures as applicable of the County Treasurer, City Clerk, City Engineer, Community Development Director, City Administrator, and Mayor. (Ord. 958, 7-9-2014; amd. Ord. 2024-1136, 12-11-2024)

12-6-2: TYPE OF APPLICATION:

A final plat is a decision made by the Administrator as specified by title 15 of this Code. (Ord. 792, 7-29-2004)

12-6-3: TIME FRAME FOR SUBMISSION OF FINAL PLAT:

A final plat meeting all requirements of this chapter shall be submitted to the City for approval within five (5) years of the date of preliminary plat approval if the date of this

preliminary plat approval. Portions of the preliminary plat may be submitted for final approval after the expiration of said time period provided that the original preliminary plat was proposed as a phased development with specific divisions identified and, after administrative review, it has been found that significant progress has taken place on the plat and that the requirements of section 12-6-9 of this chapter have been met.

Nothing contained in this section shall act to prevent the City from adopting by ordinance procedures which would allow extensions of time that may or may not contain additional or altered conditions and requirements. When deemed reasonable and appropriate, the City Administrator may grant up to two extensions of one year each for such submittal. If at the date of expiration of the time period provided herein, a final plat has not been filed for approval, the preliminary plat approval shall expire. (Ord. 2018-1025, 4-25-2018; amd. Ord. 2024-1136, 12-11-2024)

12-6-4: RECOMMENDATIONS AS PREREQUISITES FOR FINAL PLAT APPROVAL:

Repealed. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

12-6-5: CRITERIA FOR APPROVAL:

A final plat application shall be approved if it:

A. Meets Plat Approval Requirements: Meets all general requirements for plat approval as set forth in chapter 8 of this title;

B. Conforms To Preliminary Plat Approval: Conforms to all terms of the preliminary plat approval; and

C. Meets Other Applicable Requirements: Meets the requirements of Revised Code of Washington chapter 58.17, other applicable State laws, this title, title 9, chapter 4 of this Code, and any other applicable City ordinances which were in effect at the time of preliminary plat approval.

D. Approval And Inscription: The City Administrator shall make written findings of fact relating to its decision on the final plat, and if approved, shall suitably inscribe and execute its written approval on the face of the plat. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

12-6-6: EFFECT OF FINAL PLAT APPROVAL:

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 five (5) years from the date of filing. 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 Revised Code of Washington 58.17.150(1) and (3) for a period of five (5) years after final plat approval unless the City

Council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision. (Ord. 792, 7-29-2004)

12-6-7: TIME FRAME FOR APPROVAL:

The final plat, or portion thereof, shall be approved, approved with conditions, denied, or returned to the applicant by the City as per OMC 15-9-8(A)(1). (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

12-6-8: RECORDING:

The final plat, in the form specified in this chapter, shall be recorded with the Pierce County Clerk by the applicant. If the final plat is not recorded within twelve (12) months of the date of the city approval, said approval shall be null and void. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

12-6-9: PHASED DEVELOPMENT:

A. Portions of an approved preliminary plat may be processed for approval and recording in phased divisions, provided that the divisions were identified in the approved preliminary plat, or an amendment thereto, and that approval and recording of the divisions is consistent with the conditions of the preliminary plat approval and will substantially meet all of the requirements for final approval even if the subsequent divisions are not finished. Prior to the final approval of a division of a preliminary plat, the City may require additional conditions such as a bond for the construction of a required improvement in a subsequent division, if it finds that such improvement is necessary to ensure that the division being approved meets all the conditions of the preliminary plat even though subsequent divisions are never finished.

B. Any phase of a preliminary plat that has not been completed and accepted by the City within five (5) years of the date of its preliminary approval may be subject to the most current development codes. The doctrine of vested rights shall not apply to said plat phases. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

CHAPTER 7
PLAT VACATION AND ALTERATION

SECTION:

12-7-1: Requirements For Complete Plat Vacation Application

12-7-2: Type Of Approval And Criteria For Approval Of Plat Vacation

12-7-3: Requirements For Complete Plat Alteration Application

12-7-4: Type Of And Criteria For Approval Of Plat Alteration

12-7-1: REQUIREMENTS FOR COMPLETE PLAT VACATION APPLICATION:

A. Application Contents: In addition to the requirements for a completed application as set forth in title 15 of this code, an applicant for a plat vacation shall submit the following:

1. The reasons for the proposed vacation;

2. Signatures of all parties having an ownership interest in that portion of the subdivision proposed to be vacated;

3. If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for vacation would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the vacation of the subdivision or portion thereof;

4. A copy of the approved plat sought to be vacated, together with all plat amendments recorded since the date of the original approval. (Ord. 792, 7-29-2004)

12-7-2: TYPE OF APPROVAL AND CRITERIA FOR APPROVAL OF PLAT VACATION:

A. Type Of Approval: A plat vacation shall be administered as per OMC 15-4-1.

B. Criteria For Approval: The plat vacation may be approved or denied after a written determination is made whether the public use and interest will be served by the vacation of the subdivision. If any portion of the land contained in the subdivision was dedicated to the public for public use or benefit, such land, if not deeded to the city, shall be deeded to the city unless the city shall set forth findings that the public use would not be served in retaining title to those lands.

C. Vacation Of Streets: When the vacation application is specifically for a city street vacation, the city's street vacation procedures shall be utilized. When the application is for the vacation of a plat together with the streets, the procedure for vacation in this section shall be used, but vacations of streets may not be made that are prohibited under Revised Code of Washington chapter 35.70 or the city's street vacation ordinance.

D. Easements: Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner or owners, unless the plat or other document creating the dedicated easement provides for an alternative method or methods to extinguish or alter the easement. (Ord. 792, 7-29-2004)

E. Revised Plat: After approval of the vacation, the city council shall order the applicant to produce a revised drawing of the approved vacation of the final plat or short plat, which after signature of the mayor, shall be filed with the county auditor to become the lawful plat of the property

12-7-3: REQUIREMENTS FOR COMPLETE PLAT ALTERATION APPLICATION:

A. Application Contents: In addition to the requirements for a completed application as set forth in title 15 of this code, an applicant for a plat alteration shall submit the following:

1. Signatures of the majority of those persons having an ownership interest of lots, tracts, parcels, sites or divisions in the subject subdivision or portion to be altered;

2. If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the subdivision or portion thereof.

3. A copy of the approved plat sought to be vacated, together with all plat amendments recorded. (Ord. 792, 7-29-2004)

12-7-4: TYPE OF AND CRITERIA FOR APPROVAL OF PLAT ALTERATION:

A. Type Of Approval: A plat alteration is a City Council decision and shall be processed as a Type 4 permit application, as set forth in Title 15 of this code.

B. Criteria For Approval: The plat alteration may be approved, approved with conditions, or denied after a written determination is made whether the public use will be served by the alteration of the subdivision. If any land within the alteration is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels, or tracts, or be levied equitably on the lots resulting from the alteration. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties. A plat alteration must also be consistent with subsection 12-7-2 D of this chapter.

C. Revised Plat: After approval of the alteration, the city council shall order the applicant to produce a revised drawing of the approved alteration of the final plat or short plat, which after signature of the mayor, shall be filed with the county auditor to become the lawful plat of the property. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

CHAPTER 8
GENERAL REQUIREMENTS FOR SUBDIVISION APPROVAL

SECTION:

12-8-1: General Requirements For Approval Of Subdivision

12-8-2: Certificate To Accompany Final Plat Or Short Plat

12-8-3: General Requirements For Filing Plat Of Record

12-8-4: Compliance With Public Works Standards

12-8-1: GENERAL REQUIREMENTS FOR APPROVAL OF SUBDIVISION:

In addition to the criteria for approval applicable to an individual application, all subdivisions must meet the following general requirements in order to be approved:

A. Land Use Controls: No subdivision may be approved unless written findings of fact are made that the proposed subdivision or short subdivision is in conformity with any applicable zoning ordinance, comprehensive plan or other existing land use controls.

1. Flag (Pipestem) Lots: Generally, flag lots are discouraged. In cases where there are no alternatives, flag lots may be allowed under the following conditions:

a. The driveway portion of the lot shall be wide enough to meet city access and public safety standards;

b. The area of the driveway comprising the “stem” or “pipe” portion of the lot shall not be used to meet the minimum required lot size per zoning;

c. All utilities serving the flag lot shall be underground;

d. All property lines of the flag lot abutting adjoining lots shall be screened with fencing or landscaping;

e. Where multiple adjacent flag lots are proposed, shared driveways shall be required.

B. Dedications; Generally:

1. An offer of dedication may include a waiver of right of direct access to any street from any property, and if the dedication is accepted, any such waiver is effective. The city may require such waiver as a condition of approval.

2. Roads not dedicated to the public must be clearly marked "private" on the face of the plat.

3. 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(s) or grantee(s) for his/her/their use for the purpose intended by the donor(s) or grantor(s).

4. If the plat or short plat is subject to a dedication, the certificate or a separate written instrument shall contain the dedication of all streets and other areas to the public, and individual(s), religious society(ies) or to any corporation, public or private, as shown on the plat or short plat, and a waiver of 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. Said certificate or instrument of dedication shall be signed and acknowledged before a notary public by all parties having any ownership interest in the lands subdivided and recorded as part of the final plat.

5. Every plat and short plat containing a dedication filed for record must be accompanied by a 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.

6. Dedication of land to any public body, provision of public improvements to serve the subdivision, and/or impact fees imposed under Revised Code of Washington 82.02.050 through 82.02.090 shall be required as a condition of subdivision approval, unless deferred as per OMC 15-6-10. No dedication, provision of public improvements or impact fees imposed under Revised Code of Washington 82.02.050 through 82.02.090 shall be allowed that constitutes an unconstitutional taking of private property.

C. Dedication Of Public Parks and Streets: The planning commission shall recommend naming of streets and parks within proposed subdivisions at its first public meeting following the city's receipt of a final plat application. The planning commission shall recommend naming of street and parks after contemplating the matter at no more than one public meeting. If preliminary plats include dedication of land for public parks with areas greater than required for subdivision approval and the proponents request commemorative names, the planning commission shall consider such requests. The city administrator shall adopt the names as part of final plat approval.

D. Release From Damages: The city shall not as a condition to the approval of any subdivision require a release from damages to be procured from other property owners.

E. Flood, Inundation Or Swamp Conditions: A proposed subdivision containing land subject to periodic flood, inundation, or swamp conditions may be disapproved. Construction of protective improvements may be required as a condition of approval, and such improvements shall be noted on the final plat.

F. Bonds: In lieu of completing the construction of any required improvements prior to the approval of a short or final plat, the planning commission or city council may accept a bond, approved as to form by the city attorney, in an amount and with surety and conditions satisfactory to it, or other secure method, provided that actual construction and installation of such improvements will be completed within a period specified by the city and is expressed in the bonds. In addition, the city may require the posting of a bond securing to the city the successful operation of improvements for up to two (2) years after final approval. All bonded improvements shall be designed and certified by or under the supervision of a registered civil engineer prior to the acceptance of such improvements.

G. Roadway buffers/landscape maintenance areas shall be separate, designated tracts and depicted on the face of a plat or binding site plan as required by the City as a condition of approval. (Ord. 792, 7-29-2004; amd. Ord. 812, 10-26-2005; Ord. 2024-1136, 12-11-2024)

12-8-2: CERTIFICATE TO ACCOMPANY FINAL PLAT OR SHORT PLAT:

Every final plat or short plat of a subdivision or a short subdivision filed for record must contain a certificate giving a full and correct description of the lands divided as they appear

on the plat or short plat, including a statement that the subdivision or short subdivision has been made with the free consent and in accordance with the desires of the owner(s). (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

12-8-3: GENERAL REQUIREMENTS FOR FILING PLAT OF RECORD:

Each and every plat or replat of any property filed for record shall:

A. Statement Of Approval: Contain a statement of approval from the city engineer as to the layout of streets, alleys and other rights of way, design of bridges, sewage and water systems, and other structures;

B. Survey: Be accompanied by a complete survey of the section or sections in which the plat or replat is located, made to surveying standards adopted by the division of engineering services of the department of natural resources pursuant to Revised Code of Washington 58.24.040. The surveyor shall certify on the plat that it is a true and correct representation of the lands actually surveyed;

C. Acknowledgment: Be acknowledged by the person filing the plat before the auditor of the county in which the land is located, or any other officer who is authorized by law to take acknowledgment of deeds, and a certificate of said acknowledgment shall be enclosed or annexed to such plat and recorded therewith;

D. Certificate Of Paid Taxes: Contain a certification from the proper officer or officers in charge of tax collections 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;

E. Description Of Lands: Contain a certificate giving a full and correct description of the lands divided as they appear on the plat or short plat, including a statement that the subdivision or short subdivision has been made with the free consent and in accordance with the desires of the owner(s);

F. Monuments: Show the permanent control monuments established at each and every controlling corner on the boundaries of the parcel of land being subdivided. The city shall determine the number and location of permanent control monuments within the plat, if any;

G. Lot Numbers, House Addresses: Show the lot numbers and house addresses on the short subdivisions and subdivisions at the time of approval;

H. Fees And Charges; Responsibility: All plat recording fees and charges shall be the responsibility of the applicant. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

12-8-4: COMPLIANCE WITH PUBLIC WORKS STANDARDS:

Construction of improvements in all applications shall comply with the city's adopted public works special provisions and details. (Ord. 792, 7-29-2004)

CHAPTER 9
ENFORCEMENT AND APPEALS

SECTION:

12-9-1: Issuance Of Permit On Illegally Divided Land

12-9-2: Violations

12-9-3: Appeals

12-9-1: ISSUANCE OF PERMIT ON ILLEGALLY DIVIDED LAND:

No building permit, septic tank permit, or other development permit shall be issued for any lot, tract or parcel of land divided in violation of Revised Code of Washington chapter 58.17 or this title, unless the authority authorized to issue such permit finds that the public interest will not be adversely affected thereby. The prohibition contained in this section shall not apply to an innocent purchaser for value without actual notice. All purchasers' or transferees' property shall comply with provisions of this chapter. Recovery of purchaser or transferee damages are a civil matter and are as set forth in RCW 58.17.210. (Ord. 792, 7-29-2004)

12-9-2: VIOLATIONS:

Violations of this title shall be enforced as set forth in title 15 of this code. (Ord. 792, 7-29-2004)

12-9-3: APPEALS:

Any decision approving or disapproving any plat may be appealed as set forth in title 15 of this code. (Ord. 792, 7-29-2004)

CHAPTER 10
BINDING SITE PLANS

SECTION:

12-10-1: Purpose

12-10-2: Applicability

12-10-3: Application Submittal

12-10-4: Type Of Approval

12-10-5: Criteria For Approval

12-10-6: Binding Site Plan Components

12-10-7: Recording Requirements

12-10-8: Development Requirements

12-10-9: Amendment, Modification And Vacation

12-10-1: PURPOSE:

A. Specify the criteria used by the city of Orting to review and approve binding site plans.

B. Provide an alternative method of land division for the sale or lease of commercial or industrial zoned properties, condominiums and manufactured home parks as provided for in Revised Code Of Washington 58.17.035 that is more flexible than traditional subdivision procedures.

C. Provide for the site planning and regulation of nonresidential site development not requiring land division. (Ord. 792, 7-29-2004)

12-10-2: APPLICABILITY:

The binding site plan process may be used for:

A. The division of land for the purpose of sale or lease of lots for commercial or industrial purposes.

B. The division of land for the purpose of developing residential condominiums or manufactured home parks. (Ord. 792, 7-29-2004)

12-10-3: APPLICATION SUBMITTAL:

A complete application for a binding site plan must include:

A. Fees. The applicant shall pay the required fees as set forth in the city's fee schedule or other applicable resolutions or ordinances when submitting a binding site plan;

B. Application form and declaration of ownership;

C. Title report (dated within the last 30 days);

D. Vicinity map of the area where the site is located;

E. SEPA Environmental checklist;

F. Landscape plan to reflect landscaping requirements related to site plans and landscaping associated with permanent best management practices (BMPs) for stormwater treatment and control;

G. A preliminary site plan to a scale of thirty feet to one inch (1" = 30'), stamped and signed by a registered engineer or land surveyor illustrating the proposed development of the property and including, but not limited to, the following:

1. Name or title of the proposed binding site plan;

2. Date, scale and north arrow;

3. Boundary lines and dimensions including any platted lot lines within the property;

4. Total acreage;

5. Property legal description;

6. Existing zoning;

7. Location and dimensions of all existing and proposed:

a. Buildings, including height in stories and feet and including total square feet of ground area coverage;

b. Parking stalls, access aisles, and total area of lot coverage of all parking areas;

c. Off street loading area(s);

d. Driveways and entrances;

e. Common open spaces, yards, permanent best management practices (BMPs) for stormwater treatment and control, and other areas intended for the use of all owners; and

f. Major manmade or natural features, i.e., streams, creeks, drainage ditches, railroad tracks, utility lines, etc.

8. Proposed building setbacks in feet;

9. Location of any regulated sensitive areas such as wetlands, steep slopes, wildlife habitat or floodplain and required buffers;

10. Location and height of fences, walls (including retaining walls), and the type or kind of building materials or planting proposed to be used;

11. Location of any proposed monument signs;

12. Proposed best management practices (BMPs) for stormwater treatment and control;

13. Location of all easements and uses indicated;

14. Location of existing and proposed utility service;

15. Existing and proposed grades shown in five foot (5') interval topographic contour lines;

16. Fire hydrant location; and

H. Any other information as required by the city shall be furnished, including, but not limited to, traffic studies, wetland reports, stormwater site plans, elevations, profiles, and perspectives, to determine that the application is in compliance with this code.

Digitally submitted plans shall be in a portable document format (PDF).

(Ord. 888, 9-8-2010; amd. Ord. 2019-1057, 1-8-2020; Ord. 2024-1136, 12-11-2024)

12-10-4: TYPE OF APPROVAL:

A binding site plan is a Type II action. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

12-10-5: CRITERIA FOR APPROVAL:

A. Standards For Review Of A Binding Site Plan: The city shall review the proposed binding site plan to determine whether it meets the following criteria:

1. Conformance with the comprehensive plan.

2. Conformance with all applicable performance standards and zoning regulations.

3. Design sensitivity to the topography, drainage, vegetation, soils and any other relevant physical elements of the site.

4. Availability of public services and utilities.

5. Conformance with SEPA requirements.

6. Conformance with roadway buffers/cutting preserves. Roadway buffers/cutting preserves shall be separate, designated tracts and depicted on the face of a plat or binding site plan as required by the City as a condition of approval.

B. Condominium Standards: Development of condominiums including residential units or structures shall meet either the standards set out in subsection B1 or B2 of this section:

1. All lots and developments shall meet the minimum requirements of this code. Phase or lot lines shall be used as lot lines for setback purposes under the zoning code.

2. Condominiums may be developed in phases where ownership of the property is unitary but some structures are to be completed at different times or with different lenders financing separate structures or areas of the property. The following conditions shall apply to phased condominiums:

a. By a joint obligation to maintain any and all accessways. The city shall have no obligation to maintain such accessways.

b. The city shall require easements for access to the property to allow for emergency services and utility inspections as defined in the development agreement.

c. Reciprocal easements for parking shall be provided to all tenants and owners.

d. The applicant must submit a binding site plan schedule for completion of all phases.

e. Phase lines must be treated as lot lines for setback purposes under the zoning code unless the property owner will place a covenant on the BSP that the setback areas for built phases, contained in all unbuilt phases, shall become common areas and owned by the owners of existing units in the built portions of the condominium upon the expiration of the completion schedule.

f. All public improvements shall be guaranteed by bond or other security satisfactory to the city. The City is not liable for uncompleted private community benefits.

g. All built phases in a condominium BSP shall have a joint and separate obligations to maintain landscaping through covenants and/or easements to assure that the responsibility is shared among the various owners. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

12-10-6: BINDING SITE PLAN COMPONENTS:

A. A binding site plan means a record of survey and a development agreement, if required.

B. The development agreement shall incorporate the conditions of approval for the binding site plan. (Ord. 792, 7-29-2004)

12-10-7: RECORDING REQUIREMENTS:

When the proposed binding site plan receives final approval, the applicant shall record the binding site plan and development agreement, if required, with the Pierce County auditor. The applicant shall furnish the city with three (3) copies and a digital copy of the recorded binding site plan within five (5) working days of recording, and the Pierce County assessor shall be furnished one paper copy. (Ord. 792, 7-29-2004)

12-10-8: DEVELOPMENT REQUIREMENTS:

All lots included in the binding site plan shall not be sold or transferred unless the binding site plan and a record of survey map, which is prepared in compliance with Revised Code

Of Washington 58.09 and which includes a legal description of each lot being created, is approved by the city and filed for record in the Pierce County auditor's office. The binding site plan and all associated requirements shall be legally enforceable on the purchaser or other person acquiring ownership of the lot, parcel, or tract.

All development must be in conformance with the recorded binding site plan. Any development, use or density which fails to substantially conform to the site plan as approved constitutes a violation of this chapter. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

12-10-9: AMENDMENT, MODIFICATION AND VACATION:

Amendment, modification and vacation of a binding site plan shall follow the same procedures and satisfy the same laws, rules and conditions as required for a new binding site plan application, as set forth in this chapter. The vacated portion shall constitute one lot unless the property is subsequently divided by an approved subdivision or short plat division. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

City of Orting
Council Agenda Summary Sheet

	Agenda Bill #	Recommending Committee:	Study Session Dates	Regular Meeting Dates
Subject: Orting Municipal Code (OMC) Title 13 Update	**AB25-82**	**CGA - 2.5.2025**	**9.17.2025**	**11.25.2025** **12.10.2025**
	Department:	Community Development Department		
	Date Submitted:	**11.29.2025**		
Cost of Item:		N/A		
Amount Budgeted:		N/A		
Unexpended Balance:		N/A		
Bars #:		N/A		
Timeline:		Take action on December 10, 2025		
Submitted By:		**Kim Gunderson, Planning Consultant**		

Fiscal Note: None

Attachments: Ordinance 2025-1149 with OMC Title 13 (final edited version)

SUMMARY STATEMENT:

The City is in need of holistic updates to the Orting Municipal Code (OMC) as they are applied by the Community Development Department (CDD). CDD staff regularly maintain a log of updates to provisions throughout the OMC needed for staff to apply the OMC consistently, apply best practice in our field, correct ambiguity, align the OMC with new or revised RCW, and reflect the current goals and intentions of the Orting City Council. The body of work presented via AB25-82 is not limited to work governed by RCW; rather, it is a voluntary effort recommended by staff to improve the readability, applicability, and defensibility of the OMC.

Staff intend to present recommended edits to OMC Title 13, Development Regulations, to the City Council at its November 25, 2025 regular meeting. The edits being presented to City Council in November represent a legislative body of work that has been recommended for Council's approval by Orting's Planning Commission. At the November 25 meeting, staff will request Council to set a public hearing on the adoption of Ordinance 2025-1149 at its regular session on December 10, 2025.

Substantively, recommended edits to Title 13:

- Include general code clean-up to create a cohesive and easily implementable code,
- Create a Site Plan Review process to ensure that a consistency review of zoning and environmental code occurs prior to submittal of a building permit application,
- Create an Administrative Variance process assigning the City Administrator with the authority to consider nominal deviations from numeric development standards in Title 13, avoiding the need for nominal deviations to undergo a general variance application which requires a public hearing in front of the City's Hearing Examiner,
- Align the OMC with requirements in recently passed Growth Management Act legislature, including House Bill 1998 concerning co-living, which Orting is required to comply with by the end of 2025, and
- Expands allowed land use types that have been advocated for by Orting's public, including preschools and daycares.

All recommended staff edits are reflected as redlines in the Attachment.

RECOMMENDED MOTION: Motion:

To adopt Ordinance No. 2025-1149, an ordinance of the city of Orting, Washington, adopting revisions to the Orting Municipal Code (OMC), Title 13, Development Regulations; providing for severability; and establishing an effective date.

CITY OF ORTING

WASHINGTON

ORDINANCE NO. 2025-1149

AN ORDINANCE OF THE CITY OF ORTING, ADOPTING REVISIONS TO THE ORTING MUNICIPAL CODE (OMC) TO IMPLEMENT AMENDMENTS TO TITLE 13, DEVELOPMENT REGULATIONS; ENTERING LEGISLATIVE FINDINGS; AND PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, the City of Orting ("City"), Washington is a fully planning city under the state Growth Management Act ("GMA"), Chapter 36.70A Revised Code of Washington ("RCW"), planning under RCW 36.70A.040; and

WHEREAS, the City is a code city subject to Chapter 35.21 RCW; and

WHEREAS, in accordance with 35.21.996 RCW, cities must allow child care centers, and the conversion of existing buildings for use as child care centers, as an outright permitted use in all zones except industrial zones, light industrial zones, and open space zones; and

WHEREAS, in accordance with RCW 36.70A.450, no city may enact, enforce, or maintain an ordinance, development regulation, zoning regulation, or official control, policy, or administrative practice that prohibits the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family day-care provider's home facility with limited exceptions; and

WHEREAS, the City has established priorities that highlight the importance and desire of amending the Orting Municipal Code (OMC) to improve clarity, remove ambiguities, ease their understanding and application, represent the goals and priorities of the City, and implement new legislature required of fully planning cities under the GMA and new legislature required for code cities to comply with under 35.21 RCW, particularly in Title 13, Development Regulations; and

WHEREAS, the City's Planning Commission has reviewed proposed updates to Title 13 of the OMC ("the project") following engaged workshops with City staff and has considered the proposal in light of received public feedback; and

WHEREAS, on July 3, 2025, the City's State Environmental Policy Act (SEPA) Responsible Official issued a Determination of Nonsignificance for the project; and

WHEREAS, on June 30, 2025, in accordance with RCW 36.70A.106, the Washington State Department of Commerce was notified of the City's intent to adopt the proposed update to its CAO; and

WHEREAS, on September 4, 2025, the City's Planning Commission held a public hearing on the project and recommended the City Council approve the project; and

WHEREAS, on December 10, 2025, the City Council held a public hearing on the project and considered the Planning Commission's recommendation to approve the project; and

WHEREAS, the City Council finds that the project meets the criteria set forth in Orting Municipal Code (OMC) 15-12-4, and aligns or implements aforementioned RCW or WAC provisions, and implements the goals and priorities established by the City.

NOW, THEREFORE, the City Council of the City of Orting, Washington, do ordain as follows:

Section 1. Findings. The City Council adopts the recitals set forth above and incorporates those recitals as if fully set forth herein. The City Council also adopts those recitals as findings of fact justifying enactment of this Ordinance. The City Council may adopt additional findings when a public hearing is held or when presented with evidence.

Section 2. Adoption of Amendments to OMC Title 13. The City Council hereby amends OMC Title 13 as set forth in **Attachment A** attached hereto and incorporated by reference.

Section 3. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this Ordinance, including the correction of clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

Section 4. Savings Clause. Those portions of ordinances which are repealed or amended by this Ordinance remain in force and effect until the effective date of this Ordinance. Such repeals and amendments must not be construed as affecting any existing right acquired under the ordinances repealed or amended, nor as affecting any proceeding instituted thereunder, nor any rule, regulation, or order promulgated thereunder, nor the administrative action taken thereunder. Notwithstanding the foregoing actions, obligations under such ordinances or permits issued thereunder and in effect on the effective date of this Ordinance continue in full force and effect, and no liability thereunder, civil or criminal, is in any way modified. Further, it is not the intention of these actions to reenact any ordinances or parts of ordinances previously repealed or amended, unless this Ordinance specifically states such intent to reenact such repealed or amended ordinances.

Section 5. Transmittal to State. Pursuant to RCW 36.70A.106, a complete and accurate copy of this Ordinance shall be transmitted to the Department of Commerce within ten (10) days of adoption.

Section 6. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 7. Effective Date. This ordinance shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 10 day of December, 2025.

CITY OF ORTING

_____

Joshua Penner, Mayor

ATTEST/AUTHENTICATED:

_____

Kimberly Agfalvi, CMC
Assistant City Administrator/City Clerk

Approved as to form:

Daniel G. Lloyd
Lighthouse Law Group

City Attorney

Filed with the City Clerk:
Passed by the City Council:
Ordinance No.

Date of Publication:
Effective Date:

TITLE 13
DEVELOPMENT REGULATIONS

CHAPTER 1 INTRODUCTION

SECTION:

13-1-1: Title

13-1-2: Purpose

13-1-3: Interpretation And Application; General

13-1-4: Severability

13-1-5: Brief User's Guide

13-1-6: Permit Expiration

13-1-1: TITLE:

This title shall be known as the ORTING DEVELOPMENT CODE. (Ord. 792, 7-29-2004)

13-1-2: PURPOSE:

The general purposes of the development code are:

A. Implement Comprehensive Plan: To implement the comprehensive plan in accordance with Revised Code of Washington 36.70 et seq. (planning enabling act) and 36.70A et seq. (growth management act);

B. Promote Health And Safety: To promote public health, safety, and general welfare through regulation of physical development of the city;

C. Orderly Development: To plan for future development of the city in an orderly and predictable fashion;

D. Adequate Public Facilities: To provide for adequate public facilities and services to support land development;

E. Promote Well Being: To promote social and economic well being through integration of aesthetic, environmental, and economic values;

F. Protect Property Rights: To protect property rights;

G. Protect Resources: To protect environmentally critical or historically significant resources;

H. Ensure Adequate Space: To ensure provision of adequate space for commercial, industrial, residential, and other activities necessary for public welfare;

I. Administration Of Regulations: To provide for efficient and effective administration and enforcement of the regulations;

J. Provide Light And Access: To provide adequate light, air, privacy, and convenience of access to property;

K. Elimination Of Nonconforming Uses: To provide for the gradual elimination of those uses of land, buildings and structures which do not conform to the standards of the district in which they are located and are adversely affecting the development and taxable value of property in the district. (Ord. 792, 7-29-2004)

13-1-3: INTERPRETATION AND APPLICATION; GENERAL:

A. Minimum Requirements: In interpreting and applying the provisions of this title, they shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. It is not intended by this title to interfere with or revoke or invalidate any easement, covenant, or other agreement between parties.

B. Greater Restrictions: When the provisions of this title impose greater restrictions than are imposed by other applicable city, Pierce County, state, and federal regulations, the provisions of this title shall control.

C. Ambiguities Or Differences: In case of any ambiguity or difference of meaning or inconsistencies between the text and any illustrations or other graphics, the text throughout this title shall control.

D. Construction Of Words: Unless the context clearly indicates otherwise, words in the present tense can include the future tense, and words in the singular can include the plural, or vice versa. Except for words and terms defined in the beginning of each chapter of this title and in chapter 2 of this title, all words and terms used in this title shall have their customary meanings.

E. Shall, Must, Should, May: The words "shall" and "must" are always mandatory and not discretionary. The word “should” and "may" are discretionary.

F. Measurement: Distances shall be measured horizontally unless otherwise specified. (Ord. 792, 7-29-2004)

13-1-4: SEVERABILITY:

If any section, subsection, clause, or phrase of this title is for any reason held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity or constitutionality of the remaining portions of this title. (Ord. 792, 7-29-2004)

13-1-5: BRIEF USER'S GUIDE:

A. Chapters: The development code, this title, contains ten (10) chapters:

1. Introduction: Establishes the purpose, title and basic rules for using the city development code.

2. Definitions: Provides definitions for words used throughout the title. Words or terms used only in one chapter may be defined in that chapter.

3. Zone Classifications: Lists and describes the zoning classifications, allowed uses for each zone, and categorization of uses. Table 1 "City of Orting Permitted Land Uses by Zoning Designations" is included in this chapter.

4. Temporary Uses/Temporary Housing Units: Allows temporary uses and structures and provides standards and conditions for regulating such uses and structures.

5. Development Standards: Provides development standards, such as density, setbacks, height, lot width, landscaping, buffering, parking, access, and other standards to cover general and specific uses; also covers home occupations, accessory dwelling units, adult entertainment, transfer of development rights, and sign standards.

6. Special Use Permits: Establishes the permit processes and criteria for permits provided by this title, e.g., nonconforming use permits, conditional use permits, planned unit development permits, and variances.

7. Sign Regulations: Establishes the permit processes for various sign types and provides regulations for the installation, alteration, relocation, maintenance, use, and removal of signs, including permitted and prohibited sign types; number, size, and height limitations; and architectural details.

8. Medical Cannabis: Provides regulations for medical cannabis use including personal use and collective gardens and sets forth penalties for noncompliance.

9. Wireless Communications Services Facilities: Defines various types of wireless communication services facilities including general macro facilities, temporary facilities, and small facilities and provides regulations for each including standards for locations, monopoles, height, screening, etc. This chapter also establishes the permit process and timelines.

10. Architectural Design Review: Provides the City’s design review process, setting forth ascertainable guidelines, standards, or criterion, procedural requirements, and applicability and exemption provisions.

B. Numbering Scheme: The numbering scheme used in this title operates as shown below:

13 5 1 A.1.a.(1)(A)

Title Chapter Section subsections

C. Format: Each chapter begins with a listing of the sections and a purpose statement for the chapter. General definitions are contained in chapter 2 of this title; specialized definitions may be found at the beginning of the chapter where those definitions are used. Cross references to other chapters and sections of this title can be found throughout the title. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

13-1-6: PERMIT EXPIRATION:

Unless otherwise specified in this title or in Titles 11, 12, or 15, all activity that is authorized via permit governed in this title shall expire three (3) years from the date of permit issuance.

CHAPTER 2
DEFINITIONS

SECTION:

13-2-1: General Provisions

13-2-2: Definitions

13-2-1: GENERAL PROVISIONS:

As used in this title, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this chapter shall have the indicated meanings. Where a term is defined in title 13 and in other titles of this code, the definition of the term in title 13 shall apply to its use in this title. Where a term is used in this title and is not defined in this title, the City may rely on the definition of the term as it is defined in the current edition of the Merriam Webster dictionary. (Ord. 792, 7-29-2004)

13-2-2: DEFINITIONS:

ACCESSORY DWELLING UNIT (ADU): A separate, subordinate, self-contained dwelling unit attached to or contained within a single-family dwelling; or contained within a separate structure that is generally subordinate in size to the primary dwelling unit on the premises.

ACCESSORY STRUCTURE: A building or other structure that is subordinate to the principal building and is incidental to the use of the principal building on the same lot (such as sheds

or barns associated with a single- family residence). Accessory dwelling units are not included in this definition.

ACCESSORY USE: A use that is clearly incidental and subordinate to the principal use on the same lot.

ADMINISTRATOR: The city administrator, chief supervisory staff person or his/her designee. Uses of the term "City Administrator" shall mean the same as "Administrator".

ADULT BUSINESS: Any business which sells, rents, displays, or provides adult stock in trade depicting, describing or relating to specified sexual activities or specified anatomical areas, or engages in or permits specified sexual activities on the premises, and which excludes any person by virtue of age from all or part of the premises. Adult businesses include, but are not limited to:

A. Adult bathhouse.

B. Adult bookstore in which ten percent (10%) or more of the stock in trade is adult stock in trade (see definition of “adult stock in trade” codified in this chapter).

C. Adult cabaret which presents go-go dancers, strippers, male or female impersonators or similar entertainment.

D. Adult massage parlor in which massage or touching of the human body is provided for a fee. This does not include a licensed spa or health club/medical clinic.

E. Adult retail store in which ten percent (10%) or more of the stock in trade is adult stock in trade.

F. Adult sauna parlor.

G. Adult theater, including a building, portion of a building, enclosure or drive-in theater which displays adult stock in trade.

H. Adult video store in which ten percent (10%) or more of the stock in trade is adult stock in trade.

ADULT FAMILY HOME: A residence licensed by the state of Washington where personal care, room and board are provided for more than one but not more than six (6) adults who are not related by blood or a marriage to the person or persons providing the services.

ADULT STOCK IN TRADE: All books, pictures or other printed materials, products or equipment, prerecorded videos, disks, or similar material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas where such material is generally available for rental, purchase, viewing, or use by patrons of the establishment, excluding material located in any storeroom or other portion of the premises not regularly open to patrons.

AGRICULTURAL RESEARCH, TESTING, AND TRAINING: The study of the actions associated with the cultivation of crops and/or livestock.

ALLEY: A public thoroughfare for motor vehicles, providing secondary access to abutting property.

ALTERATION: A change or rearrangement of the structural parts of existing facilities or an enlargement by extending the side or increasing the height or depth or moving from one location to another. In buildings for businesses, commercial, industrial or similar uses, the installation or rearrangement of partitions affecting more than one-third (1/3) of a single floor area shall be considered an alteration.

ANIMAL SHELTER: Any facility operated by the city of Orting or its authorized agents, for the purpose of impounding or caring for animals held under the authority of this article or of state law.

ANTENNA: A wire or system of wires, rods, poles, or similar devices; or satellite dishes used for the transmission or reception of electromagnetic waves, external to or attached to the exterior of any building.

APARTMENT: Any portion of a multi-family or mixed use building that is designed, built, rented, leased or offered to be occupied as an independent living unit with self-contained cooking facilities.

APPLICANT: A person, party, firm, corporation, or other legal entity seeking development approval from the city by submitting an application for any of the activities covered by these regulations.

AQUACULTURE: Raising aquatic plants and animals in controlled or selected aquatic environments for the sale of aquatic plants, animals, or their products.

ARCHITECTURAL DESIGN REVIEW: Review and approval conducted in accordance with chapter 13-10 of this title.

ART GALLERY: A space with public access and which is located within a building for the interior exhibition or display of artworks which may or may not be offered for sale to the public.

ASSEMBLY/FABRICATION: See “Manufacturing, Light.”

ATTACHED RESIDENCES: Two or more physically attached dwelling units (sharing a wall), where each unit has separate access to a yard, court, or street. (Ord. 792, 7-29-2004; amd. Ord. 886, 9-8-2010; Ord. 2021-1073, 3-10-2021; Ord. 2024-1136, 12-11-2024)

BANKS: See “professional offices.” “Savings associations” and “loan associations” shall be considered “banks” as the term applies in Title 13.

BED AND BREAKFAST: A single-family residence that provides overnight lodging and limited meal service for guests and which is limited to five (5) guestrooms.

BLOCK: A group of continuous lots, tracts or parcels within well defined and fixed boundaries.

BOARDING HOUSE: A rooming house with no more than five (5) guestrooms operated for compensation in which meals (with or without lodging) are provided.

BREWERY: See definition of Winery/Brewery.

BUFFER: A linear landscaped area with sufficient planting density to provide effective sight obscuring between land uses.

BUILDING: A structure having a roof for the shelter of persons.

BUILDING COVERAGE: The total ground coverage of all buildings and structures measured from the outside edges or external walls.

BUILDING AREA, BUILDING SITE: An area within a lot upon which a building to accommodate the principal use of the lot could be practicably built, bound by the setbacks.

BUILDING, PRINCIPAL OR MAIN: The building which accommodates the principal use of a site or lot.

BUSINESS OFFICES: See "professional offices." (Ord. 792, 7-29-2004; amd. Ord. 2020-1063, 8-12-2020; Ord. 2024-1136, 12-11-2024)

CAMPGROUND: A developed area consisting of more than one campsite used for the purposes of recreational camping.

CANOPY: A portion of a building which extends beyond the building line and fully or partially covers a sidewalk, entry, or other access.

CARETAKER RESIDENCE: An attached or detached dwelling unit of permanent type construction used exclusively for a caretaker to live on the same site as the use.

CARGO CONTAINER: A standardized, reusable vessel that was:

A. Originally, specifically or formerly designed for or used in the packing, shipping, movement, storage or transportation of freight, articles, goods, commodities, or personal property, and

B. Designed for or capable of being mounted or moved on a railcar, or

C. Designed for or capable of being mounted on a chassis or bogie for movement by truck trailer or loaded on a ship.

CHURCH: An establishment, the principal purpose of which is religious worship and for which the principal building or other structure contains the sanctuary or principal place of worship. This term, as used in this Title, is interchangeable with mosque, temple or other religious facilities/places of worship.

CITY: The city of Orting, Washington.

CITY COUNCIL: The city council of Orting.

CLOSED RECORD APPEAL: An appeal to the city council based on the existing record.

CLUBS AND LODGES: Non-commercial groups and organizations, which may be centered around an activity, a hobby, or philanthropy.

COLLEGE OR UNIVERSITY: A post-secondary institution for higher learning that grants associate or bachelor degrees and may also have research facilities and/or professional schools that grant master and doctoral degrees. This may also include community colleges that grant associate or bachelor degrees or certificates of completion in business or technical fields (such as trade schools).

COMMERCIAL: Any activity carried on for financial gain, including cooperative or nonprofit businesses offering merchandise or services for a fee or price, or any organization serving a public purpose of community service such as churches, noncommercial clubs, lodges, theater groups, recreational and neighborhood associations and cultural associations.

COMMUNICATION SERVICES: Broadcasting, recording, and other communication services accomplished through electronic or telephonic mechanisms, but excluding major utilities. This classification includes radio, television, or recording studios; telephone switching centers; and telegraph offices. This classification does not include wireless communication facilities.

COMMUNITY CENTER: Public buildings, meeting halls, and/or recreational spaces where members of a community can gather for events, recreational opportunities, support services, or public information. These uses may be publicly or privately operated.

COMPREHENSIVE PLAN: The Orting comprehensive plan adopted in 1996, as amended.

CONDITIONAL USE: A use allowed in one or more zones as defined by this zoning title, but which has peculiar characteristics such as the size, technological processes or equipment, location with reference to surroundings, streets, and existing improvements or demands upon public facilities and therefore, requires a special permit in order to assure proper control to make the use consistent and compatible with other existing or permissible uses in the same zone and mitigate adverse impacts of the use. Typical conditional uses are listed in this title. Others may be established by the city upon application.

CONDOMINIUM: A type of real property ownership in projects composed of two (2) or more dwelling units, offices, or other establishments that are individually owned and within which common building areas or land areas of the project are owned cooperatively in fixed percentages by the owners of the individual dwelling units or establishments. This type of development requires the preparation of a plat under the provisions of the state horizontal property regime act 1 and the formation of a legal homeowners' association to guide the financial and maintenance arrangements for the units within the development.

CONGREGATE CARE FACILITY/ RETIREMENT CENTER: A residential facility designed for and occupied by at least one person per unit who is able to live independently and without twenty-four (24) hour supervision; and providing centralized services for the residents including meals, recreation, housekeeping, laundry and transportation.

CONSTRUCTION BUSINESS: A commercial establishment offering the construction, repair, and/or remodel of structures, performed by a licensed contractor. These businesses may

include office space, and indoor or outdoor storage of construction vehicles, equipment, and materials.

COPY: The written or graphic content of a sign.

CORRECTIONAL FACILITIES: Jails, prisons, and other detention facilities, used to house people who have been charged with or convicted of a crime.

COTTAGE: A small, detached dwelling unit within a cottage housing development governed by OMC 13-6-5. More than one cottage may occupy a single lot.

COTTAGE HOUSING DEVELOPMENT: A collective housing area comprised of cottages and their accessory structures and/or accessory dwelling units.

CRITICAL AREAS: As the term is defined in Title 11 of this code.

CUL-DE-SAC: A short street intersecting with another street at one end and terminated by a vehicular turnaround at the other end. (Ord. 873, 2-25-2009; amd. Ord. 889, 9-8-2010; Ord. 2020-1063, 8-12-2020; Ord. 2024-1136, 12-11-2024)

Notes

1 1. RCW 64.32.

DATE OF DECISION: The date on which final action occurs and from which the appeal period is calculated.

DAYCARE CENTER: An establishment licensed by the state, used to provide adult or child care services during part of the twenty-four (24) hour day in a facility. See also definition of Family Daycare in this chapter.

DEDICATION: The deliberate appropriation of land or rights in land by its owner for any general and public use, reserving to himself or herself no other rights than such as are compatible with the full exercise and enjoyment of the public use to which the property has been devoted. The intention to dedicate shall be evidenced by the owner by the presentment for filing of a final plat or short plat showing the dedication thereon; and the acceptance by the public shall be evidenced by the approval of such plat for filing by the city.

DENSITY: The number of permitted dwelling units allowed on each acre of land or fraction thereof.

DESIGN STANDARDS: Dimensional and other quantitative standards, including, but not limited to, lot sizes and dimensions, setbacks, building placement and other standards used by the city to control physical development.

DETACHED DWELLING: A type of building or dwelling unit surrounded on all sides by open space and not connected to other buildings or structures except for permitted accessory structures or accessory dwelling units which may be attached.

DEVELOPER: See definition of Applicant in this chapter.

DEVELOPMENT CODE: Orting municipal code, this title and titles 12 and 15 of this code.

DEVELOPMENT STANDARDS: Shall mean and refer to those standards for development of real property as set forth in the development code.

DRIVE-IN/DRIVE-THRU RESTAURANT: A food and beverage establishment that contains an outside service window and/or provision for food service to occupants of automobiles parked on the premises.

DRIVING SURFACE: That portion of a street intended for vehicular travel or parking.

DUPLEX: A building with two (2) attached dwelling units with a common separation wall or floor.

DWELLING UNIT: A building or portion thereof providing complete housekeeping facilities for a person, one family, or group of individuals. Dwelling unit does not include recreation vehicles or mobile homes. (See also definitions of Multi-Family Dwelling and Family in this chapter.) (Ord. 792, 7-29-2004; amd. Ord. 889, 9-8-2010; Ord. 2021-1073, 3-10-2021; Ord. 2021-1086, 10-27-2021; Ord. 2024-1136, 12-11-2024)

EASEMENT, ACCESS: A private right of way no less than twenty feet (20') wide which provides vehicular access to a street.

EMERGENCY HOUSING: Temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that is intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Emergency housing may or may not require occupants to enter into a lease or an occupancy agreement.

EMERGENCY SERVICES: Facilities for agencies or organizations that respond to emergencies when they occur, such as ambulance, medical, and firefighting agencies.

EMERGENCY SHELTER: A facility that provides a temporary shelter for individuals or families who are currently homeless. Emergency shelter may not require occupants to enter into a lease or an occupancy agreement. Emergency shelter facilities may include day and warming centers that do not provide overnight accommodations.

EQUIPMENT RENTAL: A business which offers any specialized equipment for consumer rental.

ERECT: To build, construct, alter, repair, display, relocate, attach, hang, place, suspend, affix or maintain buildings, signs, lighting, or other architectural features.

EXTRACTION AND PROCESSING: The removal of natural resource materials from the earth, and/or the conversion of those raw materials into a commercially or industrially usable product. (Ord. 792, 7-29-2004; Ord. 2021-1083, 9-29-2021; Ord. 2022-1093, 3-30-2022; Ord. 2022-1095, 8-10-2022; Ord. 2024-1136, 12-11-2024)

FACADE: The entire building front or street wall face of a building.

FAMILY: Persons, either related or unrelated, occupying a dwelling unit and living together as a single housekeeping unit.

FAMILY DAYCARE: A facility licensed by the state of Washington located in a residential dwelling and operated by the owner of the residence for regularly scheduled care of twelve (12) or fewer adults or children, for periods less than twenty-four (24) hours.

FINAL DECISION: The final action by the administrator, planning commission, hearing examiner or city council.

FLOOR AREA RATIO: The ratio of building floor area to the area of the lot upon which the building is located.

FOOD: Has its usual and ordinary meaning and includes all items designed for human consumption, including, but not limited to, candy, coffee, gum, popcorn, hot dogs, sandwiches, peanuts, soft drinks and dairy products.

FOOD PROCESSING: The commercial or industrial processing of raw agricultural materials or ingredients into food for sale or consumption, not including standard on-site kitchens for food vendors or eating and drinking places.

FOOD VENDING OR FOOD VENDING SERVICES: Engaging in the business of selling food of any kind or description, other than as a "restaurant" defined in this chapter.

FOSTER HOME: A home licensed and regulated by the state and classified by the state as a foster home, providing care and guidance for not more than three (3) unrelated juveniles.

FREIGHT FACILITIES WAREHOUSING: A facility for the storage and distribution of products, supplies, and equipment. This use excludes outdoor storage and self-service storage.

FRONTAGE: The side of a lot or parcel along a street. (Ord. 943, 5-14-2014; Ord. 2021-1086, 10-27-2021; Ord. 2024-1136, 12-11-2024)

FUEL SERVICE STATION: An establishment that sells motor vehicle fuels, lubricants, and auto accessories, and may include vehicle washing and servicing, not including painting, bodywork or major engine repair.

GARAGE, PARKING OR COMMERCIAL: A building used for storage, repair or servicing of motor vehicles as a commercial use.

GARAGE, PRIVATE: An accessory building or space attached to or detached from the principal building used for storage of vehicles.

GOLF FACILITIES: A commercial or recreational establishment or facility offering space to play or practice golf.

GOVERNMENT OFFICES: Administrative, clerical, or public contact offices of a government agency, including postal facilities, together with incidental storage and maintenance of vehicles.

GRADE: The surface of the ground.

GREENBELT: An area of vegetation, either native stock or replanted, in public or private ownership lying outside and adjacent to the right of way line of streets or along real property lines. Greenbelts are intended to visually and physically screen and separate land uses or activities from each other.

GROUND COVER: Small plants that grow close to the ground. Noxious weeds are not considered "ground cover."

GROSS FLOOR AREA: The sum of the gross horizontal area of the floor or floors of all the buildings on a building site, measured from the exterior faces of the exterior walls covering all areas having a ceiling height of seven feet (7') or more; but excluding elevator shafts and stairwells, all parking and loading spaces inside the building, unroofed areas, roofed areas open on two (2) or more sides, areas having a ceiling height of less than seven feet (7'), areas used exclusively to house fixed mechanical or electrical equipment, and basements used exclusively for storage or housing of fixed mechanical equipment or central heating or cooling equipment. (Ord. 792, 7-29-2004; Ord. 2024-1136, 12-11-2024)

HARD SURFACE: See Section 9-5A-4 of this code for hard surface definition.

HAZARDOUS MATERIALS: Any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste as described in Revised Code of Washington 70A.300.010(10), or its successor.

HAZARDOUS WASTE: All dangerous and extremely hazardous waste as defined in Revised Code Of Washington 70A.300.010(11), or its successor, except for moderate risk waste as set forth in Revised Code Of Washington 70A.300.010(13), or its successor.

HAZARDOUS WASTE STORAGE: The holding of hazardous waste for a temporary period as regulated by the state dangerous waste regulations, Washington administrative code chapter 173-303, or its successor.

HAZARDOUS WASTE TREATMENT: The physical, chemical, or biological processing of hazardous waste for the purpose of rending these wastes nondangerous or less dangerous, safer for transport, amenable for storage, or reduced in volume, as regulated by the state dangerous waste regulations, Washington administrative code chapter 173-303, or its successor.

HAZARDOUS WASTE TREATMENT AND STORAGE FACILITY ON SITE: Storage and treatment facilities which treat and store hazardous wastes generated on the same property.

HEALTH SERVICES: A business or organization providing professional healthcare to clients. Hospitals are defined separately and not included in this definition.

HEARING EXAMINER: The official appointed by the mayor to adjudicate land use decisions as set forth in this code.

HEDGE: A fence or boundary formed by a dense row of shrubs or trees.

HEIGHT, BUILDING: The vertical distance from the average of the lowest and highest point exposed by the finished ground level to the highest point of the building, excluding chimneys.

HIGH HAZARD FACILITY: A stationary source that is engaged in activities described in code 324110 or 325110 of the North American Industry Classification System (NAICS).

HOME OCCUPATION: An economic enterprise to make a product or perform a service that is conducted or operated within a residential dwelling unit, or building accessory to a residential dwelling unit, by the resident occupant or owner, and which use shall be clearly incidental and secondary to the residential use of the dwelling unit, including the use of the dwelling unit as a business address in a directory or as a business mailing address.

HOSPITAL: A public or private institution providing medical treatment, surgical intervention, and nursing care to sick or injured people.

HOTEL or MOTEL: A facility with six (6) or more guestrooms that offers transient lodging accommodations on a daily or weekly rate to the general public, which complies with WAC 246-360, and which may provide additional services, such as restaurants, meeting rooms, and recreation facilities. Accommodations for recreational vehicles are not included. (Ord. 792, 7-29-2004; amd. Ord. 2020-1063, 8-12-2020; Ord. 2024-1136, 12-11-2024)

IMPERVIOUS SURFACE: See Section 9-5A-4 of this code for impervious surface definition.

IRREGULAR LOT: A lot which is shaped so that application of setback requirements is difficult. Examples include a lot with a shape which is not close to rectangular, or a lot with no readily identifiable rear lot line.

ITINERANT VENDOR: Any person, whether as owner, agent, consignee, or employee, whether a resident of the city or not, who engages in the business of providing vending services and who conducts such a business from a mobile vendor unit by traveling from place to place, or customer to customer. A person, firm or corporation so engaged shall not be relieved from complying with the provisions of title 3, chapter 2 of this code merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such temporary business in connection with, as part of, or in the name of any local dealer, trader, merchant or auctioneer. (Ord. 943, 5-14-2014; amd. Ord. 2020-1063, 8-12-2020)

JUSTICE FACILITIES: Any site, structure, or facility used in the provision of law enforcement and criminal justice. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

KENNEL: A structure or lot on which four (4) or more domestic animals at least four (4) months of age are kept.

K-12 SCHOOLS: Public or private institutions providing education to school-age children from kindergarten through twelfth grade. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

LANDFILL: A disposal facility or part of a facility at which solid waste is placed in or on land and which is not a land treatment facility, or as defined and regulated in Title 5 Public Health and Safety.

LANDSCAPE: Site or development area characterized by plantings, screens, buffers, and other features intended to provide aesthetic or functional relief.

LIBRARY: An establishment, or part of an establishment, which offers books, periodicals, other printed materials, and/or films and music for borrowing. Libraries may also offer public computer access, information, and events.

LIGHTING: The illumination of structures and/or buildings and signs.

LIQUOR STORE: An establishment specializing in selling alcoholic beverages, not for consumption on the premises.

LIVESTOCK AND SMALL ANIMALS: Cattle, sheep, goats, or animals of the Bovidae family; all horses, mules, other hoof animals, or animals of the Equidae family; all pigs, swine, or animals of the Suidae family; llamas; and ostriches, rhea, and emu.

LOADING SPACE/LOADING FACILITY: An off-street space on the same lot with a structure or use, or contiguous to a group of structures or uses, for the temporary parking of a vehicle while loading or unloading persons, merchandise, or materials, and which abuts a street, alley or other appropriate means of access and egress.

LOT: A fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width, depth, and area unless legally nonconforming thereto. The term shall include parcels.

LOT AREA, GROSS: The total horizontal area within the boundary lines of a lot, excluding any street right of way or access easement.

LOT AREA, NET: The total gross lot area, minus all setbacks.

LOT, CORNER: A lot situated at the junction of and bordered by two (2) intersecting city streets. Alleys and driveways are not considered public streets for the purposes of determining corner lots.

LOT DEPTH: The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot line(s).

LOT, FLAG OR PIPESTEM: A large lot not meeting minimum street frontage requirements where access to the street is provided by a narrow, private driveway.

LOT LINE OR PROPERTY LINE: Any boundary line enclosing the lot area.

LOT LINE, FRONT: The line separating any lot or parcel of land from a street right of way. On a through lot, the line abutting the street providing primary access to the lot is the front lot line. In the case of a corner lot, the front line shall be considered to be along both street lot lines.

LOT LINE, REAR: The lot line opposite and most distant from the front lot line, and in the case of a triangular, irregular or other odd shaped lot, the line bordering the lot, generally parallel to, and at the maximum distance from the front lot line.

LOT LINE, SIDE: Any lot line that is not a front or rear lot line.

LOT OF RECORD: An area or parcel of land as shown on an officially recorded plat or subdivision, or an area or parcel of land to which a deed or contract is officially recorded as a unit of property, or which is described by metes and bounds or as a fraction of a section.

LOT SIZE AVERAGING: Lot size averaging is an approach to dividing land that allows a parcel to be divided such that some of the resulting lots are smaller than the minimum lot size required in the applicable zone, in order to preserve critical areas or other topographical adversities and provide greater flexibility, provided that the average lot size in the development as a whole meets the minimum lot size.

LOT, THROUGH: A lot fronting on two (2) streets that is not a corner lot.

LOT WIDTH: The distance between the side lot lines measured at right angles to the line establishing the lot depth at a point midway between the front lot line and the rear lot line. Any area used as an access easement shall be excluded from the computation of the lot width. (Ord. 792, 7-29-2004; amd. Ord. 2021-1073, 3-10-2021; Ord. 2024-1136, 12-11-2024)

MANUFACTURING, LIGHT: Manufacturing activities that are typically smaller in scale and do not require heavy, specialized, industrial equipment. Typical activities may include, but are not limited to, materials testing, printing, and small-scale assembly. Light manufacturing excludes machine shops, incinerators, wrecking yards, feedlots and other uses where significant adverse noise, air quality, or other impacts caused by manufacturing processes cannot be contained within buildings.

MANUFACTURED HOME: A dwelling unit manufactured off site in a factory, transported to the site and placed on a permanent foundation and bearing an insignia by a state or federal regulatory agency indicating that the building complies with all applicable construction standards of the U.S. department of housing and urban development's definition of a manufactured home.

MANUFACTURED HOME PARK: A residential development in which the land is owned, operated, and maintained as a commercial business and the individual manufactured homes or recreational vehicles (RVs) are either leased or are located on leased sites.

MILL: A structure and/or piece of machinery used in materials processing to break down raw materials into finer or smaller pieces, usually by grinding or cutting.

MOBILE HOME: A vehicle bearing the "mobile home" insignia of the Washington state department of labor and industries.

MOBILE VENDOR: An itinerant vendor providing vending services from a mobile vending unit.

MOBILE VENDOR UNIT: A vehicle, cart or other conveyance capable of moving or being moved and being used, or intended for use, by a person or persons to provide vending services while located within or upon the public rights of way.

MODULAR HOMES: A detached dwelling that is designed for human habitation, is either entirely or substantially prefabricated at a place other than a building site, and is constructed or installed on the site in accordance with the UBC and bearing the appropriate insignia indicating such compliance. Modular homes are also commonly referred to as "prefabricated," "panelized," or "factory-built" units.

MONUMENT: A permanent freestanding structure designed to commemorate a person or event.

MOTEL: See definition of Hotel or Motel in this chapter.

MULTI-FAMILY DWELLING: A building containing two (2) or more dwelling units.

MUSEUM: Facilities open to the public where works of art, scientific specimens, or other objects of permanent value are kept and displayed. (Ord. 943, 5-14-2014; amd. Ord. 2019-1053, 11-25-2019; Ord. 2024-1136, 12-11-2024)

NONCONFORMING LOT: A lawfully established lot which does not conform to the current provisions of the development code.

NONCONFORMING STRUCTURE: A lawfully erected structure which does not conform to the current provisions of the development code.

NONCONFORMING USE: A lawfully established use which does not conform to the current provisions of the development code.

NONPROFIT ORGANIZATION: An organization incorporated under provisions of the federal tax code 501(c)(3).

NURSING OR CONVALESCENT HOME: An establishment which provides full time care for three (3) or more chronically ill or infirm persons. Such care shall not include surgical, obstetrical or acute illness services. (Ord. 792, 7-29-2004)

OFFICE: A building or separately defined space within a building used for business. The use of an office does not include on premises sales or manufacture of goods.

OPEN RECORD HEARING: A hearing, conducted by a single hearing body or officer authorized by the local government to conduct such hearings, that creates the local government's record through testimony and submission of evidence and information, under procedures prescribed by the local government by ordinance or resolution. An open record hearing may be held prior to a local government's decision on a project permit to be known as an "open record predecision hearing." An open record hearing may be held on an appeal, to be known as an "open record appeal hearing," if no open record predecision hearing has been held on the project permit.

OPEN SPACE: Any part of a lot unobstructed by structures from the ground upward.

OUTDOOR STORAGE: All or part of a lot or business which is used for the keeping of materials, vehicles, or products in an open, uncovered yard or in an unwalled building. Such materials may include tractors, backhoes, heavy equipment, construction materials, bulk products, and other similar items.

OUTDOOR THEATER: An outdoor stage, amphitheater, or similar gathering space, where the public may view live musical or dramatic performances, film screenings, and other forms of entertainment. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

PARAPET: A false front or wall extension projecting above a roof.

PARCEL: A fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width, depth, and area unless legally nonconforming thereto. The term shall include lots.

PARKING FACILITIES: A land area or building used for the storage of four (4) or more vehicles excluding parking areas for single-family residences.

PARKING SPACE: An area accessible to vehicles and used exclusively or principally for vehicle storage.

PARKS: Recreational areas which primarily are owned or operated by public or nonprofit entities for the use and enjoyment of the general public. In some cases, such areas and facilities may be incidental to private development, such as open space set-asides necessary for environmental mitigation and children's play areas within a subdivision; are intended to be principally used by a finite group; and may constitute private property. This can also include plaza and courts, typically a pedestrian space that is available for public use and is clearly visible and accessible from the adjacent right-of-way. Typical features may include special paving, landscaping, lighting, seating areas, water features, and art.

PARTY OF RECORD: Any person who has testified at a hearing or has submitted a written statement related to a development or legislative action and who provides the city with a complete address.

PERMANENT SUPPORTIVE HOUSING: One or more subsidized, leased dwelling units with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident's health status, and connect the resident of the housing with community-based health care, treatment, or employment services. Permanent supportive housing is subject to all of the rights and responsibilities defined in the Residential Landlord Tenant Act, chapter 59.18 RCW.

PERSON: Any person, firm, business, corporation, partnership or other association or organization, marital community, municipal corporation, or governmental agency.

PERSONAL SERVICE: Businesses engaged in providing services to meet individual's needs, not including healthcare. These services include, but are not limited to, barber shops, travel agencies, instructional facilities such as dance studios, coin-operated laundries, and fitness studios.

PERVIOUS SURFACE: Any surface that enables full or partial absorption of stormwater into the ground and that is not considered impervious surface as that term is defined in title 9, chapter 5, article A of this code.

PETROLEUM PRODUCTS: Crude oil, petroleum products and byproducts, and gaseous hydrocarbons and byproducts.

PLANNED UNIT DEVELOPMENT: A flexible method of land development which accomplishes the purposes of chapter 6, section 4 of this title.

PRIMARY OR PRINCIPAL USE: The predominant use of the land or building to which all other uses are secondary.

PRIVATE DRIVEWAY: A paved or graveled surface that provides access to a lot from a public or private right-of-way and is dimensionally consistent with current adopted Orting Development Standards.

PRIVATE PARKING: Parking facilities for the noncommercial use of the occupant and guests of the occupant.

PROFESSIONAL OFFICES: “Professional offices” or “business offices” means specialized services or skills provided in an office setting, such as lawyers, architects, engineers, consultants, real estate offices, accountants, banks, and financial advisors.

PROJECT: A proposal for development or legislative action.

PROPERTY LINE: See definition of Lot Line.

PUBLIC FACILITIES AND UTILITIES: Land or structures owned by or operated for the benefit of the public use and necessity, including, but not limited to, public facilities defined in Revised Code Of Washington 36.70A.030, as amended, and private utilities serving the public.

PUBLIC HEARING: An open or closed record hearing at which evidence is presented and testimony is taken.

PUBLIC IMPROVEMENT: Any structure, utility, park, improvement, roadway, sidewalk, or other infrastructure for use by the public, required as a condition of development approval.

PUBLIC OPEN SPACE: Any publicly owned land, including, but not limited to, parks, playgrounds, waterways, and trails.

PUBLIC SAFETY FACILITIES: Any site, structure, or facility used in the provision of public safety services, especially police and fire.

PUBLIC WORKS STANDARDS: Shall mean and refer to those specifications and standard design details, as adopted and amended by the City Department of Public Works, that are intended to regulate the construction of public works, or improvements that will be dedicated to the public, that are associated with public and private development within the City. The Public Works Standards shall mean the same as the Orting Development Standards. (Ord. 792, 7-29-2004; amd. Ord. 889, 9-8-2010; Ord. 2021-1083, 9-29-2021; Ord. 2022-1093, 3-30-2022; Ord. 2022-1095, 8-10-2022; Ord. 2024-1136, 12-11-2024)

RECREATIONAL FACILITIES: Facilities for recreational use such as swimming pools, athletic clubs, tennis courts, ball fields, play fields, and the like.

RECREATIONAL VEHICLE: A recreational vehicle is a factory built vehicular structure designed only for recreational use and not as a primary residence or for permanent occupancy, built and certified in accordance with NFPA 1192-15 or ANSI A119.5-09 consensus standards for recreational vehicles and not certified as a manufactured home. It is designed to be self-propelled or permanently towable and shall include, but not be limited to, travel trailers, campers, motor homes, and camping trailers.

RECREATIONAL VEHICLE PARK/CAMPGROUND: A recreational vehicle park/campground refers to any tract of land divided into lots or spaces, under the ownership or management of one person, firm or corporation for the purpose of locating three or more recreational vehicles for nightly or short-term use. Said park/campground shall have an on-site caretaker.

REMODEL, EXTERIOR: Any renovation, upgrading, or otherwise changing the exterior of a building, including repainting, except when using previously approved colors.

RESORT: An establishment, often including lodging, where people may go for recreation, rest, personal care, sport, or another similar purpose.

RESTAURANT: Any establishment that offers food and drink, which can include alcoholic beverages, for sale and consumption on the premises.

RETAIL FUEL SALES: Businesses selling fuel for motor vehicles, including gasoline and diesel.

RETAIL SALES: Any business offering goods for sale. If a specific type of retail business is otherwise defined in this section, that definition shall prevail.

REZONE: A change in classification from one zoning district to another.

ROOMING HOUSE: A building other than a hotel, motel or lodge which advertises as a boarding, lodging, or rooming house, or is a licensed place of business with rooms available for rent. This does not include short-term rentals offered in residences. (Ord. 792, 7-29-2004; amd. Ord. 2019-1053, 11-25-2019; Ord. 2024-1133, 10-30-2024; Ord. 2024-1136, 12-11-2024)

SCHOOL SUPPORT FACILITIES: A building, complex, or installation that facilitates an action or process associated with school uses including facilities such as administrative buildings and bus barns.

SCREEN, SCREENING: A continuous fence, hedge or combination of both which obscures vision through eighty percent (80%) or more of the screen area, not including drives or walkways.

SELF-SERVICE STORAGE: A facility consisting of separate storage units which are rented to customers having exclusive and independent access to their respective units for storage of residential or commercial oriented goods.

SETBACK: The required minimum horizontal distance between the building line and the related front, side, or rear property line. On pipestem or flag lots, setbacks shall be established consistent with provisions set forth in OMC 13-5-1(F) and their associated figures, Figure 13-5-1A and Figure 13-5-1B.

SETBACK AREA: The lot area between the lot lines and the setback lines.

SETBACK LINE: A line which is parallel to a lot line located at the distance required by the setback.

SHARED OFF-STREET PARKING: Off-street areas designed, used, required, or intended to be used for the parking of motor vehicles in which two (2) or more uses which are within close proximity may share parking facilities to fulfill their individual parking requirements because their prime operational hours do not overlap.

SHED: An accessory structure, with or without a permanent foundation, without plumbing, used for storage.

SIGN: A structure or graphic display designed to inform or attract the attention of persons not on the premises on which the sign is located.

SIGN, ABANDONED: A sign which no longer identifies or advertises a person, business, product or activity conducted or available for more than one hundred eighty (180) consecutive days on the premises where the sign is located, or a damaged or vandalized sign which has not been repaired within sixty (60) days of the event.

SIGN AREA: The area of the smallest rectangle that can be drawn around all parts of the sign from the viewpoint exposing the largest surface area, excluding simple support structures. Sign supporting structures which are part of the sign display shall be included in the area of the rectangle.

SIGN, ATTACHED: A sign permanently attached to or mounted on a building, including signs painted on a building wall.

SIGN, BANNER: Any temporary sign intended to be hung, with or without framing, and possessing characters, letters, illustrations, or ornamentation applied to fabric or similar material. Flags, insignias, canopy signs, and posters shall not be considered banner signs.

SIGN, BILLBOARD: A sign which directs attention to a business, profession, product, activity or service that is not conducted, sold, or offered on the premises where the sign is located.

SIGN, CANOPY: A sign that is part of or attached to a canopy.

SIGN, CONSTRUCTION: A sign used to advertise or provide information about physical construction activity occurring under a valid building permit.

SIGN, DIRECTIONAL: A sign intended to provide wayfinding information.

SIGN, DIRECTORY: A sign on which the names and locations of occupants or the use or uses of a building are given. This includes signs for office buildings, church directories, and multiple signs for malls, arcades and similar commercial buildings using standard format business signs.

SIGN FACE: Any side of a sign which contains advertising or graphic display which is visible to the public.

SIGN, FREESTANDING: Any sign not attached to a building.

SIGN, ILLUMINATED: Any sign internally illuminated in any manner by an artificial light source. Indirectly illuminated signs are not included in this definition.

SIGN, INTERNALLY ILLUMINATED: A sign with an internal light source shining through the face of the sign. Exposed neon signs are internally illuminated.

SIGN, MONUMENT: A freestanding structure with signage for multiple establishments collocated on a property.

SIGN, NONCONFORMING: Any sign which does not conform to the provisions of this Code, but which conforms to all applicable laws in effect on the date the sign was originally erected.

SIGN, OFF SITE: A permanent sign not located on the same lot as the business or use it is intended to serve.

SIGN, PERMANENT: A sign nailed, glued, screwed or similarly fastened to foundation systems capable of holding it in position under an imposed wind load of twenty-five (25) pounds per square foot or the design requirements of chapter 23 of the International Building Code.

SIGN, PORTABLE: Any mobile, movable sign, sign on a vehicle or structure, including a sandwich board sign, which is not securely attached to the ground or any other structure.

SIGN, PROJECTING: Any sign affixed to a building or wall, the leading edge of which extends beyond such building or wall.

SIGN, READER BOARD: A sign that is designed to allow message changes either by manual or electronic means.

SIGN, ROOF: Any sign erected or constructed wholly upon or over the roof of a building and supported by the roof structure.

SIGN, TEMPORARY: A sign or advertising display intended to be displayed for a limited period of time or for a fixed event and not permanently affixed to a structure or the ground, including real estate signs used to offer for sale, lease, or rent, the property upon which the sign is placed.

SIGN, WINDOW: Any sign placed upon the interior or exterior surface of a window or placed inside the window within six feet (6') of the window surface, facing the outside and intended to be seen from the exterior.

SINGLE-FAMILY DWELLING: A building containing only one dwelling unit.

SINGLE ROOM OCCUPANCY SLEEPING UNIT: A housing type consisting of single sleeping units that are independently rented and lockable, with cooking facilities shared with other sleeping units and with individual or shared bathroom facilities. See also subsection 10-2-1F of this Code.

SITE PLAN: A scale drawing which shows the areas and locations of all buildings, streets, roads, improvements, easements, utilities, open spaces and other principal development features for a specific parcel of property.

SITE PLAN, BINDING: A drawing to a scale specified by local ordinance which: (a) Identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other matters specified by local regulations; (b) contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as are established by the local government body having authority to approve the site plan; and (c) contains provisions making any development be in conformity with the site plan.

SOLID WASTE FACILITIES: A facility providing services related to the management, storage, collection, transportation, treatment, use, processing or final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from wastes or the conversion of the energy in wastes to more useful forms or combinations thereof.

SPAS AND HEALTH CLUBS: Businesses or organizations offering health and beauty treatments, wellness services, exercise equipment, and/or classes.

SPECIFIED ANATOMICAL AREAS: Less than completely or opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if completely or opaquely covered.

SPECIFIED SEXUAL ACTIVITIES: Acts of human masturbation, sexual intercourse or sodomy; fondling or other erotic touching of human genitals, pubic region, buttock or female breast; or human genitals in a state of sexual stimulation or arousal.

STABLE: A building used to board animals owned by the owner and/or others.

STATIONARY VENDOR: An itinerant vendor who provides vending services from a stationary vendor unit.

STATIONARY VENDOR UNIT:

A. A vehicle, cart or other conveyance capable of moving or being moved, or

B. A structure that is not permanently affixed to real property, and which is used, or intended to be used, at a fixed location to provide vending services.

STOCK IN TRADE: Any item or good that: a) is produced, purchased, processed, finished or fabricated as part of a home occupation; or b) is incorporated into any such item; or c) is used to make, manufacture, produce, process, finish or fabricate any such item; or d) is intended for resale on site; provided, that it does not include samples.

STREET: A public or private right-of-way or easement which provides vehicle access to lots.

STREET LOT LINE: The lot line or lines along the edge of a street.

STREET SETBACK: The minimum distance required for buildings to be set back from the street lot line.

STRUCTURE: Any combination or arrangement of material that is artificially built up or composed of parts joined together, for use, occupancy, or ornamentation, that is installed, built, constructed, or erected on, above, or below the surface of land or water, whether or not affixed permanently or attached to something having a permanent location, including those combinations or arrangements of material that do not require a building permit issued by the City's Building Official.

SUBDIVISION: A division of land into ten (10) or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership, including resubdivision of previously subdivided land, except as provided in this title.

SUBDIVISION CODE: Title 12 of this Code.

SUBDIVISION, SHORT: A division of land into nine (9) or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership, except as provided in this title. (Ord. 943, 5-14-2014; amd. Ord. 2018-1024, 4-25-2018; Ord. 2021-1073, 3-10-2021; Ord. 2024-1136, 12-11-2024)

TEMPORARY BUILDING OR STRUCTURE: A building or structure not having or requiring permanent attachment to the ground or to other structures which have no required attachment to the ground.

THEATER: A building or part of a building devoted primarily to the showing of motion pictures or for dramatic, dance, musical, or other live performances.

TOWNHOUSE: A multiple dwelling unit meeting the following criteria: a) no dwelling unit overlapping another vertically; and b) common side walls joining units.

TRACT: A fractional part of divided lands having fixed boundaries.

TRANSIT FACILITY: All passenger facilities, structures, stops, shelters, bus zones, properties, and rights-of-way of all kinds that are owned, leased, held, or used by a transit authority for the purpose of providing public transportation services.

TRANSITIONAL HOUSING: A facility that is owner operated or managed by a nonprofit organization or governmental entity that provides housing and supportive services to homeless individuals or families for up to two years and whose primary purpose is to enable homeless individuals or families to move into independent living and permanent housing. (Ord. 792, 7-29-2004; Ord. 2021-1083, 9-29-2021; Ord. 2022-1093, 3-30-2022; Ord. 2022-1095, 8-10-2022; Ord. 2024-1136, 12-11-2024)

USE: The purpose which lands or structures serve or for which they are occupied, maintained, arranged, designed or intended.

UTILITY FACILITY: A small-scale facility serving primarily local distribution needs within the city, including underground power lines, water distribution lines, sewer lift stations, and stormwater conveyance pipes, fiber optic cable, pump stations and hydrants, switching boxes, and other structures normally found in a street right-of-way to serve adjacent properties. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

VARIANCE, MAJOR: A permissible modification of the application of this title to a particular bulk, dimensional, or numeric standard which exceeds the degree of relief that may be afforded by a minor variance, subject to approval by the Hearing Examiner.

VARIANCE, MINOR: A permissible modification of the bulk, dimensional, or numeric standard of this title when the request is to deviate by no more than 10 percent of the bulk, dimensional, or numeric standard applicable in this title, subject to approval by the Administrator.

VEGETATIVE SCREEN: A planted buffer that is opaque to a height of six feet (6') minimum, accomplished through any combination of solid row(s) of evergreen trees or shrubs; the same on an earthen berm; and/or fencing. Ground surfaces of the planting area are to be seventy-five percent (75%) covered with ground cover plants within three (3) years of installation.

VEHICLE: A device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, including mopeds, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

VENDING OR VENDING SERVICES: Exhibiting goods or services for sale for the purpose of selling, bartering, trading, exchanging, or advertising such goods or services.

VETERINARY FACILITIES: Any facility, structure, or equipment used in the operation of domesticated animal medical care, including routine and emergency care services.

VOCATIONAL SCHOOLS: Institutions providing technical and professional training, usually with the goal of employment in a craft or trade. (Ord. 943, 5-14-2014; amd. Ord. 2024-1136, 12-11-2024)

WALKWAY: A hard surfaced portion of a street, right-of-way, trail or easement intended for pedestrian use.

WASTEWATER TREATMENT: Establishments primarily engaged in providing waste management services including waste treatment and disposal, remediation, operation of materials recovery facilities, septic tank pumping, and related services.

WATER SUPPLY FACILITY: A facility that obtains, treats, and distributes water to customers.

WATERCOURSE: The course or route followed by waters draining from the land, formed by nature or man and consisting of a bed, banks, sides and associated wetlands and headwaters. A watercourse shall receive surface and subsurface drainage waters and shall flow with some regularity, but not necessarily continuously, naturally and normally, in draining from higher to lower lands. The watercourse shall terminate at the point of discharge into a larger receiving body such as a lake. Watercourses shall include sloughs, streams, creeks and associated wetlands.

WETLAND OR WETLANDS: As the term(s) is/are defined in Title 11 of this code.

WHOLESALE TRADE: Establishments primarily engaged in selling merchandise to retailers; industrial, commercial, institutional, or professional business users; or other wholesalers; or acting as agents or brokers and buying for or selling merchandise to such individuals or companies; and professional and commercial equipment suppliers.

WILDLIFE SHELTER: A facility which is used to house or contain wildlife and which is owned, operated or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals or other nonprofit organizations or persons devoted to the welfare, protection and humane treatment of animals. This does not include domestic animals.

WINERY/BREWERY: An establishment which manufactures beer, wine, and or cider beverages on site and may sell products manufactured on site for on-premises and off-premises consumption.

WIRELESS COMMUNICATION FACILITY: See OMC section 13-9-16. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

YARD: The lot area between lot lines and the building area.

YARD, FRONT: The area between the front lot line and the building line extending the full width of the lot. The front yard shall be the area between the front line which primary access is taken and the building setback line. On a corner lot there shall be two (2) front yards.

YARD, REAR: The area between the rear lot line and the building area extending the full width of the lot.

YARD, SIDE: The side setback area between the side lot lines and the building area, extending the full length of the building area. All yards that are not front yards or rear

yards are side yards. (Ord. 792, 7-29-2004; amd. Ord. 2021-1073, 3-10-2021; Ord. 2024-1136, 12-11-2024)

ZONE, ZONE DISTRICT: A defined area of the City within which the use of land is regulated and certain uses permitted and other uses excluded as set forth in this title.

ZONING CODE: This title. (Ord. 792, 7-29-2004)

CHAPTER 3
ZONE CLASSIFICATIONS

SECTION:

13-3-1: Purpose

13-3-2: Zone Classifications

13-3-3: Uses

13-3-4: Zoning Map

13-3-5: Interpretation Of Uses

13-3-6: Exempted Uses

13-3-1: PURPOSE:

The purpose of this chapter is to list and describe the zone classifications and their purposes; provide interpretations of uses allowed in each zone classification; and classify uses according to a limited number of categories on the basis of common functional, product, or compatibility characteristics. (Ord. 792, 7-29-2004)

13-3-2: ZONE CLASSIFICATIONS:

Zone classifications are grouped into residential classifications; mixed use classifications; industrial classification; and public classifications as follows:

A. RC Residential-Conservation Zone:

1. Purpose And Intent: The Residential-Conservation Zone is intended to predominantly provide for low density single-family residential uses along the Puyallup and Carbon Rivers where there are critical areas such as frequently flooded areas, wetlands, and fish and wildlife habitat.

B. RU Residential-Urban Zone:

1. Purpose And Intent: The Residential-Urban Zone is intended to provide for medium- and high-density urban single-family, townhouse, cottage, and duplex residential uses which benefit from the full array of services and amenities available in the Town core.

C. RMF Residential-Multi-Family Zone:

1. Purpose And Intent: The intent of the Multi-Family Residential Zone is to provide for the highest residential density, including multifamily housing, cottage housing, and limited commercial uses.

D. MUTC Mixed Use-Town Center Zone:

1. Purpose And Intent: The intent of the MUTC Zone is to provide an attractive mix of commercial retail, office, residential and service development in the Town core. Pedestrian amenities, public transportation or transportation network improvements, and architectural design review will be considerations in development approvals for projects in this zone.

E. MUTCN Mixed Use-Town Center North Zone:

1. Purpose And Intent: The intent of the MUTCN Zone is to develop new economic opportunities including a mix of residential, commercial, open space and recreational uses that support a sustainable community by providing jobs and increasing the tax base in areas north of the Town core. The downtown core is the area bound by Whitesell St, Rainier Ln, Bridge St, and Van Scoyoc Ave. Pedestrian amenities, public transportation or transportation network improvements, and architectural design review will be considerations throughout master planning and development approvals for projects in this zone.

F. LM Light Manufacturing Zone:

1. Purpose And Intent: The intent of the Light Manufacturing Zone is to provide for development of utility facilities, low impact manufacturing and warehousing employment centers that can be concentrated where traffic congestion, visual and other impacts on the surrounding areas can be minimized. Light manufacturing includes, but is not limited to: canning or bottling of food or beverages using an assembly line; production, assembly, finishing, or packaging of articles from parts made at another location; and production of finished household and office goods from materials that are already refined or from raw materials that do not need refining.

G. OS Open Space And Recreation Zone:

1. Purpose And Intent: The intent of the Open Space and Recreation Zone is to provide for parks, trails, open spaces, and recreational areas for the use of the public.

H. PF Public Facilities Zone:

1. Purpose And Intent: The intent of the Public Facilities Zone is to be applied to major parcels of land serving the cultural, educational, recreational and public service needs of the community, such as, but not limited to: schools, water and wastewater

facilities, City buildings, City parking lots, and other City owned uses. This zone shall only apply to lands owned by governmental agencies or educational institutions. (Ord. 2018-1026, 4-25-2018; amd. Ord. 2018-1033, 7-25-2018; Ord. 2019-1051, 10-30-2019; Ord. 2019-1057, 1-8-2020; Ord. 2021-1073, 3-10-2021; Ord. 2024-1136, 12-11-2024)

13-3-3: USES:

A. General: The uses of property are defined by the activity for which the building or lot is intended, designed, arranged, occupied, or maintained. Each lot or parcel shall contain one principal use as set forth in table 1 of this section, except that lots or parcels in the MUTC and MUTCN zones may have more than one principal use as set forth in table 1 of this section. Other uses on a lot or parcel may be permitted accessory or conditional uses as set forth in table 2 of this section.

B. Use Tables: Table 1 of this section sets forth allowed principal (P) and conditional (C) uses for each zone. The table lists the zones in the vertical columns and the land use activities in the horizontal rows. If no symbol appears in the box at the intersection of a row and column, the use is not allowed and is prohibited unless otherwise noted. In general, prohibited uses shall be as follows:

1. Any use or structure that is not of a character similar to the stated principal, conditional or accessory uses for the zone; or

2. Any use which causes or may be expected to cause an excessive disturbance not in keeping with the character and stated intent of the zone. "Excessive" is defined for these purposes as a degree exceeding that generated by the uses permitted in the zone in their customary manner of operation or to a degree injurious to the public safety, health, welfare or convenience.

If the letter "P" appears in the box, the use is permitted outright subject to the provisions of this title. If the letter "C" appears in the box, the use is conditional, subject to review and approval under section 13-6-2 of this code. If the box contains a number, the corresponding footnote further specifies the conditions applicable to the use in the zone.

C. Undefined Uses: In instances where an applicant wishes to develop or use land in a manner that is otherwise undefined in this chapter, the City Administrator may administratively interpret the proposed land use and define its allowance in each of the city's zones. The Administrator's interpretation shall identify the defined land use set forth in tables 1 and 2 of this section most similar to the proposed undefined land use. The undefined land use interpreted in this section shall be governed as permitted, conditionally permitted, or prohibited in each zone in the same manner as is set forth for its most similar defined use in tables 1 and 2 of this section. The Administrator's determination in these instances may be appealed according to title 15, chapter 10 of this Code.

TABLE 1
CITY OF ORTING PERMITTED LAND USES BY ZONING DESIGNATION

RC: Residential-Conservation Zone	MUTC: Mixed Use-Town Center Zone	OS: Open Space and Recreation Zone
RU: Residential-Urban Zone	MUTCN: Mixed Use-Town Center North Zone	PF: Public Facilities Zone
RMF: Residential-Multi-Family Zone	LM: Light Manufacturing Zone	

	Zones							
	RC	**RU**	**RMF**	**MUTC**	**MUTCN[2]**	**LM**	**OS**	**PF**
Residential uses[1]:								
Accessory Dwelling Units (ADU), subject to OMC 13-5-6	P	P	P					
Cottage	P	P	P					
Cottage housing development		P[3,4]	P[3,4]		P			
Duplex	P	P	P	P	P			
Group residences:		C	C[3]	C[3]				C[12]
Adult family homes	P	P	P	P	P			
Emergency housing[16, 17, 18, 19, 20, 21]				C	C			
Emergency shelter[16, 17, 18, 19, 20, 21]				C	C			
Permanent supportive housing[15, 19, 20, 21, 22]	C	C	C	C[3]	C[3]			
Single room occupancy sleeping units			P[26]	P[3, 26]	P[26]			P[26, 27]
Transitional housing[15, 16,17,18,19, 20, 21, 22]	C	C	C	C[3]	C[3]			
Other[5]		C	P	C				
Manufactured home park	C	C	C					
Manufactured home[6]	P	P	P		P			
Multi-family			P	P[3]	P			
Single-family detached	P	P	P		P			
Temporary lodging:								
Bed and breakfast	C	C	C	P[3]				
Hotel/motel				P[3]	P			
Rooming house			C	C[3]				
Townhouse		P[7]	P	P[3]	P[13]			
Commercial uses:								

	Zones							
	RC	**RU**	**RMF**	**MUTC**	**MUTCN[2]**	**LM**	**OS**	**PF**
Adult businesses				C[3]				
Banks, Savings and Loan Associations, Business or Professional Offices				P	P			
Clubs and lodges			C[3]	P[3]				
Communication facilities:								
Communication services				P[3]	C			
Wireless communication services facilities, subject to OMC 13-9				P[3]		P		
Daycare facilities:								
Daycare center	P	P	P	P	P	C[25]		
Family daycare	P	P	P	C[3]	P			
Restaurant			C[3]	P[3]	P		C[3]	
Fuel Service Station				P[3]				
Health services			P[3]	P[3]	P			
Home occupations [8]	P	P	P	P	P			
Liquor stores				P[3]	P			
Offices			C[3]	P[3]	P	C[3]		
Personal services				P[3]	P			
Retail fuel sales				C[3]	P	P[3]		
Retail sales			C[3, 9]	P[3]	P	C[3]	C[3]	
Theaters				P[3]	P			
Veterinary facilities				P[3]	P	P[3]		
Industrial uses:								
Manufacturing								
Assembly/fabrication					C [14]	P		
Food processing					C [14]	P		
Light manufacturing					C [14]	P		
Petroleum products						P		
Wineries and breweries				P	P	P		
Wood products						P		
Storage and shipping:								
Construction business					C [14]	P		
Equipment rental				P[24]	C [14]	P		
Freight facilities warehousing						P		
Outdoor storage					C [14]	C		
Self-service storage					C [14]	P		

	Zones							
	RC	**RU**	**RMF**	**MUTC**	**MUTCN[2]**	**LM**	**OS**	**PF**
Wholesale trade					C [14]	P		
Cultural and recreational uses:								
Cultural:								
Art galleries				P[3]	P			
Churches	C[3]	C[3]	C[3]	P[3]	P			
Community centers		C[3]		P[3]	C			
Libraries				P[3]	P			
Museums				P[3]	P			
Outdoor theaters				P[3]	C			
Recreation:								
Athletic fields	C [10]	C [10]	C [10]		C		P	P
Bowling alleys				C[3]				
Campgrounds	C [10]	C [10]	C [10]				P	P
Dance halls, skating rinks, youth cabarets				C[3]				P
Golf facilities	C [10]	C [10]	C [10]				P	P
Parks	C [10]	C [10]	C [10]	C [10]	P	C [10]	P	P
RV parks	C [10]	C [10]	C [10]				C	C
Resorts (including lodging)			C	C	C			
Shooting ranges	C					C	C	C
Spas and health clubs				P[3]	P			
Stables/riding clubs	C [10]						C	P
Trails	C [10]	C [10]	C [10]	C [10]	P	C [10]	P	P
Public uses:								
Animal shelters					C [14]	P		P
Colleges and universities			C	C	C	C		P
Correctional facilities						C		C
Emergency services		C	C	C	C	P		P
Government offices			P	P	P	P		P
Hazardous materials						C		C
Hospitals	C[3]	C[3]	C	C	C	C		P
Justice facilities								P
Preschool and kindergarten	P	P	P	P	P	C		
Elementary, middle, junior high, and high schools	C	C	C	P	C			P
Fraternity, sorority, or group student houses			C	C	C	C		C
Landfills						C		C

	Zones							
	RC	**RU**	**RMF**	**MUTC**	**MUTCN**[2]	**LM**	**OS**	**PF**
Public safety facilities		C	C	C	C	P		P
School support facilities					C	P		P
Shared off street parking				C	P			
Solid waste facilities						C		P
Transit facilities	C	C	C	C	C	C	C	P
Utility facilities	C	C	C	C	P	C		P
Vocational schools		C	C	C	C	P	C	P
Wastewater treatment								P
Water supply facilities	C	C	C	C	C	C	C	P
Resource uses:								
Agricultural:								
Agricultural research, testing and training	C				C	P		C
Growing crops	P				C			
Livestock and small animals	P [11]				C			
Fish and wildlife management:								
Aquaculture	C						C	C
Wildlife shelters	C						C	C
Forestry:							*C*	
Growing trees	P							
Mills						P		
Research and testing	C					P		C
Mineral:								
Batch plants						P		
Extraction and processing	C	C	C			P		C

Notes:

1. Residential planned unit developments (PUD) may allow increases in underlying density except in the MUTCN.
2. All development subject to Master Development Plan and MUTCN Bulk and Dimensional Requirements. See sections 13-3-2 E2 and E5 of this code.
3. Subject to architectural design review.
4. As a binding site plan.
5. Occupancy limit may only be regulated in accordance with RCW 35.21.682 or its successor.
6. On a legal lot with permanent foundation and no older than three years old on the date the home is placed on the lot.
7. Townhouses are not allowed on flag lots (pipestem) in the RU zone.
8. Subject to section 13-5-4 of this title.

9. Food stores only.

10. Private facilities.

11. Subject to all other City regulations regarding livestock.

12. Redevelopment of the Orting Soldiers' Home subject to site plan and architectural design review approval.

13. Three or more units per building.

14. May not have frontage along SR 162/Washington Avenue N. Must be screened from all adjacent residences with sight obscuring landscaping, 6-foot tall solid fencing.

15. The number of permanent supportive housing units and transitional housing units allowed on any given property shall be no more than the number of standard dwelling units that would be allowed under the applicable zoning of the property.

16. The total combined capacity of all emergency shelter beds, emergency housing beds, and transitional housing units in the City shall not exceed 0.4% of the City's population, as estimated annually by the Washington Office of Financial Management.

17. Emergency housing and emergency shelters are required to be indoors. An operations and security plan shall be required that addresses site management and neighborhood impacts. Each facility shall be limited to a total of 10 individuals.

18. Emergency housing, emergency shelter, and transitional housing uses shall not be located on any parcel that abuts or is directly across a public right-of-way from a parcel with an existing school or park use, or on any parcel within the main street area of Orting, defined as the area bounded by Whitsell Street, Bridge Street, Corrin Avenue Northwest, and Rainier Lane Northeast. This does not include indoor emergency shelter facilities that are needed to respond temporarily to a natural disaster or other similarly acute emergency (ex: heating and cooling centers).

19. No person convicted of a felony assault, arson, illegal drug manufacturing, burglary, or kidnapping charge within the past three (3) years, or otherwise under court supervision or sex offender registration requirements can receive services from a provider, unless providing such services is consistent with the laws, regulations, and/or supervisory requirements related to such persons. To ensure compliance, providers of transitional housing and permanent supportive housing shall order and review background checks prior to resident entry. Providers of emergency housing and emergency shelter shall order and review background checks within three days of intake.

20. All providers of emergency shelter, emergency housing, transitional housing, and permanent supportive housing shall, after the initial two years of operation of any such facility, provide the City with a report that demonstrates ongoing compliance with the terms of the Conditional Use Permit as defined at the time of approval. Such providers are also required to maintain a valid City of Orting business license and liability insurance. These service providers should prioritize individuals living in the Orting valley. Upon intake, providers shall record each individual's most recent city or other place of residence and shall provide a report on such data to the City every year. Providers shall also record the number of individuals seeking services who are turned away due to lack of capacity and their most recent place of residence.

21. In reviewing Conditional Use Permit applications for emergency shelter, emergency housing, transitional housing, and permanent supportive housing, the Hearing Examiner shall not treat adversely or discriminate against people experiencing homelessness.

22. No more than two persons per bedroom shall inhabit a permanent supportive housing or transitional housing facility.

23. Two or more physically attached dwelling units sharing a wall, where each unit has separate access to a yard, court, or street.

24. No outdoor storage.

25. If located in or around a high hazard facility, the daycare center is prohibited.

26. Single room occupancy sleeping units are allowed only if the lot subject to their development allows for at least six multi-family residential units. Density of single room occupancy sleeping units shall be calculated as 0.25 dwelling units per single room occupancy sleeping unit. Single room occupancy sleeping units shall be considered 0.5 ERU per sleeping unit for purposes of calculating the city’s current sewer hook-up fee as adopted by resolution or ordinance applicable to the proposed development of single room occupancy sleeping units. All other provisions regulating co-living units (which are referred to as “single room occupancy sleeping units in this title) set forth in RCW 36.70A.535, or as amended.

27. Residential development in the PF zone is limited to that land owned by the Washington Department of Veterans Affairs. On all other land in the PF zone, residential uses are prohibited.

TABLE 2
PERMITTED ACCESSORY USES BY ZONING DESIGNATION

		Zones
Conditional accessory uses:		
	Church and religious organizations[5]	RU (CUP[4])
Permitted accessory uses:		
	Accessory structures such as garages, carports, and sheds	All zones
	Barns and agricultural structures	RC, PF
	Caretaker residences	LM, OS
	Cargo container	LM, PF
	Collective gardens[2]	All residential zones
	Maintenance and storage facilities and yards	OS
	Off street parking for 1 commercial truck or van used for commuting	All residential zones
	Parking lots	OS
	Private outdoor storage of small noncommercial trucks, boats and recreational vehicles in required setbacks	All residential zones
	Recreation facilities in conjunction with planned residential developments	All residential zones
	Required automobile parking for permitted principal and conditional uses	All zones
	Required truck loading facilities	All zones
	Restrooms and bathing facilities	OS
	Retail sales associated with the principal manufacturing or processing use and not occupying more than 10 percent of the site area	LM
	Stationary food vending	MUTC
	Uses customarily incidental to the principal uses[3]	MUTC
	Utility installations except solid waste disposal facilities	All zones

Notes:

1. Repealed.
2. Collective gardens must conform to chapter 8 of this title.
3. Such as seasonal displays, sidewalk sales, etc.

4. “CUP” means Conditional Use Permit. Accessory uses indicated with “CUP” in this table are allowed conditionally and are subject to the Conditional Use Permit provisions codified in the OMC.

5. When accessory to a community center.

(Ord. 792, 7-29-2004; amd. Ord. 943, 5-14-2014; Ord. 1026, 4-25-2018; Ord. 2019-1051, 10-3-2019; Ord. 2021-1073, 3-10-2021; Ord. 2021-1083, 9-29-2021; Ord. 2021-1086, 10-27-2021; Ord. 2022-1093, 3-30-2022; Ord. 2022-1095, 8-10-2022; Ord. 2022-1097, 8-31-2022; Ord. 2024-1136, 12-11-2024, Ord. 2025-1141, 2-12-2025)

13-3-4: ZONING MAP:

A. Map Established: The official zoning map used as the basis for this zoning regulation is the same as the adopted Comprehensive Plan Future Land Use Map and shall be maintained by the City. Each property in the City is classified under this title and is subject to the requirements of this title. Zoning classifications on the official zoning map shall use the symbols shown in this chapter. (Ord. 2018-1026, 4-25-2018)

B. Urban Growth Area Boundary: The official zoning map shall include the designation of the comprehensive plan urban growth area boundary for the City. Any reference to the urban growth area boundary in this title shall mean that mapped designation.

C. Interpretation Of Boundaries: When uncertainty regarding zone classification boundaries arises, the following rules shall apply:

1. Where zoning or urban growth area boundaries are indicated as following the centerline of streets, alleys or highways; the right-of-way centerline shall be the boundary.

2. Where zoning or urban growth area boundaries are indicated as following lot or tract lines, the lot or tract lines shall be the boundaries.

3. Unmapped shore lands shall be considered to be within the same zoning classification or urban growth area designation as the adjacent upland.

4. Where a public street or alley is officially vacated or abandoned, the zone classification applicable to the property abutting the vacated portion shall apply to the vacated or abandoned street or alley.

5. Where zoning or urban growth area boundaries divide a parcel created prior to January 11, 1996, the entire parcel shall be considered to be within the classification of the majority of the parcel, i.e., the portion which is greater than fifty percent (50%) of the area. The property owner(s) may petition the City for relief from this provision based on hardship created by unique or special circumstances, such as natural features. If the City finds that such hardship exists, the boundary line may be moved within the lot area to a location which provides relief from said hardship so long as the action does not create hardships upon adjacent properties or conflict with other provisions of this Code.

6. Where these rules (subsections C1 through C5 of this section) do not clarify a boundary issue, the Administrator shall make the determination based on an analysis of the specific parcel(s) with written findings and conclusions. The Administrator's determination in these matters may be appealed according to title 15, chapter 10 of this Code. (Ord. 792, 7-29-2004; amd. Ord. 2024-1136, 12-11-2024)

13-3-5: INTERPRETATION OF USES:

A. Typical Uses Within Use Types: The descriptions of use types in this chapter may contain examples of usual and customary uses. These uses are intended to be typical and are not intended to represent all permissible uses.

B. Interpretation By Administrator: Where there is a question regarding the inclusion or exclusion of a particular proposed use within a particular use category or use type, the Administrator shall have the authority to make the final determination based on an analysis of the specific question with written findings and conclusions. The Administrator's determination in these instances may be appealed according to title 15, chapter 10 of this Code. (Ord. 792, 7-29-2004)

13-3-6: EXEMPTED USES:

A. Applicability To Other Chapters: Unless otherwise stated, the uses exempted in this section are also exempted from chapters 5 and 6 of this title and title 15, "Development Code Administration", of this Code.

B. Uses Exempted: The provisions of this chapter shall not apply to the following uses:

1. On site and community septic systems;

2. Stormwater conveyance systems which includes features such as gutters, pipelines, culverts, manholes, weirs, manmade and natural channels, water quality filtration systems and dry wells;

3. Electrical distribution lines and poles (55 kilovolts and under);

4. Sewerage and water conveyance systems which include underground or flush with the ground features, including, but not limited to, pipes and manholes;

5. Water, oil, and petroleum gas distribution pipelines;

6. Natural gas distribution lines (not transmission lines), and necessary appurtenant facilities and hookups;

7. Cable, fiber optic, or telephone transmission and distribution lines, poles and appurtenances (not including antennas or cellular transmission towers);

8. Public streets and linear trails when located in existing rights-of-way;

9. Cargo containers when authorized pursuant to subsection 13-4-2 A of this title as a temporary construction building or pursuant to subsection 13-4-2 E of this title when being used as a portable storage unit.

10. The establishment of vaccination centers, medical testing operations, cooling/heating centers, severe weather shelters and other community gathering places where emergency services and aid is provided during the daytime hours when an Emergency proclamation or declaration of Disaster is be made by any of the following: Pierce County Executive, Pierce County Council, Orting City Council, Washington State Governor, or the President of the United States.

C. Repair And Maintenance: The provisions of this chapter shall not be construed to regulate the maintenance and repair of any use or facility exempted or permitted in this chapter. (Ord. 792, 7-29-2004; amd. Ord. 873, 2-25-2009; Ord. 2024-1136, 12-11-2024)

CHAPTER 4
TEMPORARY USES/TEMPORARY HOUSING UNITS

SECTION:

13-4-1: Purpose

13-4-2: Standards

13-4-1: PURPOSE:

The purpose of this chapter is to establish allowed temporary uses and structures and provide standards and conditions for regulating such uses and structures. (Ord. 792, 7-29-2004; amd. Ord. 2024-1133, 10-30-2024)

13-4-2: STANDARDS:

A. Temporary Construction Buildings: Temporary structure for the storage of tools and equipment or containing supervisory offices in connection with major construction projects, may be established and maintained during the progress of such construction on such projects, and shall be abated within thirty (30) days after completion of the project or thirty (30) days after cessation of work or for a period not to exceed the duration of the building permit, whichever is greater.

B. Temporary Christmas Tree Lots: A temporary Christmas tree lot for the purpose of selling Christmas trees may be located on a property in any zone for a maximum of forty five (45) days within any twelve (12) month period.

C. Temporary School Uses: A temporary use associated with a school for the purpose of educational needs, including but not limited to agricultural programming, may be located in any zone on the school property for a maximum of 10 days within a calendar school year.

D. Temporary Real Estate Office: One temporary real estate sales office may be located on any new subdivision in any zone, provided the activities of such office shall pertain only to the selling of lots within the subdivision upon which the office is located; and provided further, that the temporary real estate office shall be removed at the end of a twelve (12) month period, measured from the date of the recording of the map of the subdivision upon which such office is located or at the time specified by the City Administrator.

E. Temporary Classrooms: Portable, modular, or mobile structures that provide classrooms or other school related space are allowed as part of K-12 school facilities and are subject to the provisions of the underlying permit.

F. Temporary Housing Unit: A factory-built structure may be placed in any zone to provide on-site security and surveillance for public facilities, or a recreational vehicle may be placed in any residential zone for occupancy during the construction or renovation of a permanent dwelling on the same lot or tract, or to provide for residential occupancy when permanent homes have been destroyed or damaged by a disaster, provided:

1. The unit meets all applicable codes and regulations, including OMC 10-14-3. A recreational vehicle may remain on site unoccupied as long as it meets all applicable development standards in Title 13 OMC;

2. The mobility gear is not removed from the unit and the unit is not permanently affixed to the site on which it is located;

3. The recreational vehicle is located on private property in a manner consistent with OMC 13-5-3;

4. A temporary permit is issued by the building department prior to occupancy of the unit on the site;

5. Prior to the issuance of a temporary permit for a unit allowed per this section, the site shall be reviewed by the Pierce County health department to determine additional requirements for water supply and/or septic waste disposal or adequacy of existing utilities. The recreational vehicle may be inspected by the City if connected to sewer or to a Tacoma-Pierce County health department approved septic system;

6. In the event the site contains trees or other natural vegetation of a type and quantity to make it possible to partially or totally provide screening on one or more sides of the unit, the city may require the unit be located so as to take advantage of the natural growing material available to screen said unit from adjacent properties;

7. Prior to the issuance of a temporary housing permit, the city shall review the application and may require installation of such fire protection/detection equipment as may be deemed necessary as a condition to the issuance of the temporary housing permit; and

8. The unit shall comply with all applicable requirements in Title 11 - Critical Areas and Shoreline Management.

9. Recreational vehicles located within an approved recreational vehicle park are not subject to the standards set forth in this Section.

G. A recreational vehicle may be occupied for up to 14 (fourteen) days in a six (6) month period, with one potential extension of 14 (fourteen) additional days, per year, with a temporary use permit when located on a parcel in the RC, RU, or RMF zoning districts, provided:

1. The recreational vehicle shall not be parked on or overhanging a public right of way (street or sidewalk), and

2. The recreational vehicle shall not be connected to sewer or water systems.

H. Repealed.

I. Temporary Portable Storage:

1. When Allowed: Cargo containers used for temporary portable storage may be located on property in all residential zones subject to the following:

a. Such cargo containers may be located on property within the city for a period not exceeding fourteen (14) consecutive days in duration from and including the date of delivery to the date of removal, without registering the property upon which such cargo container is located as provided at subsection G.2. of this section;

b. No more than one such cargo container may be located on a specific property within the city at one time and each such cargo container shall be individually limited in duration to the time period established herein;

c. Such cargo container may not be removed and relocated on a specific property more than two (2) times in any given thirty (30) calendar day period;

d. Such cargo container shall be located, if feasible, no closer than five feet (5') to the property line;

e. Such cargo container shall be placed on an existing impervious surface; provided that, in the vent that it is unfeasible to place the cargo container on an existing impervious surface, the cargo container may be placed anywhere on the property that is otherwise in compliance with this subsection G.1.;

f. It shall be the obligation of the owner or user of such cargo container to secure it in a manner that does not endanger the safety of persons or property in the vicinity of the cargo container. In the event of high winds or other weather conditions in which such structure may become a physical danger to persons or property, the appropriate law enforcement officers may require the immediate removal of such temporary structure;

g. No such cargo container shall be located in a manner that blocks access to a fire hydrant or obstructs the view of street intersections;

h. No such cargo container shall contain toxic or hazardous materials;

i. No such cargo container shall be located in the public right of way; and

j. No such cargo container shall be used to store solid waste, construction debris, demolition debris, recyclable materials, business inventory, or commercial goods (i.e., used for retail sales), or personal property not from the residential property where the cargo container is located.

k. "Temporary portable storage" shall mean an unoccupied cargo container that is used on a temporary basis for the transient storage of personal property of any kind and which is located for such purposes outside an enclosed building.

2. Registration Required: The owner or occupant of the residential property upon which a cargo container is located pursuant to this subsection G, shall not cause or allow such cargo container to remain on such property beyond the duration specified in subsection G.1.a. of this section, unless the property upon which such cargo container has been located is registered with the city administrator and the ten dollar ($10.00) nonrefundable registration fee has been paid. The registration application shall contain the name of the applicant, whether the person owns, rents, occupies, or controls the property, the street address at which the cargo container has been placed (and assessor's tax parcel number if available), the delivery date, removal date, and a description of the cargo container and its location on the registered property. The effective date of the registration shall be the date of approval of the registration application and the registration shall be conspicuously posted on the cargo container. A cargo container may be located upon the registered property for a period not to exceed sixty (60) days from the date of approval. No property may be registered more than one time in any one hundred eighty (180) day period.

3. Revocation: A violation of any of the provisions of this subsection shall, in addition to any other penalties provided herein, subject the registration approval to revocation by the city administrator.

4. Removal: The owner or occupant of the residential property is responsible for removing the cargo container from the property at the expiration of the registration approval or sooner if the registration is revoked by the city administrator.

5. Penalties: A violation of any of the provisions of this subsection shall be and constitute a civil infraction for each day that such violation continues; the civil infraction shall be administered as per section 1-4-2 of this code. Imposition of such penalties shall not preclude the city from exercising any other rights or remedies it may have to require or seek removal of a cargo container located in violation of this subsection.

J. Model Homes:

1. When Allowed: Any applicant who has received preliminary plat approval may apply for building permits for model homes, up to the number authorized under subsection 4 of this section.

2. Criteria: Prior to the issuance of model home permit(s), the applicant must demonstrate that the following criteria are met:

a. The applicant has submitted and received all required permits and approvals required of the preliminary plat approval; and

b. All required retention and detention facilities necessary for the areas of the subdivision serving the model homes are in place and functional, and in accordance with the civil permit or civil authorization approved by the city of Orting; and

c. All critical areas upon or immediately adjacent to the areas of the subdivision serving the model home(s) have been protected or mitigated, in accordance with adopted critical areas regulations and preliminary plat approval; and

d. The model home(s) shall meet the access and fire protection requirements of OMC Title 10; and

e. All areas of the subdivision serving the model home(s) have installed frontage improvements including, but not limited to, curb, gutter and sidewalk, street illumination, and landscaping as required by the preliminary plat approval or this code; and

f. All proposed streets serving the model homes shall be adequately marked with street signs conforming to the current Manual of Uniform Traffic Control Device (MUTCD) standards; and

g. Water and sewer conveyance systems are installed and functional to each lot proposed for model homes, in accordance with the approved civil permit; and

h. Lot property corners of all lots proposed to be used for the model home complex have been set by a licensed, professional land surveyor in accordance with the preliminary plat lot configuration; and

i. All impact fees for model homes shall be paid prior to issuance of a building permit for the model homes; and

j. Fire protection features including access, hydrants, and fire flow must be provided in accordance with OMC Title 10 and the approved civil plans prior to any combustible construction on any lot within the development. Such fire protection may be installed in a phased manner; provided, that they are in place and approved as prescribed by code for each individual parcel within the plat prior to issuance of a building permit for said parcel; and

k. Any model home utilized as an office space shall meet all applicable requirements for such use as provided for in OMC Title 10.

3. Application Process: In addition to the application requirements for a building permit, the following additional information for a model home shall be included:

a. The applicant shall have written authorization from the property owner permitting the model home(s) if the applicant is other than the owner of the approved preliminary plat; and

b. Title report current within the last thirty (30) days; and

c. Name of approved preliminary plat as well as the proposed name of the final plat (if different); and

d. Date of preliminary plat approval; and

e. Date of preliminary plat expiration; and

f. Copy of City Council decision approving the preliminary plat; and

g. Overall site plan showing the preliminary plat, including phases (if applicable) and the location of all proposed model homes; and

h. Individual site plan showing the location of the model home(s) in relation to the property lines and setbacks consistent with the preliminary plat approval; and

i. A statement from the applicant in which the applicant acknowledges that construction of any model home is at applicant's own risk and agrees to indemnify and hold harmless the city, its elected and appointed officials, employees, agents, and representatives from any and all claims related to the model homes, including but not limited to any costs of removal of such buildings and portions not in compliance with the final plat approval.

4. Number Of Model Homes Per Plat: The number of allowed model homes varies per plat. Approved preliminary plats are allowed to have model homes as follows:

a. Plats with five through nineteen (19) lots may have one model home;

b. Plats with twenty (20) or more lots may have up to ten percent (10%) of the lots be model homes. If the number of model homes yielded from this calculation is a fractional number, the result shall be rounded down to the nearest whole number.

5. Occupancy: Certificate of occupancy shall not be granted for any of the model homes until the final plat has been recorded. However, the applicant shall request final inspection and temporary occupancy for model homes prior to final plat recording, provided:

a. The owner and homebuilder have complied with applicable state law with regard to any agreements to transfer, sell or lease property within the preliminary plat prior to final plat recording; and

b. All building and fire safety requirements have been met to the satisfaction of the city's building official and fire marshal; and

c. Driveway approaches for each model home requesting occupancy have been installed; and

d. Repairs to the roadway improvements have been completed as necessary due to damage as a result of model home construction, if any; and

e. Miscellaneous utility work as necessary to minimize potential for damage to vehicles or tripping hazards has been completed; and

f. Miscellaneous work to provide access for maintenance or operation of underground utilities has been completed; and

g. No model home shall be occupied for residential use prior to recording of the final plat. No model home shall be sold, leased, rented or otherwise transferred in ownership until the final plat is recorded, unless the property interest is transferred in conjunction with a transfer in interest of the plat as a whole; and

h. The hours of operation for the model home(s) can only be between the hours of six o'clock (6:00) A.M. to nine o'clock (9:00) P.M.; and

i. The city's building/fire safety department and public works department have verified all water and sewer connections are connected and installed in accordance with the approved civil permit. (Ord. 889, 9-8-2010; amd. Ord. 2024-1133, 10-30-2024; Ord. 2024-1136, 12-11-2024)

CHAPTER 5
DEVELOPMENT STANDARDS

SECTION:

13-5-1: Density And Dimension

13-5-2: Landscaping And Screening

13-5-3: Loading Area And Off Street Parking Requirements

13-5-4: Home Occupations

13-5-5: Daycare Facilities

13-5-6: Accessory Dwelling Units

13-5-7: Adult Businesses

13-5-8: Manufactured Home Parks (Rep. by Ord. 889, 9-8-2010)

13-5-9: Nonconforming Uses And Structures

13-5-1: DENSITY AND DIMENSION:

A. Purpose: The purpose of this section is to establish dimensional standards for development. These standards are established to provide flexibility in project design and promote high quality development within the City.

B. Density Standards: All residential density provisions are herein expressed in terms of minimum lot size based on the density standards adopted in the comprehensive plan.

1. Density bonuses and shifting in accordance with planned unit developments and clustering shall be authorized in approvals as described in section 13-6-4 of this title.

C. Lot Size, Setback, Height, And Coverage Standards: Table 1 of this section sets forth the required development standards for the zones.

TABLE 1
DEVELOPMENT STANDARDS

Zones	***Minimum Lot Requirements***			***Setbacks***			***Maximum Height[1]***	***Maximum Building Coverage***	***Maximum Hard Surface Coverage***	***Maximum Density[2]***
	Width	***Depth***	***Area[3]***	***Front***	***Rear***	***Side***				
RC	None	None	2 acres	25’	25’	8’	35’	20%	50%	1 DU/2A
RU	None	None	7,260 sq. ft.[4] 9,075 sq. ft. [17]	25’	25’	8’	35’	40%	65%	6 DU/A
RMF	40’	100’	5,450 sq. ft. [5] 7,000 sq. ft. [6] 4,000 plus 2,000 sq. ft. [7] None (nonresidential)[8]	25’	25’	8’	35’	50%	75%	8 DU/A[11]
MUTC	None	None	None	None	None	None	45’[16]	100%	100%	None
MUTCN	None	None	None[10]	None[11]	None[11]	None[11]	35’[12] 50’[13]	100%[14]	100%	n/a
LM	None	None	None	None	None	None	35’	100%	100%	n/a
OS	None	None	None	None	None	None	25’	20%	50%	n/a
PF	None	None	None	[9]	[9]	[9]	[9]	None	None	n/a

Notes:

1. Heights specified are for principal structures; maximum height for accessory structures in all zones other than the MUTC and PF zone is 20 feet. Maximum height for accessory dwelling units is specified in section 13-5-6.

2. The regulation is expressed by the number of principal dwelling units (DU) per acre (A) and does not include ADUs. Duplex density may be increased in accordance with the minimum lot area found in subsection 13-5-1(H) of this title. Single room occupancy sleeping units shall have density calculated as 0.25 dwellings per sleeping unit.

3. Lot size averaging is permitted pursuant to subsection 13-5-1(I) of this title.

4. Minimum lot area for single-family detached dwellings.

5. Minimum lot area for single-family detached dwellings.

6. Minimum lot area for townhouses and duplexes.

7. Minimum lot area for multi-family dwellings: 4,000 square feet for the first unit and 2,000 for each additional unit.

8. No minimum lot area for nonresidential uses.

9. Minimum setbacks and building heights consistent with the most intensive adjacent zone.

10. Minimum area for master plans is 5 acres.

11. Setbacks to be determined during site plan review.

12. In sectors 1 and 3.

13. In sector 2.

14. Minimum open space requirement is 1,000 square feet for every 10,000 square feet of building area.

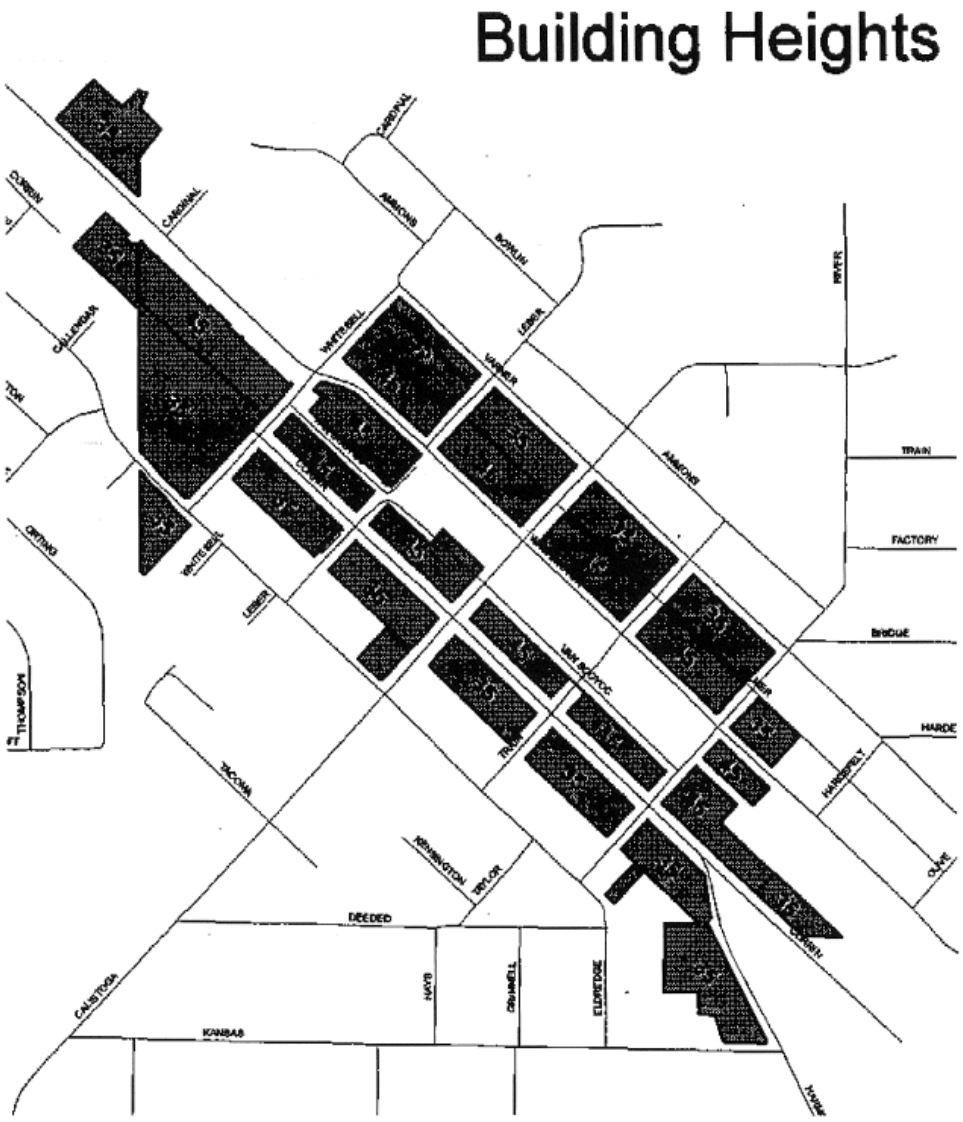
15. Or 3 stories subject to architectural design review. Height limit applies to those portions of the MUTC Zone shown in figure A of this section.

16. Under RCW 36.70B (as amended by ESHB 1042 in 2023: Chapter 285, Laws of 2023) a density bonus of 50% may be granted for new residential units added within an existing multifamily or commercial building.

17. Minimum lot area for duplexes.

FIGURE A

FIGURE A



1. Setback Measurement: A setback is measured from the edge of a street right of way, access easement or private road. Where there is no street right of way, access easement or private road, a setback is measured from the property line.

2. Designation Of Required Setbacks: All lots except pipestem lots must contain at least one front yard setback. A front yard setback shall be required abutting each right of way on corner lots and through lots. All lots must contain one rear yard setback except for corner, through, and pipestem lots. All other setbacks will be considered side yard setbacks.

3. Through Lots: In the case of a through lot, a front yard setback is required abutting each street right of way.

4. Front Yard Setback Averaging: Averaging may be used to reduce a front yard setback requirement when a principal building has been established on an adjacent lot within the required yard. This provision shall not apply if the adjacent lot has received a reduced setback based upon a discretionary land use approval. This exception shall be calculated as follows:

a. Averaging shall be calculated by adding the existing front yard setbacks of the adjacent lots together and dividing that figure by two (2).

b. When an adjacent lot is vacant, averaging shall be calculated by adding the front yard setback of the adjacent developed lot with the minimum front yard setback of the zone in which the construction is proposed and dividing that figure by two (2).

5. Slopes: If the topography of a lot is such that the minimum front yard setback line is eight feet (8') or more above the street grade, and there is no reasonable way to construct a driveway up to the dwelling unit level, a garage/carport may be built into the bank and set at least five feet (5') back from the right of way.

6. Accessory Structures, Interior Yard and Rear Yard Exceptions: Detached one-story accessory structures shall maintain a minimum five-foot (5') setback, except in the MUTC zone. This does not apply to accessory dwelling units.

7. Reserved.

8. Bus Shelters: Bus shelters for school district or transit authority purposes may be located within a front yard setback when located on private property if they do not exceed fifty (50) square feet of floor area and one story in height, provided all applicable site distance requirements are met.

9. Projection Exception:

a. Fireplace structures, bay or garden windows, enclosed stair landings, ornamental features, or similar structures may project into any setback, provided such projections are:

(1) Limited to two (2) per required yard.

(2) Not wider than ten feet (10').

(3) Not more than eighteen inches (18") into a side yard setback or two feet (2') into a rear yard setback.

(4) Not more than three feet (3') into a front yard setback.

b. Uncovered porches and decks which do not exceed thirty inches (30") from finished lot grade may project into any setback, provided such projections do not extend more than six feet (6') into a front yard setback or no closer than five feet (5') to the side lot line.

c. Wheelchair ramps may project into any required setback.

10. Rear Yards, Exception: In the case of triangular or otherwise irregularly shaped lots, a line ten feet (10') in length entirely within the lot, parallel to and at a maximum distance from the front lot line may be considered the "rear lot line" at the owner's discretion. If the owner does not select such a line, the city may do so.

D. Height Standards: (See figure 13.35-1 set forth in subsection D3 of this section for measuring building heights.)

1. Measurement: The height of a fence located on a rockery, retaining wall, or berm shall be measured from the top of the fence to the ground on the high side of the rockery, retaining wall, or berm.

a. Walls, fences, and berms up to three feet (3') in height may be located on any part of a lot. Open fences may be up to four feet (4') in height.

b. Walls, fences and berms up to six feet (6') in height may be located to the rear of the front wall line of the principal residence unless otherwise determined to provide a site distance hazard by the building inspector.

c. The provisions of this section shall not apply to fences required by federal or state law to surround public utility installations and facilities, or to fences enclosing school grounds and public playgrounds. A building permit shall be required for construction of any wall or fence located within the city.

2. Exceptions: Height standards shall not apply to the following:

a. Church spires, belfries, domes, chimneys, antennas, satellite dishes, ventilation stacks, or similar structures, provided the structure is set back from all property lines a distance equal to the height of the structure.

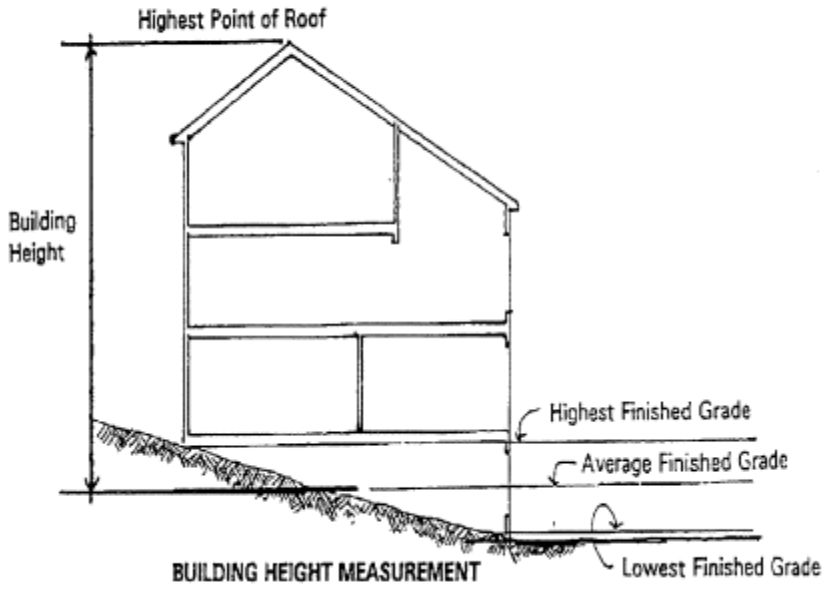
b. Rooftop mechanical equipment. All rooftop mechanical equipment may extend ten feet (10') above the height limit of the zone, provided all equipment is set back ten feet (10') from the edge of the roof.

c. Utility towers and poles subject to review of site location.

d. Public utility infrastructure, facilities, and equipment necessary to support critical or necessary public services, including telemetry, transmitting, or other sensory support and equipment.

3. Figure:

Figure 13.35-1



E. General Development Standards:

1. Existing Lot; Single-Family Dwelling Permitted: In any zone that permits a single-family dwelling unit, a single-family dwelling unit and permitted accessory structures may be constructed or enlarged on one lot which cannot satisfy the density requirements of the zone where the lot was legally created prior to the effective date of this regulation. This section shall not waive the requirements for setbacks and height of the zone in which the lot is located.

2. Combining Lots; Interior Yard Setback Exception: Where two (2) or more lots are used as a building site and where a principal building cross lot lines in a manner that is legally nonconforming, interior yard setbacks shall not be required from those lot lines crossed by the principal building. This provision does not except or exempt the application of interior yard setbacks or any other density or dimensional standard from all other portions of the lot(s) other than where the principal building crosses the adjoining lot line subject to this section. See OMC 13-5-9 for nonconformities.

3. Legally Created Lots; Development Permitted Proof:

a. Development shall be permitted only on legally created lots.

b. To establish that a lot has been legally created, the applicant must provide one of the following:

(1) A copy of formal plat, short plat, or subdivision approved by Pierce County separately describing the lot.

(2) A copy of the boundary line adjustment or lot combination separately describing the lot.

(3) Documentation that the creation of the lot was exempt from the provisions of the subdivision title.

(4) A deed, contract of sale, mortgage, recorded survey, or tax segregation that separately describes the lot.

4. Pipestem (Flag) Lots: Pipestem (flag) lots in all residential zones are discouraged. Repealed.

5. Bulkheads And Retaining Walls: Any structure constructed and erected between lands of different elevations used to resist the lateral displacement of any material, control erosion, or protect structures may be placed within required setbacks to a maximum height of six feet (6'), provided all applicable site distance requirements are met, and provided all bulkheads or retaining walls in excess of four feet (4') in height are issued a building permit from the City of Orting Building Division.

F. RU Zone Pipestem (Flag) Lot Development Standards: (See figures 13-5-1A and 13-5-1B of this section.) Road and access standards (including private roads, public roads, and driveways) are per the City's adopted development standards for public works.

1. Configuration Of New Pipestem (Flag) Lots: The area of new pipestem (flag) lots in the RU Zone, exclusive of the area of the driveway portion, shall be ten thousand (10,000) square feet minimum. The shape of any new pipestem (flag) lot in the RU Zone shall be such that a minimum forty-foot (40') diameter building circle can be sited within the required setbacks of the zone. The driveway portion of any new pipestem (flag) lot in the RU Zone shall be no longer than one hundred feet (100') and at least twenty feet (20') wide. In all other zones the minimum street frontage for a flag lot shall be fifteen feet (15') unless a building will be sited one hundred fifty feet (150') or further from the curb line in which there must be fire access provided with a minimum width of twenty feet (20').

FIGURE 13-5-1A
BASIC PIPESTEM (FLAG) LOT CHARACTERISTICS

FIGURE 13-5-1A
BASIC PIPESTEM (FLAG)
LOT CHARACTERISTICS

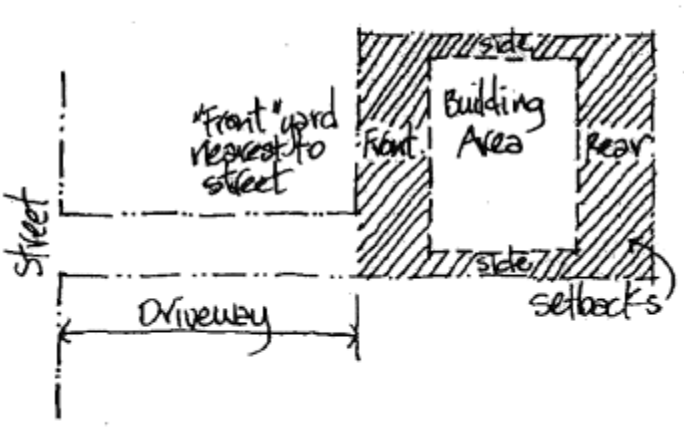
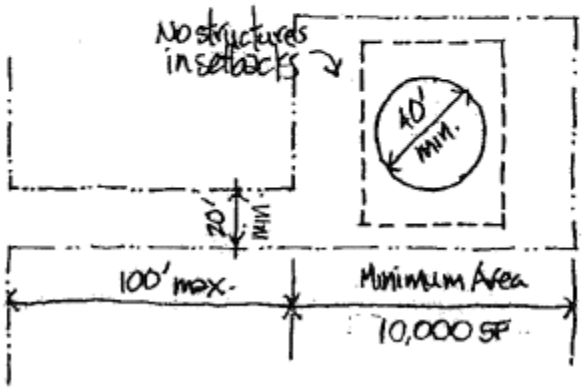


FIGURE 13-5-1B
RU ZONE FLAG LOT CONFIGURATION

FIGURE 13-5-1B
RU ZONE FLAG LOT
CONFIGURATION



2. Development Standards For All Pipestem (Flag) Lots In The RU Zone: All pipestem (flag) lots in the RU Zone, irrespective of when platted, shall meet the following standards, subject to site plan review:

a. All development of principal residences, accessory dwellings, garages, sheds, and other structures shall be built within the required setbacks.

b. The “building area” within the setbacks shall be large enough to accommodate a forty-foot (40') diameter building circle to ensure that the shape of the lot is adequate to support development that results in attractive, usable open spaces.

c. Hard surface coverage of the lot shall not be greater than forty-five percent (45%), not including the driveway portion in the stem section of the lot.

d. The maximum height of any structure shall not be greater than twenty-feet (20').

e. The perimeter treatment of the lot including the driveway portion may include fencing or landscaping to screen the development from adjacent properties.

G. Repealed.

H. Duplex Development Standards:

1. Duplexes shall be designed to blend in with the single-family character of the neighborhood.

2. If located on a corner lot, each unit of the duplex shall face onto an adjacent street, and no two (2) units' front doors and garages are permitted to face the same street frontage.

3. Repealed. I. Lot Size Averaging:

1. Purpose: To allow flexibility in the creation of new subdivisions to accommodate development barriers including, but not limited to, shorelines, wetlands, and critical areas, provided that the average lot size in the development as a whole meets the zoning district's minimum lot size and the density as a whole does not exceed the districts maximum density standards.

2. Applicability: Lot size averaging provisions of this chapter apply to and may be used by developers of land who are dividing land in conformance with the provisions of this title, and in which the land is located in the following zones:

a. RC Residential-Conservation Zone (subsection 13-3-2A).

b. RU Residential-Urban Zone (subsection 13-3-2B).

c. RMF Residential-Multi-Family Zone (subsection 13-3-2C).

3. Standards:

a. Lot size averaging cannot result in a parcel being divided into a greater number of lots than would result from development at the normal minimum lot size required in the applicable zone.

b. In approved short plats and subdivisions, the individual lots shall be considered in compliance with minimum area requirements if the average of the areas of all the lots in the short plat or subdivision meets the minimum requirement for the zone in which the short plat or subdivision is located.

c. Lot size averaging applies to creation of lots for detached single-family residences, duplexes, and townhomes.

d. Lot size averaging shall not be used to create lots multi-family dwellings as defined by section 13-2-14.

e. No individual lot shall be reduced more than twenty five percent (25%) from the zoning district minimum required area.

f. No lot shall be reduced in width to less than forty feet (40') (regardless of lot depth).

g. No lot shall be reduced in depth to less than seventy feet (70') (regardless of lot width).

h. All of the following are to be subtracted from the net lot area of a lot for the purpose of determining the area of a lot proposed for lot averaging:

(1) Public right-of-way;

(2) Private roads, private primary access easement; and

(3) Minor portion (pipestem) of pipestem lots.

i. The area of easements other than that of the primary access (public right-of-way or private easement) shall not be subtracted from the net lot area of a lot.

j. Surface detention/retention facilities may count toward calculations for lot size averaging only if the detention/retention facility:

(1) Is designed so as to appear as a natural wetland system; or

(2) Provides active or passive recreational benefits in a natural landscaped setting.

k. Developments utilizing lot size averaging shall not receive preliminary or final approval as phased developments unless each phase meets the lot size averaging standards for the total land area included in that phase. (Ord. 792, 7-29-2004; amd. Ord. 812, 10-26-2005; Ord. 830, 6-28-2006; Ord. 886, 9-8-2010; Ord. 2018-1027, 4-25-2018; Ord. 2020-1063, 8-12-2020; Ord. 2021-1073, 3-10-2021; Ord. 2021-1082, 9-29-2021; Ord. 2024-1136, 12-11-2024)

13-5-2: LANDSCAPING AND SCREENING:

A. Purpose: The purpose of this section is to establish standards for landscaping and screening, to maintain or replace existing vegetation, provide physical and visual buffers between differing land uses, lessen environmental and improve aesthetic impacts of development and to enhance the overall appearance of the city. Street trees shall be selected from the approved list of trees, on file with the City of Orting.

B. Applicability: The standards set forth in this section shall apply to all uses of land which are subject to site plan or architectural design review, to the construction or location of any multi-family structure of three (3) or more attached dwelling units, to any new subdivision.

C. Landscape Plan: A plan of the proposed landscaping and screening of projects subject to this section shall be provided as part of the application and shall contain the following:

1. Identification of existing trees and tree canopies;

2. Significant trees and vegetation to remain;

3. New landscaping: location, species, diameter or size of materials using both botanical and common names. Drawings shall reflect the ultimate size of plant materials;

4. Identification of tree protection techniques;

5. Alternative landscaping plans: The Administrator or designee may approve, as a Type 2 administrative decision modification of the landscape requirements when alternative plans comply with the intent of this chapter and:

a. The proposed landscaping represents a superior result than that which would be achieved by strictly following requirements of this section; or

b. The alternative plan incorporates the increased retention of significant trees and naturally occurring undergrowth; or

c. The alternative plan incorporates unique, historic or architectural features such as plazas, courts, fountains, trellises, or sculptures.

6. Areas of native vegetation retention, native vegetation restoration, and dispersion low impact development (LID) best management practices (BMPs) used for permanent on-site stormwater management referring as applicable to the 2024 Stormwater Management Manual for Western Washington, or as revised.

The landscape plan shall be prepared by a professional landscape architect licensed by the state of Washington. The administrator may allow the landscape plan to be prepared by another party if the applicant can demonstrate that the size and/or complexity of the project is such that the landscape design solution may be very simple, involving a limited palette of plant materials and applications.

D. Preservation Of Significant Trees And Vegetation:

1. All significant trees in required perimeter buffers shall be retained.

Retention of significant trees on the remaining portions of the site is encouraged. Retention of significant trees on the remaining portions of the site is required where such tree retention is proposed to meet the requirements of LID BMPs for permanent on-site stormwater management.

2. Significant trees are those which possess one or more of the following characteristics:

a. Trees identified in table 13-5-2 D2 of this code;

b. Contribute to the character of the area and do not constitute a safety hazard;

c. Form a continuous canopy or dense vegetated screen; or

d. Trees identified as being significant due to their age, scarcity, habitat value, community identifying characteristics, historical, cultural, or biological significance.

Table 13-5-2 D 2, Significant Trees

Tree Species	Size
Garry (Oregon White) Oak	8” diameter at breast height (“d.b.h.”) or greater
Pacific Yew	5” d.b.h. or greater
Pacific Madrone	10” d.b.h. or greater
Ponderosa Pine, Grand Fir, Big Leaf Maple, Western Hemlock, Western Red Cedar	15” d.b.h. or greater
Douglas Fir, Sitka Spruce	24” d.b.h. or greater
Tree of any species	40” d.b.h. or greater

3. If the grade level adjoining a tree to be retained is altered such that the tree might be endangered, then a dry rock wall or rock well shall be constructed around the tree. The diameter of this wall or well must be capable of protecting the tree.

4. Impervious or compactible surfaces within the area defined by the drip line of any tree to be retained may be permitted if a qualified arborist certifies that such activities will not endanger the tree or trees.

5. Retention of other existing vegetation that is equal to or better than available nursery stock is strongly encouraged.

6. Areas of native vegetation designated as landscape or buffer areas shall be protected by a ten foot (10') wide no construction zone during construction. Cleaning, grading or contour alteration is not permitted within this no construction zone unless a qualified arborist certifies that proposed construction activity within the zone will not harm existing vegetation.

7. Tree retention to meet the requirements of LID BMPs for permanent on-site stormwater management shall be in accordance with the 2024 Stormwater Management Manual for Western Washington, or as revised.

E. Requirements For Residential Uses:

1. Perimeter Areas: Notwithstanding other regulations found in this chapter, perimeter areas not covered with buildings, driveways and parking and loading areas shall be landscaped. The required width of perimeter areas to be landscaped shall be at least the depth of the required yard or setback area. Areas to be landscaped shall be covered with live plant materials which will ultimately cover seventy-five percent (75%) of the ground area within three (3) years. One deciduous tree a minimum of two-inch (2") caliper or one 6-foot evergreen or three (3) shrubs which should attain a height of three and one-half feet (3 1/2') within three (3) years shall be provided for every five hundred (500) square feet of the area to be landscaped.

2. Buffer Areas: All residential subdivisions or planned developments shall have a buffer consisting of a vegetated screen, that is opaque to a height of six feet (6') minimum, along the perimeter of the plat. The screening may be achieved through any one or a combination of the following methods:

a. Evergreen trees or shrubs; or

b. Trees and shrubs planted on an earthen berm as approved by the Public Works Director; or

c. A combination of trees or shrubs and fencing. If fencing is utilized, vegetation screening is required along fifty percent (50%) of the fencing on each lot line; or

d. Use of existing native vegetation that already provides a vegetative screen.

3. New subdivisions or planned developments that abut arterial streets or nonresidential uses shall be screened with a minimum twenty-five foot (25') buffer. Subdivisions or planned developments that abut areas with the same underlying zoning shall be screened with a minimum ten foot (10’) buffer that provides variety and enhances the visual character of the area.

4. The vegetation requirements of this section may be waived through an alternative landscape plan process for new subdivisions or planned developments where native vegetation retention, native vegetation revegetation or dispersion LID BMPs are proposed in accordance with the 2024 Stormwater Management Manual for Western Washington, or as revised, as set forth in OMC 13-5-2(C)(5).. Buffer area widths shall not be reduced.

5. Root barriers are required for all trees to be planted adjacent to right-of- way, as per the City of Orting Development Standards. Exceptions may be granted on a case-by-case basis by the Public Works Director, who may exercise the use of subject matter expert consultants in his/her consideration of the exception.

F. Requirements For Commercial Uses:

1. Perimeter Areas: See subsection E1 of this section.

2. Buffer Areas: Where a development subject to these standards is contiguous to a residential zoning district or areas of residential development, then the required perimeter area shall be landscaped the full width of the setback areas as follows:

a. A solid screen of evergreen trees or shrubs; or

b. A solid screen of evergreen trees and shrubs planted on an earthen berm an average of three feet (3') high as approved by the Public Works Director; or

c. A combination of trees or shrubs and fencing. If fencing is utilized, vegetation screening is required along fifty percent (50%) of the fencing on each lot line..

3. Areas Without Setbacks:

a. In areas where there is no required setback or where buildings are built to the property line, development subject to this chapter shall provide a street tree at an interval of one every twenty feet (20') or planter boxes at the same interval or some combination of trees and boxes, or an alternative.

b. Street trees shall be a minimum caliper of two inches (2") and be a species approved by the city and installed to city standards. Planter boxes shall be maintained by the property owners and shall be of a type approved by the city.

4. The vegetation requirements of this section may be waived through a variance process for new subdivisions or planned developments where native vegetation retention, native vegetation revegetation or dispersion LID BMPs are proposed in accordance with the 2024 Stormwater Management Manual for Western Washington, or as revised . Buffer area widths shall not be reduced. The type of vegetation within buffer areas shall be determined through the variance process identified in this code.

5. Root barriers are required for all trees to be planted adjacent to hardscape and/or as required by the Public Works Director.

G. Parking Lot Landscaping And Screening: The standards of this section shall apply to public and private commercial parking lots and residential parking areas providing spaces for more than ten (10) cars.

1. Perimeter Landscaping: In order to soften the visual effects or separate one parking area from another or from other uses, the following standards apply:

a. Adjacent to a street or road, the minimum width of a perimeter landscaping strip shall be equal to the required yard for the underlying land use or a strip ten feet (10') wide, whichever is greater. On all other perimeters the depth shall be a minimum of five feet (5'). Where parking areas are bordered by more than one street, the landscape strip shall only apply to the longest side. All other sides shall be screened with a wall, fence, vegetative buffer or combination of these elements at a minimum height of three and one-half feet (3 1/2').

b. Visual screening through one or any combination of the following methods is required:

(1) Planting of living ground cover as well as shrubs or small trees which will form a solid vegetative screen at least three feet (3') in height; or

(2) A fence or wall at least three feet (3') high combined with low planting or wall clinging plant materials. Materials should be complementary to building design; or

(3) Earth mounding or berms having a minimum height of three feet (3') and planted with shrubs and trees.

c. In order to protect vision clearances, areas around driveways and other access points are not required to comply with the full screening height standards. The specific horizontal distance exempt from this standard shall be as established in the public works standards or determined by the Public Works Director.

d. Trees are required at a ratio of at least one per one hundred (100) square feet of landscaped area or fraction thereof. They shall have a clear trunk to a height of at least five feet (5') above the ground at maturity. Trees shall be planted no closer than four feet (4') from pavement edges where vehicles overhang planted areas.

2. Interior Small Parking Lot Landscaping: All parking lots that contain fewer than twenty (20) parking spaces or are smaller than six thousand (6,000) square feet shall contain trees a minimum of two-inch (2") caliper at intervals no greater than thirty feet (30') in planting beds a minimum of sixty-four (64) square feet in area.

3. Interior Large Parking Lot Landscaping: All parking lots that contain twenty (20) or more parking spaces or are larger than six thousand (6,000) square feet in area shall have interior lot landscaping as follows:

a. Landscaped Area: A minimum of five (5) square feet of landscaped area per one hundred (100) square feet of vehicle use area, or fraction thereof. Parking lots larger than thirty thousand (30,000) square feet shall have a minimum of seven (7) square feet of landscaped area per one hundred (100) square feet of vehicle use area or fraction thereof. Vehicle use area shall include driveways.

b. Minimum Area: The minimum size of individual planting areas shall be sixty-four (64) square feet in order to provide a proper plant environment.

c. Trees Required: Trees are required at a ratio of at least one per one hundred (100) square feet of landscaped area or fraction thereof. Trees shall have a clear trunk to a height of at least five feet (5') above the ground. Trees shall be planted no closer than four feet (4') from pavement edges where vehicles overhang planted areas.

d. Shrubs And Ground Cover: Required landscaped areas remaining after tree planting shall be planted in shrubs and/or ground cover. The distribution of plants shall be adequate to ultimately achieve seventy-five percent (75%) ground coverage within three (3) years after planting.

e. Vehicle Overhang: Parked vehicles may overhang landscaped areas up to two feet (2') by wheel stops or curbing.

4. The vegetation requirements of this section may be waived through an alternative landscape plan process where native vegetation retention, native vegetation revegetation or dispersion LID BMPs are proposed in accordance with the 2024 Stormwater Management Manual for Western Washington, or as revised. Buffer area widths shall not be reduced.

H. Performance Assurance:

1. Landscaping required pursuant to an approved site plan shall be installed prior to the issuance of certificate of occupancy or final inspection, unless the applicant submits a performance assurance equal to not less than one hundred ten percent (110%) of the construction cost and commits to complete the landscaping within one year.

2. Performance assurance devices shall take the form of one of the following:

a. A surety bond executed by a surety company authorized to transact business in the state in a form approved by the city attorney;

b. Cash;

c. A letter of credit approved by the city attorney from a financial institution stating that the money is held for the purpose of development of the landscaping;

d. Assigned savings pursuant to an agreement approved by the city attorney.

3. If a performance assurance device is employed, the applicant shall provide the city with a nonrevocable notarized agreement granting the city and its agents the right to enter the property and perform any required work remaining undone at the expiration of the assurance device.

4. If the applicant fails to carry out provisions of the agreement and the city has incurred costs or expenses resulting from such failure, the city shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit is less than the cost and expense incurred by the city, the applicant shall be liable to the city for the difference. If the amount of the bond or cash deposit exceeds the cost and expense incurred by the city, the remainder shall be released.

5. Native vegetation retention areas, areas to be revegetated with native vegetation, or dispersion areas proposed for LID BMPs to meet the requirements of the adopted 2024 Stormwater Management Manual for Western Washington, or as revised shall be preserved through permanent protections. A permanent protective mechanism shall be legally established to ensure that the required native vegetation area is preserved and protected in perpetuity in a form that is acceptable to both the applicant and the City and filed with the County Auditor's office. Restrictions on the future use of the native vegetation area shall also be recorded on the face of the plat for subdivision applications. A permanent native vegetation area shall be established using one of the following mechanisms.

a. Placement in a separate non-building tract owned in common by all lots within the subdivision;

b. Covered by a protective easement or public or private land trust dedication;

c. Preserved through an appropriate permanent protective mechanism that provides the same level of permanent protection of this section as determined by the approval authority.

d. To ensure compliance with the requirements of this Chapter, all development activity subject to the provisions of this Chapter shall include the submittal of a vegetation management plan as specified below;

e. Applications for subdivision, short subdivision, large lot division, planned development district, or binding site plan approval;

f. Site development permit applications;

g. Use permit and commercial building permit applications.

6. To ensure compliance with the requirements of this Chapter, all development activity subject to the provisions of this Chapter shall include the submittal of a vegetation management plan as specified below:

a. Applications for subdivision, short subdivision, planned unit development, or binding site plan approval;

b. Site plan permit applications;

c. Use permit and commercial building permit applications

d. Development agreements.

7. The vegetation management plan shall comply with the minimum requirements specified below:

a. The vegetation management plan shall be prepared by a licensed landscape architect or qualified professional forester.

b. Provisions for tree conservation and protection on the site shall be in conformance with the requirements of this section.

c. A vegetation management plan shall be submitted either as part of the preliminary plat or other appropriate plan, or as a separate drawing, and shall include the following information:

(1) Vegetation Protection Plan: Drawn to scale; designating vegetation to be preserved. It shall include the following information:

(A) Locations of perimeters of individual and strands of trees to be preserved. The tree protection area for trees to be preserved shall be shown on the plan.

(B) Size, species, and health of trees to be preserved.

(C) General locations of trees proposed for removal.

(D) Limits of construction and existing and proposed grade changes on site.

(E) Narrative description and graphic detail of tree protection and tree maintenance measures required for the trees to be preserved.

(F) Timeline for clearing, grading, and installation of tree protection measures.

(2) Planting Plan: Drawn to scale on the site plan. It shall include the following information:

(A) Location, size, species, and number of trees to be planted.

(B) Narrative description and detail showing any site preparation, installation, and maintenance measures necessary for the long-term survival and health of the vegetation.

(C) Timeline for site preparation, installation, and maintenance of vegetation.

(D) Cost estimate for the purchase, installation and five (5) years' maintenance of vegetation.

(3) Tree Density Calculation: The following information shall be included on the site plan:

(A) Acreage of on-site critical areas, excluding critical area buffer.

(B) Acreage of on-site public and private roads.

(C) Calculation of trees per acre for existing trees proposed for preservation.

(D) Calculation of trees per acre for new trees to be planted.

(4) A watering plan or irrigation plan is required for the establishment phase of new plantings. The plan must provide for adequate watering of the newly installed trees for a minimum of three (3) years. All landscaped areas shall be provided with sprinkler systems or hose bibbs within seventy-five feet (75') of plantings.

8. Vegetation management plans will be reviewed by the city administrator. Upon completion of its review, the City will take one of the following actions:

a. Approve the vegetation management plan, with or without conditions; or

b. Disapprove the vegetation management plan, indicating deficiencies to the applicant. If the vegetation management plan is determined to be deficient, the applicant will be notified in writing of the deficiency and will be provided the opportunity to modify the plan as necessary to comply with the provisions of this Chapter.

c. Vegetation management plans will be reviewed by the city administrator prior to the approval of the associated underlying permit or application. The underlying permit may not be approved until such time as the city administrator has approved the plan.

d. Vegetation management plans shall be incorporated by reference in any approval issued for the underlying permit or application. Compliance with the plans shall be a condition of such approval.

9. The city administrator may allow or approve minor modifications to an approved vegetation management plan during the site development construction process to account for unforeseen site conditions and circumstances. The submittal of an amended vegetation management plan meeting the requirements of this Chapter shall be required.

I. Maintenance:

1. Whenever landscaping is required under the provisions of this chapter, shrubs and trees in the landscaping and planting areas shall be maintained in a healthy growing condition during the first three (3) years after installation. Planting beds shall not be located over impervious surfaces. All landscaped areas shall be provided with sprinkler systems or hose bibbs within seventy-five feet (75') of plantings. Dead or dying trees or shrubs shall be replaced immediately, and the planting area shall be maintained free of noxious weeds and trash on a regular basis.

2. Native vegetation retention areas, areas to be revegetated with native vegetation, or dispersion areas proposed for LID BMPs to meet the requirements of the adopted 2024 Stormwater Management Manual for Western Washington, or as revised shall be maintained in accordance therein. (Ord. 792, 7-29-2004; amd. Ord. 889, 9-8-2010; Ord. 2019-1057, 1-8-2020; Ord. 2021-1087, 11-17-2021; Ord. 2024-1136, 12-11-2024)

13-5-3: LOADING AREA AND OFF STREET PARKING REQUIREMENTS:

A. Purpose: The purpose of this section is to regulate parking and loading in order to lessen traffic congestion and contribute to public safety by providing sufficient on-site and off-site areas for the maneuvering and parking of motor vehicles. This section also intends to recognize the barriers that expansive off-street parking requirements pose to business growth and new business establishment in Orting. Orting's multimodal connectivity throughout the downtown, its availability of on street and public parking, and its goal to incite economic prosperity and revitalization in the MUTC are intended to be key components in the assessment of needed off-street parking in Orting's downtown.

B. Required Automobile Parking Spaces: Off street parking spaces shall be provided as an accessory use in accordance with the requirements of this section at the time any building or structure is erected, enlarged, or expanded.

C. Size And Access: Each off street parking space shall have an area of not less than one hundred sixty (160) square feet, exclusive of access drives or aisles and a width of not less than eight feet (8'). There shall be adequate provision for ingress and egress from each parking space.

D. Location: Off street parking facilities shall be located as hereinafter specified; where a distance is specified, such distance shall be the walking distance measured from the

nearest point of the parking facilities to the nearest point of the building that such facility is required to serve. Parking is required to be on the subject parcel unless the City approves a proposal utilizing the off-site parking provisions of OMC 13-5-3L and/or the shared parking provisions of OMC 13-5-3M, or parking on the subject parcel is infeasible given the presence or proximity of critical areas and a pedestrian route protected from vehicular traffic in the opinion of the City Administrator can be provided to the subject site from the off-site parking, except that:

1. For a single-family dwelling or multi-family dwelling, the parking facilities shall be located on the same lot or building site as the building they are required to serve.

2. For churches, hospitals, large group homes, institutions, rooming and lodging houses, nursing and convalescent homes, community clubs, and clubrooms, parking facilities shall be located not farther than one hundred fifty feet (150') from the facility.

3. For uses other than those specified, including governmental facilities, parking facilities shall be located not farther than three hundred feet (300') from the facility.

4. ADA accessible parking shall be located on the shortest possible route to the entrance of the building or facility.

E. Unit Of Measurement: In stadiums, sports arenas, churches, government buildings containing public assembly space and other places of assembly in which patrons or spectators occupy benches, pews, or other similar seating facilities, each eighteen inches (18") of width or eighty (80) square feet of open area of such seating facilities should be counted as one seat for the purpose of determining requirements of off street parking facilities under this title.

F. Expansions Or Enlargements: Where any structure is enlarged or expanded, off street parking spaces shall be provided for said expansion or enlargement in accordance with the requirements of subsection I of this section. Nothing in this title shall be construed to require off street parking spaces for the portion of said building or structure existing at the effective date of this title. A change in use in an existing structure shall require additional off street parking spaces as set forth in subsection I of this section.

G. Mixed Occupancies: In the case of two (2) or more uses in the same building, including governmental office space and public assembly space, the total requirements for off street parking facilities shall be the sum of the requirements for the several uses computed separately. Off street parking facilities for one use shall not be considered as providing required parking facilities for any other use, except as hereafter specified in subsection I of this section for joint use.

H. Uses Not Specified: In the case of a use not specifically mentioned in subsection I of this section, the requirements for off street parking facilities shall be determined by the Administrator. Such determination shall be based upon the requirements for the most comparable use specified in subsection I of this section and/or through a parking study as required by the Administrator or their designee.

I. Parking Spaces Required For Particular Uses:

1. In the MUTC zone, the uses listed in this subsection are required to provide only fifty percent (50%) of the number of off-street parking spaces required by the table in OMC 13-5-3(I)(3): Banks, savings and loan associations, business or professional offices; bowling alleys; establishments for the sale and consumption on the premises of food and beverages; medical and dental clinics; retail stores; theaters; museums; and, libraries.

2. Parking reductions authorized by this subsection do not apply to required ADA accessible parking; all uses in all zones shall provide ADA accessible parking stalls in a manner compliant with the Americans Disabilities Act and its implementing regulations.

3. Other than as excepted or otherwise stipulated in OMC 13-5-3(I)(1), the minimum number of off street parking spaces required for nonresidential uses shall be as set forth in the following:

Use		Parking Spaces Required
1.	All dwellings (RC, RU, RMF, MUTC)	2 off street spaces per unit[1,3,4]
2.	Family daycare	1 for each employee, plus 1 additional, not including required residential spaces
	Daycare center	1 for each employee, plus 1 for every 10 children or adults
3.	Garages	3 for each service bay
4.	Banks, savings and loan associations, business or professional offices	1 for each 400 square feet of gross floor area
5.	Bowling alleys	4 for each alley
6.	Churches	1 for each 5 seats in the principal place of assembly for worship, including balconies and choir loft
7.	Dance halls, skating rinks, youth cabarets	1 for each 25 square feet of skating or dancing area, plus 1 per 40 square feet of all other building area
8.	Restaurants, including fraternal and social clubs	1 for each 200 square feet of gross floor area

9.	Fraternity, sorority or group student house	1 for each 3 sleeping rooms or 1 for each 6 beds, whichever is greater
10.	Government Offices	The maximum of the following: 1 for each 400 square feet of gross floor area, or 1 for each 4 seats in each public assembly space pursuant to OMC 13-5-3: E above
11.	Hospitals	2 for each bed
12.	Adult Family Homes	1 for each 2 beds
13.	Libraries and museums	1 for each 250 square feet of floor area open to the public
14.	Lodging (hotels and motels) and single room occupancy sleeping unit	1 for each sleeping room
15.	Manufacturing uses, research and testing laboratories, creameries, bottling establishments, bakeries, canneries, printing and engraving shops	1 for each employee on a maximum shift
16.	Health Services, including medical or dental clinics	5 for each physician or dentist

18.	Wholesale stores, furniture stores	1 for each 400 square feet of gross floor area
19.	Retail stores	1 for each 300 square feet
20.	Schools; high schools	1 for each 8 students, plus 1 for each faculty member (exclusive of loading and unloading area)
21.	School; Elementary and junior high or middle schools	1 for each faculty member
22.	Stadiums, auditoriums, community clubs, community centers, and other places of assembly	1 for each 4 seats
23.	Theaters	1 for each 3 seats
24.	Warehouses and storage buildings	1 for each 2,000 square feet of gross floor area, except that office space shall provide parking as required for offices

Notes:

1. See section 13-5-6 for accessory dwelling unit off street parking requirements.

2. Repealed.

3. In unit lot short subdivisions, parking may be located off-site if consistent with OMC 12-4-4(C)(4).

4. Single room occupancy sleeping units are required to provide 0.25 off-street parking spaces per sleeping unit.

J. Required Loading Areas:

1. In any commercial and manufacturing zones, and for any institutional use in whatever zone it may be located, every building or portion of building hereafter erected or structurally altered to provide additional floor space shall be provided with a minimum of one off street or off alley loading space for each ten thousand (10,000) square feet of usable floor space within the building, which usable floor space is intended to be used for or is used for merchandising, manufacturing, warehousing, or processing purposes. If the building contains less than ten thousand (10,000) square feet of usable floor space, the requirement for an off street or off alley loading space may be waived by the Administrator.

2. If the building contains more than twenty four thousand (24,000) square feet of floor space, then there shall be one additional loading space provided for each additional twenty four thousand (24,000) square feet of floor space.

3. Each loading space shall measure not less than thirty feet by twelve feet (30' x 12'), and shall have an unobstructed height of fourteen feet (14'), and shall be made permanently available for such purpose, and shall be surfaced, improved, and maintained. Such facilities shall be so located that trucks using the same shall not encroach upon or interfere with areas reserved for off street parking nor project into any public right-of-way and shall be adjacent to the building to be served thereby. If the site upon which such loading space or spaces is to be located abuts upon an alley, such loading space or spaces shall be off alley. If the loading space is incorporated within a building then, as to location, the requirements of this section shall not apply.

4. Any floor area provided by additions to or structural alterations to a building shall be provided with loading space or spaces as set forth herein whether or not loading spaces have been provided for the original floor space.

K. Commercial Vehicles, Recreational Vehicles, And Boats: The following special requirements and performance standards shall apply to private properties located in the Residential-Urban, Residential-Multi-Family, and Residential-Conservation Zones:

1. Outdoor Storage of Vehicles: The outdoor storage of commercial vehicles, recreational vehicles, boats, and vehicle accessories is permitted in the residential zones, provided the standards in this section are met. For purposes of this section, “storage” means the keeping of such vehicles and accessories on any portion of any parcel of property for a period of seventy-two (72) continuous hours or longer.

a. Recreational Vehicles and Boats: A recreational vehicle or boat shall not be stored in the front yard of a lot. In no instance shall a recreational vehicle or boat be stored such that any portion of the vehicle encroaches upon a site distance area that would create a traffic hazard; nor shall a recreational vehicle or boat be stored on or overhang a public right-of-way. A maximum of one recreational vehicle and/or one boat may be located at a parcel in the residential zones. It is prohibited to store two recreational vehicles or two boats in the City's residential zoning districts. If located within a required side yard that fronts a street, the storage area for a recreational vehicle or boat shall be improved with a durable and dustless surface and screened from views from adjacent properties. In this context, a boat or recreational vehicle shall be considered to be "screened from views" provided an opaque fence of at least 6-feet in height separates the boat or recreational vehicle from public view, or similar vegetative or structural screening as approved by staff separates the boat or recreational vehicle from public view. See OMC 13-5-1(D) for provisions related to the dimensional and permitting requirements for fences.

b. Inoperable Vehicles And Motor Vehicle Accessories: No more than two (2) inoperable vehicles may be stored on a lot. The outdoor storage of inoperable vehicles, or parts thereof, and vehicle accessories such as camper shells and equipment trailers shall be screened from neighboring properties and public rights-of-way and prohibited from required front and street side yards.

c. Storage Of Commercial Use Vehicles: No vehicle having more than two (2) axles or exceeding eighty four inches (84") in width, and intended for commercial use including, but not limited to, truck tractors, truck trailers or other large trucks shall be stored on property in an RU, RMF, or RC Zone unless such vehicle is stored within a building or is otherwise screened so as not to be visible from another property or from any public right-of-way.

L. Exceptions:

1. Guest parking associated with single family and attached dwellings in the RMF zone is permitted provided it meets the following criteria:

a. Parking is located on the neighborhood streets or in a parking court accessed by a public roadway, but not located more, than one hundred sixty feet (160') from the home it is intended to serve.

b. Parking is not located in a limited residential access lane right-of-way, except for perpendicular parking associated with private driveways or alleyways.

c. Parking may be accommodated in a tandem driveway space, provided it is not accessed by a private alleyway.

2. If sufficient parking is not available on the premises of a use within the MUTC zone, a private parking area may be provided off-site, except for at single-family dwellings and duplexes in the RU and RC zones, if it meets the following criteria:

a. Agreement Required: A parking agreement ensuring that off-site parking is available for the duration of the use shall be approved by the City Administrator, following review by the City Attorney.

b. Letter of Justification: The following shall be reviewed as part of the permit process:

(1) A letter of justification addressing the need for off-site parking and compatibility with the surrounding neighborhood.

(2) A site plan showing all dimensions of parking spaces, aisles, landscaping areas, abutting street improvements, curb cuts, and on-site and abutting uses and buildings.

c. Fees: No charge for use of such parking area shall be made in any residential zone or open space and recreation zone except on a weekly or monthly basis.

d. Maximum Distance To Off-Site Parking Area:

(1) Within the MUTC Zone: No distance requirements apply when both the use and off-site parking are located within the MUTC Zone. However, OMC 13-5-3(D)(4) applies.

(2) Maximum distances to off-site parking do not apply if there is a shuttle in place between the off-site parking and the sponsoring use.

(3) All Other Zones: All provisions of OMC 13-5-3(D) apply.

3. The City Administrator may approve a proposal to modify the distance to off-site parking or allow the required parking to be provided on-street if a Transportation Management Plan or other acceptable transportation system will adequately provide for the parking needs of the use and the conditions below are met.

a. Decision Criteria: Whenever there are practical difficulties involved in carrying out the provisions of this Title, the Administrator may grant modifications for individual cases provided he/she shall first find that a specific reason makes the strict letter of this Code impractical, that the intent and purpose of the governing land use designation of the Comprehensive Plan is met and that the modification is in conformity with the intent and purpose of this Code, and that such modification:

(1) Substantially implements the policy direction of the policies and objectives of the Comprehensive Plan Land Use Element and the Architectural Design Guidelines and the proposed modification is the minimum adjustment necessary to implement these policies and objectives;

(2) Will meet the objectives and safety, function, appearance, environmental protection and maintainability intended by the Code requirements, based upon sound engineering judgment;

(3) Will not be injurious to other property(ies) in the vicinity;

(4) Conforms to the intent and purpose of the Code;

(5) Can be shown to be justified and required for the use and situation intended; and

(6) Will not create adverse impacts to other property(ies) in the vicinity.

M. Joint Use Parking Facilities:

1. When Permitted: Joint use of parking facilities may be authorized for those uses that have dissimilar peak-hour demands or when it can be demonstrated that the parking facilities to be shared are underutilized.

2. Agreement Required: A parking agreement ensuring that joint use parking is available for the duration of the uses shall be approved by the Administrator, following review by the City Attorney. Notice of termination of the agreement shall be provided to the Administrator and additional parking must be provided if the agreement is terminated, consistent with subsection I of this Section.

3. Maximum Distance To Joint Use Parking:

a. Within the MUTC, MUTCN and PF Zones: No distance requirements apply when both the use and joint use parking are located within the MUTC, MUTCN or PF zones. However, OMC 13-5-3D(4) applies.

b. All Other Zones: All provisions of OMC 13-5-3(D) apply.

4. Special Provisions For Subdivision Of Shopping Center: Parking areas in shopping centers may operate as common parking for all uses. If a shopping center is subdivided, easements and/or restrictive covenants must grant use and provide for maintenance of common parking and access areas.

N. Administrative Parking Waiver: The Administrator may issue a waiver from the number of off-street parking stalls required by this chapter for uses in the downtown core in response to a requested waiver by the property owner. The downtown core is the area bound by Whitesell St, Rainier Ln, Bridge St, and Van Scoyoc Ave. The requested waiver shall only be considered by the Administrator upon showing of a good faith effort by the applicant that attempts have been made to enter into joint use parking agreements as governed by OMC 13-5-3(M). The waiver request shall include a statement of justification for the request and shall document the number of off-street parking stalls for which the applicant is requesting relief. The Administrator may require a parking study be prepared and provided by the applicant that considers the use of the site subject to the request, the availability of parking proximal to the site, and the totality of approved parking waivers and its impact on the entire community's access to parking and public enjoyment of the downtown core. In no instance may a parking waiver grant relief from the dimensional standards of parking stalls, nor overwhelm dimensional standards governed by the Orting Development Standards regulating the space needed for safe maneuverability of a parking lot, nor approve relief from the number of off-street parking stalls that has otherwise been denied by the City's Hearing Examiner after considering a variance application from the standards set forth in this chapter, not waive required accessible parking stalls as governed by the International Building Code or Title 10 of the OMC.

(Ord. 792, 7-29-2004; amd. Ord. 889, 9-8-2010; Ord. 943, 5-14-2014; Ord. 2018-1026, 4-25-2018; Ord. 2018-1027, 4-25-2018; Ord. 2019-1043, 3-27-2019, eff. 5-3-2019; Ord.

2021-1073, 3-10-2021; Ord. 2021-1086, 10-27-2021; Ord. 2022-1095, 8-10-2022; Ord. 2024-1133, 10-30-2024; Ord. 2024-1136, 12-11-2024; Ord. 2024-1137, 2-12-2025)

13-5-4: HOME OCCUPATIONS:

A. Purpose: The purpose of this section is to provide standards which allow a resident of a single-family dwelling or duplex to operate a limited activity from their principal residence or permitted accessory structure while achieving the goals of retaining residential character, maintaining property values and preserving environmental quality.

B. Applicability: Home occupations are only permitted in compliance with the below performance standards and in conjunction with a detached single-family dwelling or duplex in the MUTC, MUTCN, RC, RU, and RMF Zones.

C. Exemptions:

1. Home based daycare provisions are stated in section 13-5-5 of this chapter.

2. Temporary lodging facilities (lodging house), including bed and breakfast inns and boarding/rooming homes, are exempt from the regulations of this section.

3. Collective gardens conforming to the requirements of chapter 8 of this title are a permitted home occupation in the RC, RU, and RMF Zones.

D. Performance Standards:

1. Intent: It is the intent of this subsection to provide performance standards for home occupation activities, not to create a specific list of every type of possible home based business activity. The following performance standards prescribe the conditions under which home occupation activities may be conducted when incidental to a residential use. Activities which exceed these performance standards should refer to chapter 3 of this title to determine the appropriate commercial, industrial, civic, or office use category which applies to the activity.

2. General Provisions: The following general provisions shall apply to all home occupation activities:

a. The activity is clearly incidental and secondary to the use of the property for residential purposes and shall not change the residential character of the dwelling or neighborhood;

b. External alteration inconsistent with the residential character of the structure is prohibited;

c. Use of hazardous materials or equipment must comply with the requirements of the Building Code and the Fire Code;

d. The activity does not create noticeable glare, noise, odor, vibration, smoke, dust or heat at or beyond the property lines;

e. Use of electrical or mechanical equipment which creates visible or audible interference in radio or television receivers or fluctuations in line voltage at or beyond the property line is prohibited;

f. Manufacturing shall be limited to the small scale assembly of already manufactured parts but does not preclude production of small, individually handcrafted items, furniture or other wood items as long as the activity meets the other standards of this chapter;

g. Customers/clients are prohibited on the premises prior to six o'clock (6:00) A.M. and after nine o'clock (9:00) P.M.;

h. Sales in connection with the activity are limited to merchandise handcrafted on site or items accessory to a service (i.e., haircare products for beauty salon), and shall include online retail businesses;

i. In addition to the single-family or duplex parking requirements, for home occupations that involve customers visiting the premises, off street parking associated with the activity shall include one additional space for customers in accordance with standards set forth in section 13-5-3 of this chapter;

j. Only the resident can perform the activity; nonresident employees are prohibited;

k. The activity shall be limited to an area less than five hundred (500) square feet or a size equivalent to fifty percent (50%) of total floor area of the living space within the residence, whichever is less;

l. One vehicle, up to ten thousand (10,000) gross vehicle weight, is permitted in connection with the activity;

m. The activity shall be performed completely inside the residence, an accessory structure or a combination of the two;

n. There shall be no outside display or storage of materials, merchandise, or equipment. (Ord. 941, 7-24-2013; amd. Ord. 2018-1027, 4-25-2018; Ord. 2021-1074, 3-10-2021; Ord. 2024-1136, 12-11-2024)

13-5-5: DAYCARE FACILITIES:

A. Purpose: The purpose of this section is to provide operating criteria to meet the need for quality, affordable, and safe daycare facilities for adults and children. There are two (2) types of daycare facilities: home based (family) daycare facilities and daycare centers.

B. Family Daycare Facilities: Family daycare facilities operate from a residence by the resident(s). There are two (2) types of family daycare facilities; those providing services to adults and those providing services to children. To be permitted outright per state law, these facilities are restricted to a maximum of twelve (12) children or adults including residents of the abode.

1. Criteria For Family Daycare Facilities:

a. Minimum Fencing/Screening Required: Outdoor recreation areas must be enclosed by a six foot (6') high fence.

b. Outdoor Play Equipment: Play equipment shall not be located in any required front or side yard setback area.

C. Daycare Centers: Daycare centers are facilities with no limit on the number of clients. There are two (2) types of daycare centers: adult daycare center and child daycare center.

1. Criteria For Daycare Centers:

a. Minimum Fencing/Screening Required: Outdoor recreation areas must be enclosed by a six foot (6') high fence.

b. Loading: There shall be an off street area for loading and unloading children or adults (clearly marked). Adequate vehicle turnaround shall be provided on site for parking and loading so as to preclude the necessity of backing out onto the street.

c. Signs: One sign will be permitted at a size to be determined by the zone classification where the facility is located as provided in chapter 7 of this title. (Ord. 792, 7-29-2004; amd. Ord. 2018-1027, 4-25-2018; Ord. 2021-1086, 10-27-2021)

13-5-6: ACCESSORY DWELLING UNITS:

A. Purpose: Accessory dwelling units (ADUs) are intended to increase the supply of affordable and independent housing for a variety of households, provide supplemental earnings for people with limited incomes, and increase residential densities with minimal cost and disruption to existing neighborhoods. This should occur by utilizing the existing infrastructure and community resources while providing a housing type that blends in well with existing neighborhoods including low density residential neighborhoods. The provisions of this chapter do not apply to lots designated with critical areas or their buffers as designated by Title 11 OMC or by Orting's Shoreline Master Program.

B. Procedures: Any owner/occupant seeking to establish an ADU shall apply for approval in accordance with the following:

1. Application: The owner/occupant shall apply for a building permit for an ADU. A complete application form must demonstrate that all size thresholds and design standards are met.

2. Occupancy And Use: Occupancy of ADUs shall be reserved for residential uses only. Occupancy of ADUs shall be used for long-term residential purposes and may not be used for transient occupancy or short-term/vacation rental purposes. Persons residing in ADUs shall live in such residences for longer than one hundred eighty (180) days each calendar year.

3. Impact Fees: Impact fees are set forth in the fee schedule in a manner consistent with RCW 36.70A.681(1)(a): The city may not assess impact fees on the construction of

accessory dwelling units that are greater than fifty percent (50%) of the impact fees that would be imposed on the principal unit.

C. General Requirements: The creation of an ADU shall be subject to the following general requirements:

1. Number: A maximum of two (2) ADUs (either attached, detached, or a combination of the two (2)) shall be allowed per lot of record in conjunction with any detached single-family dwelling, subject to setbacks and building and impervious surface coverage maximums on the lot of record as per Table 1 in OMC 13-5-1. Nothing in this section overwhelms statutory provisions in RCW 36.70A.681, or as amended, for ADUs located in setbacks when converted from an existing detached structure or located in setbacks if the lot line abuts a public alley, unless the City routinely plows snow on the public alley. ADUs are exempt from the residential density standards of this code.

2. Lot Standards: Both attached and detached ADUs shall be permitted on all parcels containing single-family homes, provided the lot meets the minimum size for the principal unit.

3. Type Of Unit:

a. An ADU shall be permitted as a subordinate dwelling unit attached to or detached from the principal dwelling.

b. A detached ADU may be any dwelling permitted in the applicable land use classification.

c. A recreational vehicle, tiny house with wheels as defined in RCW 35.21.686, manufacture home, or mobile home shall be not used as an ADU. However, modular homes manufactured off site may be allowed.

4. Size: An ADU shall be no greater than one thousand two hundred (1,200) square feet. Spaces in the ADU that are not habitable, such as for enclosed parking, will not be included in the square footage for the purposes of this section.

5. Parking: One (1) off-street parking space is required for each ADU up to seven hundred (700) square feet in size. For ADUs greater than seven hundred (700) square feet in size two (2) off-street parking spaces are required unless the lot is less than 6,000 square feet in size and then one (1) off- street parking space is required per ADU. Off- street parking spaces for ADUs shall be in addition to that which is required for the primary dwelling unit.

a. Parking requirements in this subsection are limited in the following circumstances:

i. If an ADU is located within one-half mile walking distance of a major transit stop, the ADU is not required to provide any off-street parking.

ii. If an ADU is on a lot smaller than 6,000 square feet before any zero lot line subdivisions or lot splits, no more than one off-street parking space is required for the ADU.

iii. If an ADU is on a lot larger than 6,000 square feet before any zero lot line subdivisions or lot splits, no more than two off-street parking spaces are required for the ADU.

6. Design: An ADU shall be designed to maintain the appearance of the principal dwelling as a single-family residence.

a. The primary entrance to an attached ADU shall be located in such a manner as to be clearly secondary to the main entrance to the principal unit.

b. Detached ADUs shall be no closer to the front lot line than the front face of the principal dwelling. This provision shall not apply to waterfront lots regulated pursuant to the city shoreline management program.

c. New construction of a detached ADU or conversion of an existing detached structure to an ADU shall not be permitted within the required front, side or rear yard setback as provided in section 13-5-1 , Table 1. An exception to the required rear yard setback may be allowed if the rear yard abuts an alley in which case a detached ADU may be adjacent to the lot line abutting the public alley.

d. If an ADU is created by constructing a new detached structure, the building height of the ADU shall not be greater than the principal dwelling's building height or twenty-four feet (24') measured from the ground to the top plate, whichever is less. The roof pitch may not exceed that of the principal dwelling.

e. An ADU may be created by adding on to or converting an existing detached structure, even if the existing structure is non-conforming to required setbacks or lot coverage as long as other applicable codes and requirements are met, such as for fire and safety, and as long as any existing non-conforming components of the existing structure are not expanded upon.

f. An ADU shall have similar facade, roof pitch and siding to the principal dwelling unit.

g. Right-of-way improvements shall not be required as a condition of approval of a permit for an ADU. (Ord. 792, 7-29-2004; amd. Ord. 2019-1053, 11-25-2019; Ord. 2021-1073, 3-10-2021; Ord. 2024-1136, 12-11-2024)

13-5-7: ADULT BUSINESSES:

A. Purpose: The intent of this section is to establish regulations for activities or uses which, because of their adult orientation, are recognized as having objectionable characteristics and need to be distanced from other uses such as residential, schools, parks and community centers. Special regulations for these uses are necessary to:

1. Prevent inappropriate exposure of such businesses to the public;

2. Ensure that adverse effects of these uses will not contribute to the blighting or downgrading of surrounding neighborhoods; and

3. Protect property values and quality of life from potential adverse impacts.

B. Location Standards: Adult businesses shall be subject to the provisions of this section.

1. Separation Requirements I: Adult businesses are prohibited from locating within six hundred feet (600') of any other adult business or any of the following: (Ord. 792, 7-29-2004)

a. Areas zoned RC, RS, and RU; (Ord. 792, 7-29-2004; amd. Ord. 830, 6-28-2006)

b. Community and cultural facilities, including, but not limited to, post offices, government offices and courthouses;

c. Residential day treatment or workshop facilities primarily oriented to the physically or mentally disabled; or

d. Senior citizens' service centers or residential facilities with the primary emphasis oriented to senior citizens.

2. Separation Requirements II: Adult businesses are prohibited from locating within two thousand feet (2,000') of the following uses:

a. Public or private schools from kindergarten to twelfth grade and their grounds;

b. Daycare centers, preschools, nurseries or other childcare facilities;

c. Youth cabarets, public parks, playgrounds, libraries or any other area where large numbers of minors regularly travel or congregate; or

d. Churches, convents, monasteries, synagogues, temples, chapels or other places of religious worship.

3. Legal Use Status: Adult businesses shall not become nonconforming if a new use as listed under subsection B1 of this section is located closer than six hundred feet (600') from the adult business or if a new use as listed under subsection B2 of this section is located closer than two thousand feet (2,000') of the adult business.

4. Distance Measurement: The distance requirements for this section shall be measured in a straight line from the nearest point of the lot upon which the proposed adult business use is to be located to the nearest point of any lot owned or leased for any of the uses listed in this subsection B.

C. Signage For Adult Businesses: No descriptive art or displays depicting, describing or relating to any "specified sexual activities" or "specified anatomical areas" shall be allowed on any exterior portion of the building or as window displays visible to the public; otherwise, signage for adult businesses shall comply with the provisions of applicable city ordinances. (Ord. 792, 7-29-2004)

13-5-8: MANUFACTURED HOME PARKS:

(Rep. by Ord. 889, 9-8-2010)

13-5-9: NONCONFORMING USES AND STRUCTURES:

A. Purpose: The purpose of this section is to provide standards and conditions to regulate lots, structures and uses which were legally established prior to the adoption, revision or amendment of this title and which remain legal, but have become nonconforming as a result of this title's application, or by acquisition of land in public interest. This section provides reasonable alternatives to property owners for the limited expansion and continuance of nonconformities. The provisions of this section shall not be applicable to any discretionary land use action specifically authorized prior to or after the adoption of this title. Discretionary land uses shall comply with conditions and restrictions set forth in the approval through which it was authorized.

B. Basic Standards: The basic standards apply to all nonconforming uses, structures, developments and lots. These standards provide for actions that are allowed outright. Limited exceptions to the standards in this section are allowed through a nonconforming use permit in section 13-6-6 of this title.

1. Expansion Of Nonconforming Uses And Structures: Nonconforming uses and structures shall not be enlarged, expanded, extended, replaced or altered except as expressly permitted in this section.

2. Expansion Beyond Original Parcel: Nothing in this section shall be construed to permit expanding or extending a nonconforming use or structure beyond the confines of the lot or parcel of land upon which it was located on the date the use or structure became nonconforming.

3. Continuation Of Use: A nonconforming use may be continued by successive owners or tenants where the use continues unabandoned (see subsection I of this section).

4. Normal Upkeep, Repairs And Maintenance: Normal upkeep, repairs, maintenance, strengthening or restoration to a safe condition of any nonconforming building or structure or part thereof shall be permitted subject to the provisions of this section.

5. Compliance With Development Regulations: Any additions or expansions of nonconforming uses or nonconforming structures shall comply with the development standards in this chapter for the zone classification in which the nonconformity is located; provided, that portions of nonconformities that legally existed prior to adoption of this section shall not be subject to this provision.

6. Nonconforming Use Within Structure: A nonconforming use, within an existing structure, which is nonconforming by reason of zone classification, may be extended throughout such structure.

7. Structures And Uses Accessory To Residential: Structures and uses accessory to an existing nonconforming residential use shall be allowed as provided in chapter 3 of this title.

C. Expansion Standards For Nonconforming Uses: Expansion of nonconforming uses or replacement of structures occupied by nonconforming uses shall be subject to the following provisions, provided the basic standards of this section are satisfied:

1. Where a nonconforming use of a structure exists, that structure can be replaced, provided the original footprint is not relocated or altered, except as provided in the expansion standards below.

2. An expansion of existing nonconforming uses shall be allowed under one of the following provisions:

a. The proposed expansion of the nonconforming use or the nonconforming use of a structure does not exceed ten percent (10%) of the floor area of the total existing use or structures, nor create more than ten percent (10%) additional pad sites for manufactured home parks and RV parks; or

b. The proposed expansion of the nonconforming use or the nonconforming use of a structure does not create impervious cover exceeding twenty five percent (25%) of the existing impervious area of the lot or parcel, nor exceed twenty five percent (25%) of the developed area for manufactured home parks and RV parks. Expansion of impervious cover shall meet the stormwater mitigation requirements of Title 9 Chapter 5 of this code. Expansion of impervious cover beyond the limits allowed in this paragraph may be allowed provided that such impervious cover meets the criteria for on-site stormwater management LID BMPs or infiltration facilities so that the effective impervious area expansion does not exceed the limits allowed in this paragraph.

D. Change Of Use Standards: A nonconforming use may change outright to a conforming use allowed within the zone classification in which the use is located.

E. Nonconforming Structure Standards: A nonconforming structure may be enlarged, altered or replaced, provided the basic standards of this section are satisfied, and provided:

1. When a nonconforming structure is occupied by a nonconforming use it shall comply with the expansion standards of this section;

2. A structure which is nonconforming due to height or yard requirements may be structurally altered, enlarged or replaced, provided the degree of nonconformity is not extended or increased; and

3. The nonconforming portion of the structure shall not be expanded or the footprint of that portion altered, except as specifically authorized through a variance or as otherwise permitted in this section (see section 13-6-3 of this title).

F. Nonconforming Lot Standards: Any permitted uses or structures, including any accessory uses or structures permitted in conjunction with a principal use, shall be allowed

to be built or expanded on a nonconforming lot. Applicable development standards in this chapter shall be complied with.

G. Repealed.

H. Restoration Standards For Damaged Or Destroyed Nonconforming Structures: Any nonconforming structure damaged or destroyed by fire, explosion, wind, flood, earthquake or other calamity may be completely restored or reconstructed. Damaged or destroyed nonconforming structures must be restored under the following provisions:

1. Restoration or reconstruction shall not serve to extend or increase the nonconformance of the original structure or use, except as provided by nonconforming structures standards.

2. To the extent reasonably possible, restoration should retain the same general architectural style as the destroyed structure.

3. Permits shall be applied for within one year of damage. Restoration or reconstruction must be substantially completed within eighteen (18) months of permit issuance. When deemed reasonable and necessary, the city may grant a time extension.

I. Discontinuance Standards: Should a nonconforming use or nonconforming structure be discontinued for more than one year, the use of the property and structure shall be deemed abandoned and shall conform to use and development standards permitted in the zone classification in which it is located. If the intended discontinued use or structure is temporary in nature as opposed to abandonment, then the applicant may apply for a nonconforming use permit to reestablish the nonconforming use as set forth in OMC 13-6-6.

J. Cargo Containers; Loss Of Nonconforming Status: Cargo containers that have been legally located on property in any zone of the city prior to the adoption of subsection 13-4-2D of this title shall be a legal nonconforming use of the property. Notwithstanding any provision of subsections A through I of this section to the contrary, cargo containers shall lose legal nonconforming status under the circumstances set forth as follows:

1. If the legal nonconforming cargo container is moved to a different location on the property.

2. If a legal nonconforming cargo container is removed from a property, any subsequent cargo containers placed on the property shall comply with the requirements of subsection 13-4-2D of this title.

3. If a legal nonconforming cargo container is moved off of a residential zoned property, no new cargo container may be moved onto the property.

4. All nonconforming cargo containers shall be made to conform to the requirements of subsection 13-4-2D of this title or removed from the property by ninety (90) days after approval of this section.

(Ord. 792, 7-29-2004; amd. Ord. 873, 2-25-2009; Ord. 2019-1057, 1-8-2020)

CHAPTER 6
SPECIAL USE PERMITS

SECTION:

13-6-1: General

13-6-2: Conditional Use Permit

13-6-3: Variances

13-6-4: Planned Unit Developments

13-6-5: Cottage Developments

13-6-6: Nonconforming Use Permit

13-6-7: Repealed

13-6-8: Site Plan Review

13-6-1: GENERAL:

All special use permits shall be processed in accordance with the provisions of title 15, "Development Code Administration", of this code. (Ord. 792, 7-29-2004)

13-6-2: CONDITIONAL USE PERMIT:

A. Purpose:

1. The purpose of this section is to establish decision criteria and procedures for special uses, called conditional uses, which possess unique characteristics. Conditional uses are deemed unique due to factors such as size, technological processes, equipment, or location with respect to surroundings, streets, existing improvements, or demands upon public facilities. These uses require a special degree of control to assure compatibility with the comprehensive plan, adjacent uses, and the character of the vicinity.

2. Conditional uses will be subject to review by the city and the issuance of a conditional use permit. This process allows the city to:

a. Determine that the location of these uses will not be incompatible with uses permitted in the surrounding areas; and

b. Make further stipulations and conditions that may reasonably assure that the basic intent of this title will be served.

B. Decision Criteria: The city shall review conditional use permits in accordance with the provisions of this section and may approve, approve with conditions, modify, modify with

conditions, or deny the conditional use permit. The city may use design standards to lessen impacts as a condition of the granting of the conditional use permit.

1. Required Findings: The city may use design standards and other elements in this title to modify the proposal. A conditional use permit may be approved only if all of the following findings can be made regarding the proposal and are supported by the record:

a. The granting of the proposed conditional use permit will not:

(1) Be detrimental to the public health, safety, and general welfare;

(2) Adversely affect the established character of the surrounding vicinity; nor

(3) Be injurious to the uses, property, or improvements adjacent to, and in the vicinity of, the site upon which the proposed use is to be located.

b. The granting of the proposed conditional use permit is consistent and compatible with the intent of the goals, objectives and policies of the comprehensive plan and any implementing regulation.

c. All conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced.

d. The proposed use will not introduce hazardous conditions at the site that cannot be mitigated to protect adjacent properties, the vicinity, and the public health, safety and welfare of the community from such hazard.

e. The conditional use will be supported by, and not adversely affect, adequate public facilities and services; or that conditions can be imposed to lessen any adverse impacts on such facilities and services.

f. The level of service standards for public facilities and services are met in accordance with the concurrency management requirements. See title 15, chapter 8 of this code.

g. Will not preclude the use of LID BMPs if LID BMPs are feasible for existing site conditions or existing site characteristics.

2. Burden Of Proof: The applicant has the burden of proving that the proposed conditional use meets all of the criteria in subsection B1 of this section.

C. Application: Submittal of an application for a conditional use permit shall include:

1. A completed application form.

2. A base map showing property boundary lines, existing lots, tracts, utility or access easements and streets, topography, existing development features, water bodies, wetlands and buffers, and flood prone areas.

3. A legal description and vicinity map of the property.

4. A site plan showing the location and ground elevation of any proposed structures, parking areas, common use areas, landscaping, utilities, grading and drainage, mitigation for critical area impacts, fences and other proposed features. (If easements or covenants are proposed, their location and design must be shown.)

5. Mailing labels of all property owners as provided in title 15, chapter 7 of this code.

6. A written statement addressing the decision criteria (see subsection B of this section) and any other information required by the city at the preapplication meeting.

(Ord. 792, 7-29-2004; amd. Ord. 889, 9-8-2010; Ord. 2019-1057, 1-8-2020)

13-6-3: VARIANCES:

A. Purpose: The purpose of this section is to provide a means of altering the bulk, dimensional, or numeric requirements of this title in specific instances where the strict application of those requirements would deprive a property of privileges enjoyed by other properties within the identical regulatory zone because of special features or constraints unique to the property involved. A minor variance may consider a request to deviate by no more than 10 percent of the bulk, dimensional, or numeric standard established in this title. A major variance is the mechanism used to consider deviations from all other bulk, dimensional, or numeric requirements of this title. Neither a minor nor major variance may afford relief from provisions in Orting's Shoreline Master Program or from Title 11, Critical Areas Ordinance, of this code.

B. Granting Of Variances: The city shall have the authority to grant a variance from the provisions of this title, when, in the judgment of the hearing examiner in consideration of a major variance, each of the conditions as set forth in subsection C of this section have been found to exist. The city shall have the authority to grant a variance from the provisions of this title, when, in the judgment of the Administrator in consideration of a minor variance, each of the conditions as set forth in subsection F of this section have been found to exist. In such cases a variance may be granted which is in harmony with the general purpose and intent of this title so that the spirit of this title shall be observed, public safety and welfare secured, and substantial justice done.

C. Major Variance Decision Criteria: Before any major variance may be granted, it shall be shown:

1. That there are special circumstances applicable to the subject property or to the intended use such as shape, topography, location, or surroundings that do not apply generally to the other property or class of use in the same vicinity and zone;

2. That such variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other property in the same vicinity and zone but which because of special circumstances is denied to the property in question;

3. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvement in such vicinity and zone in which the subject property is located;

4. That the granting of such variance will not adversely affect the comprehensive plan.

5. That the granting of such variance will not preclude the use of LID BMPs if LID BMPs are feasible for existing site conditions or existing site characteristics.

D. Conditions On Major Variances: When granting a variance, the hearing examiner shall determine that the circumstances do exist as required by subsection C of this section, and attach specific conditions to the variance which will serve to accomplish the standards, criteria, and policies established by this title.

E. Application: Submittal of an application for a variance shall include:

1. A completed application form.

2. A site plan showing all information relevant to the request including, but not limited to: location of existing and proposed structures, roads, property lines, parking areas, landscaping and buffers.

3. Mailing labels of all property owners as provided in title 15, chapter 7 of this code.

4. A written statement addressing the decision criteria (see subsection C of this section) and any other information required by the city at a preapplication meeting.

F. Minor Variance Decision Criteria: Before any minor variance may be granted, it shall be shown:

1. That the granting of the variance will not compromise the intent of the comprehensive plan nor be inconsistent with the goals, policies and objectives of the comprehensive plan;

2. The variance is an immediate remedy to a condition which, if permitted, would not result in any significant adverse impacts to adjacent properties or structures;

3. A strict application of the standards would impose an unreasonable hardship upon the applicant or property owner.

4. The need for the variance is not the result of the deliberate actions of the applicant or property owner.

5. The variance does not create health and safety hazards.

G. Conditions On Minor Variances. When granting a variance, the Administrator shall determine that the circumstances do exist as required by subsection F of this section, and may attach specific conditions to the variance which will serve to accomplish the standards, criteria, and policies established by this title.

(Ord. 792, 7-29-2004; amd. Ord. 889, 9-8-2010; Ord. 2019-1057, 1-8-2020)

13-6-4: PLANNED UNIT DEVELOPMENTS:

A. Purpose: A PUD is a flexible zoning concept that results in as good or better use of land than that produced through the standards of the regular zone classifications. The uses within the PUD depend on the uses in the underlying zone. The residential densities and bulk and scale of the development within the PUD may vary to provide more flexibility and creativity in addressing the site and project aesthetics, natural areas, and open space planning. An approved PUD is an overlay zone, enacted as part of the final approval action which may also include subdivision, binding site plan, or master plan approval.

B. Classifications Of Planned Unit Development Districts: Planned developments may be either residential or nonresidential in character. A "residential PUD" means that the principal purpose of the PUD is to provide one or more types of housing at densities of dwellings the same as densities permitted by the underlying zone and where all other uses shall be considered accessory, supportive, or adjunct to housing. A "nonresidential PUD" means a development where the majority of uses are intended for purposes other than housing such as: retail, service, industrial and manufacturing, and where residential uses as are allowed by the underlying zone secondary in purpose to intended use of the project.

C. Minimum Area Required:

1. Residential PUD: One acre.

2. Nonresidential PUD: None.

D. Staging or Phasing: The applicant may elect, or the city may require that the development of a PUD be accomplished or constructed in stages or phases; provided, that when a residential PUD is developed in stages, the cumulative density of all phases shall not exceed the approved overall density of the entire PUD.

E. Redevelopment; Street Vacations: When the city determines that the location, configuration and/or condition of existing structures on site may threaten the public health, safety or welfare, it may require the removal of all or portions of existing structures. It is the further purpose of this section to encourage development of a PUD upon contiguous land and property. When deemed appropriate and necessary, the city may require the vacation of all or portions of existing streets within the PUD project area. The city may, as an alternative to vacation of streets, permit the inclusion of existing rights of way within a PUD, when it can be shown that the existing rights of way serve a functional purpose for the PUD and do not act to separate or divide a PUD into noncontiguous units. Rights of way within the context of this section shall not include freeways, limited access highways or major arterials.

F. Uses Permitted In PUD:

1. Residential PUD: Housing concepts of all types limited only by the density commensurate with the underlying zone upon land either subdivided into two (2) or more

ownerships or held in common, unified, or single ownership. Examples include the following:

a. Condominiums, apartments and townhouses.

b. Customary accessory uses and structures common to individual or group dwellings.

c. Group residence.

d. Manufactured home parks and subdivisions.

e. Nonresidential uses such as schools, churches, libraries or other conditional uses allowed in residential zones.

2. Nonresidential PUD: Uses permitted by the underlying zone.

3. Unclassified And Conditional Uses: Unclassified uses and conditional uses, if permitted in the underlying zone and as specifically authorized by the final development plan.

G. Procedure For Approval: The approval of a PUD shall be considered an amendment to the official maps and, except as provided in this section, shall be processed as is any other amendment with respect to notice, hearings, and appeals pursuant to this title. A two (2) step procedure shall be followed in the approval of a PUD as follows:

1. The approval of a preliminary development plan after public notice and hearing.

2. The final PUD approval shall not become final and effective until the date the final development plan is approved and overlay zone is adopted. The final development plan may be approved and adopted by stages. The final development plan shall be approved when the City determines that the development conforms with the approved conditions established in the preliminary development approval.

H. Decision Criteria: The action by the City to approve a preliminary development plan for a proposed PUD with or without modifications shall be in writing based upon the following findings:

1. The proposed development is in substantial conformance with the comprehensive plan, the intent of the underlying zoning, and applicable City design standards.

2. Exceptions from the standards of the underlying district are warranted by the design and amenities incorporated in the development plan and program.

3. The proposal does not adversely impact the surrounding area or its potential future use.

4. The system of ownership and means of developing, preserving, and maintaining common open space is consistent with the size, design and scale of the project.

5. The approval will result in a beneficial effect upon the area which could not be achieved under other zoning districts.

6. The proposed development or units thereof will be pursued and completed in a conscientious and diligent manner.

7. The proposed development will not preclude the use of LID BMPs if LID BMPs are feasible for existing site conditions or existing site characteristics.

I. Project Limitation: The City, in order to protect the public health, safety, welfare, and general interest may limit or restrict development in a PUD or any portion thereof in relationship to the size of the area being developed or redeveloped with the nature of uses intended, lot coverage, parking and loading requirements, provisions for open space, adequacy of roads and utility systems to accommodate the use as well as to minimize the impact the development will have on the existing or intended development of adjacent lands and the general neighborhood.

J. Permissive Variation From Standard Requirements: In considering a proposed development plan, the approval may involve modifications in the regulations, requirements, and standards of the underlying zone in which the project is located so as to appropriately accomplish the purpose of this section. In making such modifications as are deemed appropriate, the following guidelines shall apply:

1. Off Street Parking And Loading: The total required off street parking facilities should not be less than the sum of the required parking facilities for the various uses computed separately.

2. Common Walls: In projects receiving final approval where units intended for individual ownership will have common walls, the City may issue building permits for construction of those units prior to approval of a final PUD, although occupancy of said units will not be allowed until the final approval.

3. Height Of Buildings: The height of buildings and structures within a PUD should be limited to the height permitted by the underlying zone, or as required as a special limitation. The height of buildings and structures may be increased in relationship to provisions for greater open space and separation between buildings on the same or adjoining property and when adequate provision is made for light, air, and safety.

4. Lot Area Coverage: The maximum lot coverage within a PUD or any portion thereof shall be determined at the time of consideration of a preliminary development plan.

5. Yards: The requirement for yards in a PUD should be same as required by the underlying zone for those yards abutting the exterior boundary of the PUD. Yard requirements for any yard not abutting or adjoining the exterior boundary of the PUD shall be as authorized in the preliminary development plan.

K. Subdivisions: When it is the intention of an applicant to subdivide or resubdivide all or portions of property within a proposed PUD, a preliminary subdivision approval shall be considered concurrently with an application for approval of a preliminary development

plan. The minimum lot provisions specified in the underlying zone district may be qualified if the design of the subdivision is in accordance with the intent and purpose of this section and the resulting overall density of the project is consistent with the underlying zoning.

L. Final Development Plan; Time Limitation: A final development plan meeting all requirements of this chapter shall be submitted to the City for approval within five (5) years of the date of preliminary plat approval if the date of preliminary plat approval is on or after January 1, 2015. A final development plan meeting all requirements of this chapter shall be submitted to the City for approval within ten (10) years of the date of preliminary plat approval if the project is not subject to requirements adopted under chapter 90.58 Revised Code of Washington and the date of preliminary plat approval is on or before December 31, 2007. Nothing contained in this section shall act to prevent the City from adopting by ordinance procedures which would allow extensions of time that may or may not contain additional or altered conditions and requirements. When deemed reasonable and appropriate, the Administrator may grant an extension of one year for such submittal. If at the date of expiration of the time period provided herein, a final development plan has not been filed for approval, the preliminary PUD approval shall expire and the applicant shall be required to resubmit an application for preliminary approval to reinstate the project. In instances when a planned unit development is requested concurrent with an application for subdivision, short subdivision, or binding site plan, the final plat, final short plat, or final binding site plan shall satisfy the final development plan required by this chapter.

M. Application: Submittal of an application for preliminary PUD approval shall include:

1. A completed application form;

2. A preliminary PUD development plan including:

a. Topographical and other site data depicting:

(1) Boundary lines including bearing and distance;

(2) Easements, including location, width and purpose;

(3) Streets on and adjacent to the tract, including name, right-of-way width, location, and type, width, and elevation of surfacing, walks, curbs, gutters, culverts, etc.;

(4) Number of residential lots and typical lot size;

(5) Lot layout with lot line dimensions, the area in square feet contained in each lot and minimum building setback lines;

(6) The location and use of all existing buildings within the proposed project indicating which buildings are to remain and which are to be removed;

(7) Ground elevations on the tract, based on a datum plane approved by the City Engineer;

(8) Other conditions on adjacent land, including:

(A) Approximate direction and gradient of ground slope, including any embankments or retaining walls;

(B) Character and location of buildings, railroads, power lines, towers, and other nonresidential land uses or platted lands within three hundred feet (300') of the subject property (subdivision plats should be referred to by name, recording date, volume and page number, with lot size and dwelling units shown);

b. Utilities on and adjacent to the tract, including:

(1) Location, size and invert elevation of sanitary, storm and combined sewers;

(2) Location and size of water mains;

(3) Location of gas lines, fire hydrants, electric and telephone poles, and streetlights;

(4) If water mains and sewers are not adjacent to the tract, indicate the direction and distance to, and size of, the nearest ones, showing invert elevation of sewers;

c. Proposed sanitary, stormwater and water systems plan with points of connection, grades and sizes indicated;

d. Proposed public improvements, including highways or other major improvements planned by public authorities for future construction on or near the tract;

e. Typical cross sections of proposed grading, roadways and sidewalks within the proposal;

f. Profiles of all proposed streets within the proposal showing the grade to which the streets will be built and the existing ground line of the proposed streets including probable future extensions of any stub (dead end) streets for a maximum distance of one hundred fifty feet (150') beyond the boundaries of the project (or, as an alternative, the site plan may show topography, certified by a registered engineer or surveyor, in 2 foot contours within 50 feet of each side of the centerline of all probable extensions of any stub [dead end] streets for a distance of 150 feet beyond the boundaries of the proposed subdivision);

g. Sites, if any, to be reserved or dedicated for parks, playgrounds, or other common or public uses;

h. Site plans for multi-family dwellings, shopping centers, churches, industry or other nonpublic uses exclusive of single-family dwellings;

i. Zoning district designations, on and adjacent to the tract;

j. Other conditions on the tract including:

(1) Rock outcroppings;

(2) Location and disposition of any wells, creeks, drainage courses, drainageways, 100-year floodplain boundary and easement in or within two hundred feet (200') of the proposal;

(3) The location of all trees more than six inches (6") in diameter at a height of four feet (4') above grade within the proposal, and for one hundred fifty feet (150') beyond the terminus of all dead end streets allowing that:

(A) Individual trees in a stand of five (5) trees or more need not be shown, but the area covered by the stand (the drip line) shall be shown;

(B) For trees outside of the subdivision boundaries, the location of said trees may be based on aerial photographs or other methods acceptable to the City Administrator;

(4) The location of identified hazards or development limitation areas identified by the city of Orting sensitive area map;

(5) The location of any state shorelines and associated wetlands as defined by state law and the city of Orting shoreline master program;

3. A vicinity map extending at least eight hundred feet (800') in each direction from the proposed project, or further if necessary to assist in locating the site. The vicinity map shall be drawn to scale of one inch equals eight hundred feet (1" = 800'). The vicinity map shall show the following:

a. Street layout;

b. Existing and tentatively approved street layout within eight hundred feet (800');

c. Zoning designations within and adjacent to the site;

d. All property lines within eight hundred feet (800') of the site;

e. Streams or watercourses and public facilities, such as schools and parks;

f. All 100-year floodplain and designated shoreline boundaries in and within eight hundred feet (800') of the proposed subdivision;

g. Any other pertinent information that will assist in locating the proposed project;

4. Drawings and text illustrating and describing the scale, bulk and architectural character of proposed structures;

5. A written statement addressing the decision criteria (subsection H of this section) and any other information required by the city at the preapplication meeting;

6. Draft conditions, covenants, and restrictions pertaining to the operation and maintenance of the development, including all common areas, private streets (if any) and recreational facilities; and

7. Mailing labels of all property owners as provided in title 15, chapter 7 of this code.

N. Manufactured Home Parks: Manufactured home parks operated as commercial enterprises leasing sites and/or homes without platting shall be subject to the following:

1. Density shall not exceed the densities established in section 13-5-1 of this title.

2. Only one manufactured home or recreational vehicle shall occupy any space in the park, subject to the following.

a. A recreational vehicle may stand or be parked for an indefinite period in a manufactured home park, provided the recreational vehicle is connected to sewer or a Tacoma-Pierce County health department approved septic system, water, and electricity, and the recreational vehicle contains at least one internal toilet and at least one internal shower; provided, that if this requirement is not met, a manufactured home park must provide toilets and showers in lieu of having the facilities within the recreational vehicle.

3. Setbacks shall conform to the underlying zoning and building code.

4. Storage areas comprising not more than ten percent (10%) of the total manufactured home park site for recreational vehicles, boats, and trailers shall be provided. Such areas shall be paved or surfaced with crushed rock and enclosed by a sight obscuring fence, wall or landscape visual buffer.

(Ord. 792, 7-29-2004; amd. Ord. 889, 9-8-2010; Ord. 2018-1028, 4-25-2018; Ord. 2019-1053, 11-25-2019; Ord. 2019-1057, 1-8-2020; Ord. 2024-1136, 12-11-2024)

13-6-5: COTTAGE DEVELOPMENTS:

A. Purpose:

1. The purpose of this section is to establish decision criteria and procedures for cottage developments which possess unique characteristics due to factors such as size, residential density, ownership, and location with respect to their surroundings. These uses require a special degree of control to assure compatibility with the comprehensive plan, adjacent uses, and the character of the vicinity.

2. Cottage developments are subject to review by the city and the issuance of a binding site plan (or approval of a unit lot subdivision) and architectural design review approval. This process allows the city to:

a. Determine that the location of these uses will not be incompatible with uses permitted in the surrounding areas; and

b. Make further stipulations and conditions that may reasonably assure that the basic intent of this title will be served.

B. Decision Criteria: The city shall review cottage development permit applications in accordance with the provisions of this section and may approve, approve with conditions, modify, modify with conditions, or deny the binding site plan approval. The city may modify design standards to lessen impacts as a condition of the granting of the binding site plan approval.

1. Required Findings: The city shall use design standards and other elements in this title to modify the proposal. A cottage development binding site plan or unit lot subdivision

shall be approved only if all of the following findings regarding the proposal can be made and are supported by the record:

a. The granting of the proposed binding site plan or unit lot subdivision will not:

(1) Be detrimental to the public health, safety, and general welfare;

(2) Adversely affect the established character of the surrounding vicinity; nor

(3) Be injurious to the uses, property, or improvements adjacent to, and in the vicinity of, the site upon which the proposed use is to be located.

b. The granting of the proposal is consistent and compatible with the intent of the goals, objectives, and policies of the comprehensive plan and any implementing regulation.

c. All conditions necessary to lessen any impacts of the proposal are conditions that can be monitored and enforced.

d. The proposal will not introduce hazardous conditions at the site that cannot be mitigated to protect adjacent properties, the vicinity, and the public health, safety and welfare of the community from such hazard.

e. The cottage development will be supported by, and not adversely affect, adequate public facilities and services; or that conditions can be imposed to lessen any adverse impacts on such facilities and services.

f. The level of service standards for public facilities and services are met in accordance with the concurrency management requirements (see title 15, chapter 8 of this code).

2. Burden Of Proof: The applicant has the burden of proving that the proposed cottage development meets all of the criteria in subsection B1 of this section.

C. Application: Cottage development proposals shall be subjected to a two (2) step process. No more than two (2) cottage developments shall be approved in a calendar year. Preliminary applications shall be accepted at any time, but the first two (2) submitted after January 1 shall be allowed to proceed through the full application review and approval process if they meet the criteria stated in subsection C1 of this section. If one or both of the first two (2) applications in any year drop out, the next in line will be notified that the city will accept a full application for review.

1. Step one preliminary application:

a. Each applicant should schedule a meeting with the city administrator to discuss the location, size, and features of the proposal. No written application is required at this point. The administrator will advise the applicant of any known issues with respect to the location, parcel(s) to be developed, or city facilities necessary to serve a cottage development.

b. The administrator will schedule a briefing for the planning commission. The administrator will introduce the applicant and summarize the discussion at the initial

meeting. The applicant shall have the opportunity to describe the proposal, using conceptual plans or drawings. The planning commission may offer informal comments.

c. The applicant will schedule a community meeting and notify all residents and property owners within five hundred feet (500') of the site by mail. The applicant shall provide the mailing address list and proof of the mailing to the city. The meeting shall be held in Orting on a weeknight. The applicant shall be responsible for conducting the meeting and providing an attendance list and printed transcript, and copy of a tape recording of the meeting to the city administrator.

d. Upon receipt of the community meeting tape and transcript, the administrator shall advise the applicant of any additional application requirements beyond those specified below.

2. Step two full application: The applicant shall submit application for a cottage development binding site plan or unit lot subdivision and ADR. The community meeting transcript shall become part of the application record for use by the city in reviewing the application.

D. Cottage Housing Development Standards, Except As Modified During Binding Site Plan Review or Unit Lot Subdivision approval:

1. Minimum site area: Two thousand two hundred fifty (2,250) square feet of gross site area per dwelling unit.

2. Project size: Density per underlying zoning.

3. Minimum common open space: Four hundred (400) square feet per unit.

4. Perimeter setbacks per underlying zoning.

5. Minimum building separation: Ten feet (10').

6. Maximum building height: Eighteen feet (18'), twenty five feet (25') to roof peak.

7. Maximum building coverage: Forty percent (40%).

8. Maximum total site impervious coverage: Sixty percent (60%).

9. Maximum floor area: One thousand (1,000) square feet total, six hundred fifty (650) square feet ground floor.

10. Accessory dwelling units: Allowed when consistent with OMC 13-5-6.

11. Minimum street frontage: Twenty feet (20').

(Ord. 830, 6-28-2006; amd. Ord. 2024-1136, 12-11-2024)

13-6-6: NONCONFORMING USE PERMIT:

A. Purpose: The purpose of this section is to establish decision criteria and procedures to allow reasonable limited expansion and continuance of "nonconformities" as defined in section 13-5-9 of this title. Nonconformities require a special degree of control to ensure compliance with applicable regulations and compatibility with the comprehensive plan, adjacent uses and the character of the surrounding areas. Limited exceptions, expansions or changes of use are allowed after approval of a nonconforming use permit by the city. (Ord. 792, 7-29-2004; amd. Ord. 830, 6-28-2006)

B. Nonconforming Use Permit: Exceptions to the nonconforming standards, section 13-5-9 of this title, are allowed after city approval of a nonconforming use permit. Any application for a building permit or land use permit affecting an existing nonconformity shall require a nonconforming use permit. The city may impose such conditions as deemed necessary to ensure proposals conform to the intent of the comprehensive plan and this title.

1. Required Findings For Nonconforming Use Permit: The city shall grant a nonconforming use permit if documentary evidence is provided by the applicant to support the administrator's findings that:

a. Granting a nonconforming use permit is necessary to adapt the nonconforming use and associated structures to changes in technology, merchandising, or other generally recognized trends which affect the utility of structures or the applicant's ability to compete;

b. Granting a nonconforming use permit will not introduce any (additional) hazards or interfere with the potential development of nearby properties in accordance with present zoning regulations;

c. The nonconforming use and associated structures will comply with the requirements of subsection 13-5-9(B)(5) of this title;

d. The applicant's proposal will result in improvements in functionality or safety, or in exterior appearance, screening, access and other features which will make the use or structure more compatible with allowed uses; and

e. Granting a nonconforming use permit will not detract from the intent of the comprehensive plan and any implementing regulation.

2. Abandonment: An exception to the discontinuance standards in subsection 13-5-9(I) of this title may be granted by the city. Documentary evidence shall be provided by the applicant to show that the discontinuance was beyond the control of the applicant. If the city is satisfied by evidence that the discontinuance was beyond the control of the applicant, nonconforming rights shall be continued for the property or structure. The city may consider circumstances such as, but not limited to, the following:

a. The property or structure has been involved in litigation.

b. Attempt to lease the site is ongoing due to:

(1) Length of time involved for marketing of premises;

(2) The structure is a specialized type of building requiring a specialized type of use due to equipment, processes or configuration; or

(3) There is a uniqueness to the property giving the use special operating characteristics such as its location in relationship to transportation facilities, open spaces needed for operations or its proximity to other critical activities such as mineral extraction. (Ord. 889, 9-8-2010)

C. Approval: A nonconforming use permit may be approved, approved with additional requirements above those specified in this title, or approved with modification of the proposal to ensure that surrounding land uses or the character of the area are not adversely impacted.

D. Denial: A nonconforming use permit may be denied if the use is incapable of complying with specific standards set forth in this title and if any of the above required findings are not supported by evidence in record.

E. Application: Submittal requirements for a nonconforming use permit shall be the same as those for a variance. (See section 13-6-3 of this chapter.) (Ord. 792, 7-29-2004; amd. Ord. 830, 6-28-2006)

13-6-8: Site Plan Review

A. Purpose. The City Council finds that early planning and engagement with development review staff serves the interests of Orting citizens, businesses, and visitors by ensuring project consistency with adopted ordinances aimed at implementing Orting's vision, mission and values at the onset of a proposed development.

B. Applicability. This chapter applies to the following:

1. Change of land use (as listed in OMC 13-3-3, Table 1, and expressly distinct from occupancy ratings governed by the International Building Code) in an existing structure that increases the number of required off-street parking stalls.

2. Expansion of the total amount of gross floor area on an existing site.

3. Construction of a building, improvement, or structure not subject to an exemption in subsection (C) of this section.

4. Establishment of a new use or change of use which is not located in an existing building.

5. Any development subject to a SEPA threshold determination as determined by the City's SEPA Responsible Official.

C. Exemptions. The following activities are exempt from site plan review:

1. Normal or emergency repair and/or maintenance or existing structures or improvements.
2. Interior remodeling and tenant improvements, provided that there is no change of use.
3. Construction of single-family or duplex dwellings and their appurtenant or accessory structures.
4. Subdivisions, short plats, unit lot subdivisions, planned unit developments, binding site plans, and boundary line adjustments.
5. Land clearing subject to a clear and grade permit governed by OMC Title 10.
6. Temporary uses governed by Chapter 4 of this title.
7. Installation and replacement of underground utilities located in public rights-of-way and approved utility easements and corridors, or the installation of public utility pump stations, utility boxes, or utility vaults by the city or another public agency.
8. Any remediation activities of a known contaminated site listed with the Washington Department of Ecology, governed by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, or "Superfund site"), or otherwise governed by a public agency as determined by the City Administrator.
9. Circumstances determined by the City Administrator as exempt from this chapter.

D. Application. The following material or information is required to be submitted for development subject to this section:

1. A complete application for site plan review on forms furnished by the City.
2. A complete SEPA environmental checklist, when required.
3. Project description.
4. Topographic map based on a site survey prepared by a licensed surveyor in the state of Washington. The site survey shall include existing and proposed contours at no less than five-foot intervals and shall identify any critical areas.
5. Site plan, drawn to scale and showing location and size of all uses and structures, critical areas, buffers, area of disturbance, setbacks, landscaping, parking, easements, and utilities.
6. Circulation plan illustrating all access points for the site, size and location of all driveways or drive aisles, turning radii, and proposed pedestrian circulation system.

7. Mailing labels of all property owners as provided in title 15, chapter 7 of this code.

E. Criteria of Approval. Site plan review shall be processed as a Type 2 permit and shall only be approved when the Administrator makes the following findings:

1. The proposal is compatible with surrounding uses; and

2. The proposal in compliant with all germane codes, regulations, and ordinances.

F. Duration of Permit Approval. An approved site plan shall expire three years from the date of permit issuance, unless the site plan approval is appealed, in which case the permit shall expire three years following the date of the decision on the appeal.

(Ord. 886, 9-8-2010; amd. Ord. 943, 5-14-2014; Ord. 2019-1057, 1-8-2020; Ord. 2021-1081, 9-8-2021)

CHAPTER 7
SIGN REGULATIONS

SECTION:

13-7-1: Findings And Purpose

13-7-2: Definitions

13-7-3: Exemptions

13-7-4: General Regulations

13-7-5: Permit Required; Administration

13-7-6: Prohibited Signs; All Zones

13-7-7: Sandwich Board Signs

13-7-8: Temporary Signs

13-7-9: Limitations On Permanent Signs

13-7-10: Sign Variances

13-7-11: Nonconforming Signs

13-7-12: Abatement Of Illegal Signs

13-7-13: Liability Of City

13-7-14: Severability

13-7-1: FINDINGS AND PURPOSE:

A. Findings. The City Council finds as follows:

1. Signs are a means of personal free expression;

2. The use and display of signs is a legitimate use of public and private property, and is an integral part of the business and marketing functions of the local economy and serves to promote and protect private investments in commerce and industry, and is a necessary component of a commercial environment;

3. Signs can promote the efficient transfer of information by providing messages and information needed and sought by the public, allowing businesses and services to identify themselves; and, ensuring that customers and other persons may locate a business or service;

4. Easily read and properly designed and placed signage can be valuable to the public by assisting with way-finding, orientation, and decision making and therefore contribute in a positive way to the health, safety, and welfare of the public;

5. In the absence of regulation, the number of signs tends to proliferate, with property owners' desiring ever increasing numbers and sizes of signs, leading to cluttered and aesthetically blighted property and thoroughfares, and escalation in the size of signs erected by competing businesses;

6. The competition among competing sign owners for visibility of their signs contributes to safety hazards for both vehicles and pedestrians, and undermines the sign owners' original purpose of presenting a clear message of its idea or identification of its premises;

7. Persons exposed to signs can be overwhelmed by the number of messages presented, and may not be able to exercise freedom of choice to observe or ignore said messages, according to the observer's purpose;

8. Regulations restricting the size, material, construction, location and number of signs can create a pleasing environment for the entire community and enhance public safety;

9. Signs erected by the City are, in part, erected for the purpose of maintaining the public safety either through direct control of traffic or through provision of such type of signage as street signs which enable the traveling public to know where they are located and to find where they are going. With the exception of signs identifying government buildings and signs providing information on government-sponsored community events, virtually all government signs are erected purely for public safety purposes. Moreover, their use in the public right-of-way is necessary to ensure their visibility to the motoring public;

10. Public utility signs are frequently of the same nature as those signs erected by governmental entities in that they provide necessary information to safeguard the public from downed power lines and from street excavations. Even where signs serve a propriety purpose, such as identifying markings on utility poles, those signs are marked primarily for

the purpose of benefiting the public generally through identification of locations where there may be temporary losses of power and identifying potential hazards;

11. Some signage has a single targeted function and identification of such signage by description is impossible without referring to its function. For instance, address numerals are used for the sole purpose of locating addresses, which is of benefit to persons looking for those addresses and is essential to public safety personnel responding to emergencies. Subdivision signs at the entrances to subdivisions favor a similar purpose in enabling both the traveling public and emergency personnel to quickly locate subdivision entrances for the purpose of either visitation or responding to emergency calls. While such signage is often referenced based upon the function it serves within the context of this ordinance, whenever possible, it is the intent of this ordinance to refer to signs unrelated to the content of the message provided;

12. Driver distraction is a significant cause of motor vehicle accidents leading to property damage and personal injury;

13. Signs visible from motor vehicles being driven upon streets in the City have a visual impact upon the drivers of those vehicles;

14. Signs can overwhelm the public, unduly distract and confuse motorists by diverting attention away from the roadway, and result in safety threats to vehicular and pedestrian traffic;

15. Signs can create traffic hazards by confusing or distracting motorists and pedestrians, or by impairing the driver's ability to see pedestrians, obstacles, or other vehicles, or to read traffic signs;

16. Brightly lit signs, flashing electronic signs, and overly animated signs waste valuable energy, contribute to light pollution, produce hazardous glare, and create the potential for distracting or confusing motorists, thereby negatively impacting the health, safety, and welfare of the public;

17. Signs which are unregulated as to size, location and appearance can increase the level of distraction of motorists, interfere with early identification of traffic control devices, and hinder the smooth and safe movement of traffic;

18. Portable signs contribute to visual clutter and present distractions to drivers and pedestrian users of the public sidewalks, crosswalks and other pedestrian pathways;

19. Lightweight design and easy mobility of portable signs create a potential for extraordinary safety hazards. Portable signs are often placed in close proximity to public rights-of-way in order to optimally attract the attention of motorists. Such placement creates visual obstruction of oncoming pedestrian and vehicular traffic for motorist's ingressing or egressing from a place of business;

20. Portable signs also have a tendency to be blown about in strong winds causing and creating visual clutter, obstruction of pedestrian and vehicular passage, safety hazards, and damage to landscaping;

21. Portable signs with electrical connections and components, if improperly maintained, pose a serious public safety hazard;

22. Improperly constructed and poorly maintained signs may be safety hazards that constitute a public health risk;

23. Moving signs are intended to distract the attention of drivers and pedestrians to call attend to the message on the sign and create a greater distraction to drivers and pedestrians than stationary signs of similar size and appearance;

24. Signs can constitute aesthetic harm by cluttering the rural landscape and highway corridors and adversely affecting the naturally scenic views and native environment;

25. Signs may conceal or obstruct windows, doors, or significant architectural features or details of buildings;

26. Signs can create a hazard due to collapse, fire, collision, decay or abandonment;

27. Signs can obstruct firefighting or police surveillance;

28. Signs can arbitrarily deny the use of the lines of vision from the public right-of way;

29. Regulation of signs can protect the public welfare and enhance the appearance and economic value of the City and protect or increase property values;

30. The regulatory standards set forth in this Code are consistent with customary use in this City and will properly carry out the purposes of this Code.

B. Purpose: This Chapter establishes regulations governing the installation, alteration, relocation, maintenance, use, and removal of signs in the City in a manner that recognizes the importance of signage for the economic well-being of businesses within the City while promoting a quality visual environment and protecting our views and vistas. These regulations are further intended to balance the need to protect the public safety and welfare, the need for a well-maintained and attractive community, the need for adequate identification, communication and advertising; and, to protect free expression.

Specifically, this Chapter seeks to accomplish the following:

1. Encourage commercial communication which is responsive to the needs of the public in locating a business establishment by identification address, product, and/or service information; and

2. Promote the enhancement of business and residential properties and neighborhoods by fostering the erection of signs complementary to the buildings and uses to which they relate and which are harmonious with their surroundings; and

3. To protect and enhance the visual character and identity of the community by the thoughtful placement and design of signs; and

4. To reflect and support the desired character and development patterns of the various zones of the City by requiring that signs, adhere to chapter 13-10 of this title

pertaining to the architectural design style for the City. Chapter 13-10 of this title states that these regulations are intended to implement and further the comprehensive plan of the City by ensuring that all development in the mixed use-town center and mixed use-town center north, and all commercial and public development within the City limits, is designed to be consistent with the adopted architectural theme of "turn of the century: western or Victorian"; and

5. Ensure that signs, including indoor signs visible from streets or ways open to the public, do not create obstructions to motorists by interfering with sight lines or directional traffic signs or in any other way endanger the safety, health, or welfare of citizens and visitors to the City; and

6. To ensure that signs are designed, constructed, installed and maintained according to minimum standards to safeguard life, health, property and public welfare; and

7. To ensure that the constitutionally guaranteed right of free speech is protected by regulating signs in a content-neutral manner; and

8. To improve pedestrian and traffic safety; and

9. Eliminate clutter and visual distraction by ensuring signs are appropriate in size and relationship to the subject property, street frontage and building size; and

10. Allow sufficient flexibility and incentive for creative and innovative sign designs; and

11. Safeguard and enhance property values, attract new residents, and encourage orderly City development; and

12. Allow for limited temporary commercial signage in the public right of way, to provide a flow of truthful and legitimate commercial information to consumers to enable them to make vital decisions, particularly as it relates to the purchase of a home, and to further the critical public goal of providing for equal access to housing; and

13. Ensure consistency with the goals and policies of the Comprehensive Plan.

(Ord. 2019-1041, 5-29-2019; amd. Ord. 2021-1081, 9-8-2021)

13-7-2: DEFINITIONS:

The following definitions shall apply to this Chapter:

ABANDONED SIGN: A sign that no longer correctly identifies, exhorts, or advertises any person, business, lessor, owner, product, or activity conducted or available on the premises where such sign is located and which has not been changed or removed within one hundred eighty (180) days of a tenancy change; or an on-premises sign which is damaged, in disrepair, or vandalized and not repaired within sixty (60) days of the damaging event.

ANIMATED SIGN: Any permanent sign that flashes or simulates motion with an electronic or manufactured source of supply or contains wind actuated motion (excluding flags or banners). Animated signs may include a sign that meets the definition for revolving signs, or changing message centers.

BANNER SIGN: A temporary sign constructed of fabric or other suitable material which is attached or suspended at two (2) ends or continuously across the long side. Attachment or suspension may be from buildings and/or poles. Flags, insignias, canopy signs, and posters are not considered "banner signs".

BILLBOARD SIGN: A large permanent sign which directs attention to a business, profession, product, activity, or service which is not conducted, sold, or offered on the premises where the sign is located. The approximate size of the billboard faces ranges from twelve to fourteen feet (12' to 14') in height and twenty four to forty eight feet (24' to 48') in width.

CANOPY SIGN: Any permanent sign that is part of or attached to a canopy, or a non-rigid, retractable or non-retractable, protective

covering located at the entrance to a structure. Canopy, under canopy, projected, and wall signs are considered wall signs for the purpose of determining sign area. Canopy signs must comply with the architectural design review process stated in 13-10 of this code.

CHANGING MESSAGE SIGN: An exterior, electrically controlled permanent sign that displays different copy changes on the same lamp bank which change at intervals of thirty (30) seconds or greater. This includes electronic reader boards.

COPY: The linguistic or graphic content of a sign.

DIRECTIONAL SIGN: A permanent non-commercial sign used to direct pedestrian or vehicular traffic to a facility, service, or business.

DISPLAY CASE: A permanent, freestanding sign with changeable copy.

ELECTRICAL SIGN: A permanent sign or sign structure in which electrical wiring, connections, and/or fixtures are used as part of the sign proper.

EXTERNAL ILLUMINATED SIGN: A permanent sign illuminated by an external light source.

FAÇADE: The entire building front, or street wall face, including grade to the top of the parapet or eaves, and the entire width of the building elevation. Façade is calculated by multiplying the width of the building front by the height of the building façade.

FESTOON (GARLAND): A temporary strip or string of lights or other decorations.

FLAG. A temporary sign composed of a fabric sheet of square, rectangular or triangular shape which is mounted on a pole, cable or rope at one (1) end, including by way of example and not limitation, feather flags, bow flags, flutter and such similar flags.

FLAG LOT: A large lot not meeting minimum street frontage requirements where access to the street is provided by a narrow, private driveway. Development on flag lots created after November 1, 2005, shall be subject to review and approval standards.

FLASHING SIGN: An electrical permanent sign or a portion thereof which changes light intensity in a sudden transitory burst, or which switches on and off in a constant pattern in which more than one-third of the non-constant light source is off at any one time.

FLOATING SIGN: A permanent sign that is air or gas filled that floats or has movement in the air.

FLUTTER SIGN or FLUTTER FLAG: A sign made of cloth, plastic or similar material affixed to a pole that is located outdoors. Flutter or flutter signs are “temporary signs,” securely anchored for safety but not permanently anchored to a structure, or weighted base. This type of sign is prohibited.

FREESTANDING SIGN: A permanent sign, not attached to any building or structure, which is securely and permanently attached to the ground or a built-up landscaped area. The height of a freestanding sign shall be measured from the crown of the road adjacent to the location of the sign or from the ground at the base of the sign supports to the top of the sign, whichever is higher in elevation. Freestanding signs must comply with the architectural design review process stated in 13-10 of this code.

FRONTAGE: The measurement, in linear feet, of the length of the property line for a single-tenant building or length of leased building frontage for multitenant buildings or multi building complexes that abuts a public or private street right-of-way. If the building abuts a public or private right of way on more than one side, the right of way which the building addresses off of will be used to determine frontage.

GRADE: The relative existing ground level in the immediate vicinity of the sign.

GOVERNMENT FLAG. Any flag or badge or insignia of the United States, State of Washington, Pierce County, or City of Orting.

INCIDENTAL SIGN: A permanent sign, generally informational, that has a purpose secondary to the use of the property on which it is located, and which is used to do one or more of the following:

A. Direct traffic flow, vehicular or pedestrian, i.e., "one-way", "crosswalk", "do not enter", etc.

B. Clearly indicates location of ingress and egress points, i.e., "entrance", "exit";

C. Direct certain activities to certain areas, i.e., "parking", "no parking", "waiting", "loading", etc.; or

D. Provide other similar incidental information, i.e., "no trespassing", "no hunting", "phone", "ATM", "no dumping", "no loitering".

INTERNAL ILLUMINATED SIGN: A permanent sign with an internal light source shining through the face of the sign. Exposed neon signs are internally illuminated.

OFF-PREMISES SIGN: A sign relating, through its message and content, to a business activity, use, product or service not available on the premises upon which the sign is erected.

ON-PREMISES SIGN: A sign which carries a message and content incidental to a lawful use of the premises on which it is located, including signs indicating the business transacted, services rendered, goods sold or produced on the premises, name of the person, firm or corporation occupying the premises.

PERMANENT SIGN. Any sign which is intended to be lasting and is constructed from an enduring material such as masonry and metal which remains unchanged in position, character, and condition (beyond normal wear), and is permanently affixed to the ground, wall or building, provided the sign is listed as a permanent sign in the ordinance.

PORTABLE SIGN: A temporary sign made of any material, including paper, cardboard, wood or metal, which is capable of being moved easily and is not permanently affixed to the ground, structure or building. This also includes sidewalk or sandwich board signs.

PROJECTING SIGN: A permanent wall sign that is attached perpendicularly to the façade of the building. Canopy, under canopy, projected, and wall signs are considered wall signs for the purpose of determining sign area. Projecting signs must comply with the architectural design review process stated in 13-10 of this code.

READER BOARD: A permanent sign face designed to allow copy changes either by manual or electronic means in which the message is static and can only be changed physically by the owner and/or operator.

REAL ESTATE SIGN: Any temporary or permanent sign, which is used to offer property for sale, lease, or rent.

RESIDENTIAL DEVELOPMENT SIGN: A permanent sign which identifies a residential development upon which the sign is located.

RETAIL OR MIXED USE CENTER: A shopping center or other mixed use property having four or more tenants.

REVOLVING SIGN: Any permanent sign that rotates or turns in motion by electrical or mechanical means in a circular pattern.

SANDWICH BOARD/SIDEWALK SIGN: A portable sign consisting of two (2) sign faces hinged at the top and separated at the bottom to make it self-standing.

SEARCH LIGHT: An apparatus for projecting light: an apparatus for projecting a high intensity beam of light in any direction.

SIGN: Any writing, video projection, pictorial representation, number, illustration, decoration, flag, banner, pennant, emblem, or other device which is displayed for informational or communicative purposes. The term "sign" shall include the structure, including all associated brackets, braces, supports, lighting and wires, specifically intended for supporting a sign, whether the sign is free standing or attached or affixed to a building.

SIGN, COMMERCIAL. A permanent or temporary sign erected for a business transaction or advertising the exchange of goods and services.

SIGN HEIGHT: The vertical distance measured from the adjacent grade to the highest point of the sign, except the height of a freestanding sign shall be measured from the crown of the road adjacent to the location of the sign or from the ground at the base of the sign supports to the top of the sign, whichever is higher in elevation.

SIGN, NONCOMMERCIAL. Any permanent or temporary sign that is not a commercial sign. This definition also includes signs regarding fund raising or membership drive activities for noncommercial or nonprofit entities or groups and political signs.

SIGN STRUCTURE: Any structure that supports or is capable of supporting any sign as defined in this Chapter. A sign structure may be a single pole or may or may not be an integral part of the building or structure.

TEMPORARY SIGN: Any sign, banner, pennant, or valance constructed of cloth, canvas, light fabric, cardboard, wallboard or other like materials. Any sign not permanently attached to the ground, wall or building, intended to be displayed for a short period of time only.

UNDER CANOPY SIGN: Any permanent sign that is mounted underneath a canopy or a non-rigid, retractable or non-retractable, protective covering located at the entrance to a structure. Canopy, under canopy, projected, and wall signs are considered wall signs for the purpose of determining sign area. Under canopy signs must comply with the architectural design review process stated in 13-10 of this code.

WALL SIGN: Any permanent sign attached directly to and supported by the wall of a building or permanent structure. Canopy, under canopy, projected, and wall signs are considered wall signs for the purpose of determining sign area. Wall signs must comply with the architectural design review process stated in 13-10 of this code. (Ord. 2019-1041, 5-29-2019; amd. Ord. 2021-1081, 9-8-2021; Ord. 2023-1103, 1-25-2023)

13-7-3: EXEMPTIONS:

The standards and regulations set forth in this Chapter apply to all signs proposed for installation in the City, with the exception of all signs set forth in OMC 13-10-1(E)(5)(c) and with the exception of the following:

A. Historic site markers or plaques, gravestones, and address numbers not more than ten (10) inches in height;

B. Signs erected on public property by the state of Washington, the United States, the county of Pierce, or the City of Orting, displaying a public service message, or other regulatory, statutory, traffic control or directional message;

C. Plaques, tablets, or inscriptions indicating the name of a building, date of erection, or other commemorative information, which are an integral part of the building structure or

are attached flat to the face of a structure or other natural surface, and do not exceed two (2) square feet in area;

D. Religious displays;

E. A mural, defined as a one-of-a-kind, hand-painted, hand-tiled, or digitally printed image on the exterior wall of a building that does not contain any commercial message. Murals require a building permit from the City through the architectural design review process, section 13-10F of this code, prior to installation;

F. Signs displayed within the interior of any structure and not visible from streets or ways open to the public, except when such signs negatively impact public health and safety;

G. Incidental signs that do not exceed three (3) square feet in area;

H. Exterior signs bearing the name of the occupant of a dwelling unit, defined at section 13-2-5 of this code, not exceeding three (3) square feet in area;

I. Government flags;

J. Official or legal notices issued and posted by any public agency, as defined by law, or court; and

K. Public notices of development applications required per Ch. 15 of this code.

(Ord. 2019-1041, 5-29-2019)

13-7-4: GENERAL REGULATIONS:

A. Conflict: Where regulations conflict within the provisions codified in this Chapter or with other ordinances, the most stringent regulation shall apply.

B. Visibility: No sign shall be erected that interferes with the visibility of traffic control devices or street name signs nor shall any sign be placed so as to cause visual obstruction of a public right of way.

C. Permanent Sign Structure And Installation: The structure and installation of all signs shall comply with this Chapter, Titles 13 and 10 of the OMC, and the latest adopted edition of the City's building code.

D. Architectural Details: Signs shall be located so as to complement the original architecture features and character of the building. Permanent signs are subject to the requirements of chapter 13-10 of this title. All signs may not cover or obscure important architectural details of a building such as stair railings, turnings, windows, doors, decorative louvers, or similar elements intended to be decorative features of a building design. All signs must appear to be a secondary and complementary feature of the building facade. Wall signs must be located within architectural sign bands or other blank spaces which visually frame the sign. Blank wall sections above or between windows and doors,

for example, may provide an effective location for signage. Signs hanging between pillars and archways may also be an effective design solution.

E. Owner Shall Maintain: All signs shall be maintained by the owner of the sign to show no signs of deterioration, including, but not limited to, rust, holes, discoloration, peeling paint, trash, or overgrowing weeds.

F. Illumination: Indirect illumination is preferred and shall be lighted in such a manner that glare from the light source is not visible to pedestrian or vehicle traffic. Internally illuminated signs must adhere to the standards in subsection L. Internally illuminated signs shall be designed to emphasize the lighting of the sign text, message and/or symbols, while minimizing the lighting of the background of the sign face. Temporary signs shall not be illuminated.

G. Permanent Freestanding Signs: Permanent freestanding signs are considered structures for purposes of compliance with required setbacks. Landscaping shall be used in conjunction with all permanent freestanding signs and may utilize shrubs and plantings or decorative features such as concrete bases, planter boxes, or ornaments.

H. Ownership And Removal Of Signs:

1. Private Property: The property owner or lessee is responsible for all signs on private property and compliance with this Chapter and all other applicable regulations. The property owner or lessee shall immediately remove all illegal, damaged, vandalized or abandoned signs. Signs on private property in violation of this Chapter shall be abated by the City pursuant to the process set out in this Chapter.

2. Public Right Of Way: Except as otherwise provided in this Chapter, no permanent signs shall be placed in the public right of way. Temporary non-commercial signs may be placed in the public right of way with a permit issued by the City, and are subject to the regulations set forth in this Chapter. The permittee shall remove permitted temporary sign(s) placed in the public right of way, pursuant to the terms of the permit. The City or its agents may summarily remove any sign placed in the right-of-way or public property in violation of the terms of this Chapter and is entitled to recover the costs of abatement from the permittee, in accordance with the process set out in this Chapter.

I. Directional Signs: On premises permanent directional signs not exceeding four (4) square feet in area may be permitted for each entrance or exit to a surface parking lot. Permanent directional signs may be permitted within the public right of way with the permission of the immediately adjacent property owner, pursuant to the permit process stated in this Chapter. Off premises permanent directional signs, whether on private or public property, shall only identify the facility or site and its distance and direction from the sign.

J. Sign Area Determinations:

1. Sign area for freestanding signs shall be calculated by determining the total surface area of the sign as viewed from any single vantage point, excluding support structures.

2. Sign area for letters or symbols painted or mounted directly on wall or freestanding signs shall be calculated by measuring the smallest single rectangle which will enclose the combined letters and symbols.

3. Sign area for signs contained entirely within a cabinet and mounted on a wall or freestanding sign shall be calculated by measuring the entire area of the cabinet.

4. Perimeter of all other signs shall be established by the smallest rectangle enclosing the extreme limits of the letter module or advertising message being measured.

K. Installation Prohibited:

1. No sign shall be installed, attached to, supported by or propped up against any utility pole, light standard, traffic sign, tree, fire hydrant, or any other public facility located within the public right of way.

2. No sign shall be mounted above the roofline and/or on the roof of a building.

L. Internally Illuminated Signs:

1. Internally illuminated signs are only permitted as a secondary, permanent sign, supplementary to a business's primary sign which shall not be internally illuminated or be a changing message sign.

2. The text that changes in a changing message sign is limited to a single color and must be a warm-toned off-white or similar color and the background must be a dark toned color as approved by the planning commission in compliance chapter 13-10 design review standards. The colors of the sign, letters, and background shall remain fixed.

3. Signs shall have a maximum luminance of not more than 0.2 foot-candles over ambient lighting conditions.

4. Changing message signs shall have dimming capability to allow adjustment of sign brightness when required by the City to accommodate local ambient conditions.

5. An electronic message may not change more frequently than every thirty (30) seconds;

6. Rotating, traveling, pulsing, flashing or oscillating light sources, lasers, beacons, searchlights or strobe lighting shall not be permitted.

7. Electronic signs shall not exceed the number, type, size, and height requirements set forth in section 13-7-9;

8. Electronic signs shall be permitted only in the MUCTN, MUTC, and PF zones.

9. The sign structure must comply with the architectural design review standards found in chapter 13-10.

M. Right of Way Frontage Determination for Flag Lots:

1. The maximum sign area for freestanding signs is determined by the frontage on a public right of way. Frontage for flag lots is determined by the length, in linear feet, of the building which contains the primary entrance to the uses within the building.

N. Wall Sign Area Determination:

1. Canopy, under canopy, projected, and wall signs are considered wall signs for the purpose of determining sign area. (Ord. 2019-1041, 5-29-2019; Ord. 2021-1081, 9-8-2021; Ord. 2023-1103, 1-25-2023)

13-7-5: PERMIT REQUIRED, ADMINISTRATION:

A. Permanent Signs - Permit Required: Except as otherwise provided in this Chapter, no permanent sign shall be erected, altered, or relocated within the City without a sign permit issued by the City of Orting Building Department, following submission, review and approval of the sign through the architectural design review process, set out in chapter 13-10 of this code. This Chapter shall not be construed to require any permit for the change of copy (font design must conform to ADR's) on any sign, nor for the repainting, cleaning, and other normal maintenance or repair of a sign or sign structure for which a permit has previously been issued, so long as the sign structure has not been modified in any way.

1. Application: A City sign permit application must be completed and submitted to the City Building Department, and shall include the following:

a. All plans and layouts for the proposed sign, including a drawn to scale site plan to be submitted to the City; and

b. Evidence of commercial general liability insurance with a responsible insurance company, licensed to do business in the state of Washington, properly protecting and indemnifying the City for injury to or death of persons and for property damage arising out of the presence of the permitted sign, including but not limited to a certificate or certificates of insurance, in a form acceptable to the City, and naming the City as an additional insured.

2. No sign permit shall be issued for any sign subject to design review and approval until such time as the sign has been approved pursuant to chapter 13-10 of this title.

3. Time Limitations: Sign permits authorized by the City of Orting Building Department shall expire within one hundred eighty (180) days, if the sign installation has not been completed and approved. If the sign installation has not been completed and approved within that time period, the permit may be extended for a single period of up to one hundred twenty (120) days from the date of expiration of the initial permit, if the request for extension is made prior to the expiration date of the initial permit. Once the sign is installed and approved by the Building Department, the permit shall expire one (1) year from the date of issuance.

B. Temporary Signs - Permit Required: Except as otherwise provided in this Chapter, no temporary sign shall be erected, altered, or relocated within the City without a sign permit

issued by the City of Orting. To obtain a permit, the permittee shall submit an application to the Cashier at City Hall, along with the proposed sign. The permit shall state the permit's expiration, which shall be set in accordance with this Chapter.

(Ord. 2019-1041, 5-29-2019)

13-7-6: PROHIBITED SIGNS, ALL ZONES:

The following signs are prohibited in all zones within the City:

A. Permanently constructed signs located in or projecting into the public right of way, unless otherwise provided in this Chapter;

B. Any sign attached to or placed on a vehicle or trailer parked on public property. The prohibition of this subsection does not prohibit the identification of a firm or its principal products on a vehicle operating during the normal course of business;

C. Signs which blink, flash, rotate, contain changing images or text that are electronically generated, or are animated by lighting in any fashion, or that are internally illuminated;

D. Signs which by coloring, shape, wording, or location resemble or conflict with traffic control signs or devices;

E. Off premises signs, signage on fencing, and commercial signs in primarily residential zones (RC, RU, RMF), except as specifically allowed in this Chapter;

F. Billboard signs;

G. Floating signs; and

H. Mannequins used for signage. (Ord. 2019-1041, 5-29-2019; amd. Ord. 2021-1081, 9-8-2021)

13-7-7: SANDWICH BOARD SIGNS:

A. Sandwich board signs are a type of temporary sign permitted by the City in accordance with this Chapter.

B. Sandwich board signs are allowed subject to the following restrictions:

1. Sandwich board signs are limited to thirty-six inches (36") in height and thirty inches (30") in width. They must be constructed of durable materials.

2. Sandwich board signs may be located on public sidewalks or adjacent areas in a manner so as to allow adequate pedestrian circulation allowing a minimum of three (3) feet of available sidewalk path, including safe and unconstrained access to parked vehicles. Sandwich board signs shall be placed adjacent to the sign owner's business or premises except when the applicant can demonstrate a need for placement up to one hundred feet

(100') from the business or premises and with the permission of the immediately adjacent property owner(s).

3. No sandwich board sign shall be placed within thirty feet (30') of another sandwich board sign.

4. Under no circumstances may a sandwich board sign be placed on the portion of the public right of way upon which vehicles regularly traverse or park. No sign shall be placed in median strips, planter/traffic islands, or in the roadway, including on vehicles. The City shall determine, at its sole discretion, the approved location of sandwich board signs to ensure pedestrian safety and vehicle circulation. Sandwich board signs shall not be located within thirty feet (30') of street intersections or where they inhibit motorist sight distances.

5. No single business or other party shall site more than one sandwich board sign within the City.

6. Sandwich board signs may only be displayed during the hours the premises or business is open to the general public, provided non-commercial sandwich board signs may be placed in the public right of way for a maximum period of twelve (12) hours per each twenty-four (24) hour period.

7. Sandwich board signs that are not permitted or are otherwise out of compliance with this Chapter shall be abated by the City, pursuant to the process set out in this Chapter.

8. The sign owner shall maintain the sign in the condition originally approved.

9. Sandwich board signs are not subject to the time limits as stated in section 13-7-8 C-1-iii.

(Ord. 2019-1041, 5-29-2019; Ord. 2023-1103, 1-25-2023; Ord. 2023-1106, 6-14-2023)

13-7-8: TEMPORARY SIGNS:

A. Temporary signs are allowed throughout the City, subject to the restrictions imposed herein and other relevant parts of this code. No temporary commercial or noncommercial sign shall be located on public property, or within public easements or street rights of way, except as otherwise provided in this Chapter. Except as otherwise provided in this Chapter, temporary signs shall be exempt from the architectural design review requirements of section 13-10 of this title.

B. General Requirements.

1. No temporary signs shall be located within the center median of principal, minor, and collector arterials or within roundabouts, traffic circles, or islands, or within ten (10) feet from any intersection so as to preserve driver site visibility. No temporary signs over thirty-six (36) inches in height are permitted within fifteen feet (15') of a road or driveway.

2. Temporary signs shall not be illuminated.

3. Temporary signs shall not be attached to any utility pole, fence, building, structure, object, tree or other vegetation located upon or within any public right-of-way or publicly owned or maintained land.

4. Temporary signs shall not be erected without the permission of the owner of the property on which they are located, nor shall they be placed in such a manner as to obstruct or interfere with traffic or endanger the health or safety of people or endanger property.

5. Temporary signs shall be made of weather-resistant materials and shall be securely anchored to a weighted base or structure or able to stand freely without toppling or blowing over. Signs and parts of signs that are blown or carried away from their intended location may be collected and disposed of as litter.

6. Temporary signs shall be maintained in good repair.

7. Flutter flag signs are not a permitted type of sign.

8. Temporary signs on public property, other than public rights-of-way, are prohibited, except:

a. Two (2) temporary signs may be utilized per business/vendor for permitted special events (see section 3-2-26) or permitted vendors (see section 8-6-3) on public property, subject to a valid special event permit for the duration of the special event or valid vendor permit, provided:

(1) The temporary signs shall not be affixed to any structures or fixtures owned by the City; and

(2) The temporary signs shall not exceed a maximum height of six feet (6') from the ground.

C. Additional Regulations Specific To Temporary Commercial Signs.

1. General Commercial Signs.

a. No business or other party shall display more than two (2) temporary commercial signs simultaneously for no longer than thirty (30) continuous days.

b. No two (2) temporary signs may be closer together than thirty (30) feet.

c. Temporary signs may be displayed for no more than three (3) non-consecutive 30-day periods, per sign, within a calendar year.

2. Construction: Development projects under construction shall be permitted to place one sign on each street frontage during the period of construction. The total area of all construction signs for each project shall not exceed thirty-two (32) square feet. No construction signs shall be placed until the City has issued a building permit for the project and the sign has been issued a Temporary Sign Permit.

3. Temporary Signs Placed On Property For Sale Or Lease: Temporary signs placed on property for sale or lease are permitted, subject to the following:

a. Zones Permitted: Temporary signs placed on property for sale or lease shall be permitted in all zones except the public facilities, open space and recreation zones.

b. On-Premises: Such signs shall be limited to one sign per street frontage not to exceed six (6) square feet in sign area per side, placed wholly on the property for sale. All temporary signs placed on property for sale or lease shall be removed within five (5) days of the final sale or rental.

c. Off-Premises: During any time when a property for sale or lease is open for public viewing, one (1) sign per dwelling unit or property for sale or lease may be displayed:

(1) On private property, with the consent of the property owner; or

(2) In public rights-of-way, other than paved vehicular travel lanes, paved parking areas, sidewalks or pedestrian paths, driveway aprons and center medians.

4. Temporary signs advertising the sale of lots located within a planned development under construction shall be permitted; provided, that there shall be no more than one sign per entrance, and each sign shall be not greater than thirty two (32) square feet in area, no greater than eight feet (8') in height, and erected for no longer than a period of one year.

5. Sign Plan: At the time of submittal of an application for final planned development and/or plat approval, the applicant shall submit a sign plan which shall identify all proposed on-site and off-site locations, sizes, and designs for proposed temporary signs advertising the lots and/or houses. The sign plan shall also describe the applicant's responsibility for sign maintenance and removal, which shall be prepared in accordance with the terms of this Chapter. The approved sign plan shall be in force for one year unless an extension is granted by the City.

D. Additional Regulations Specific To Temporary Noncommercial Signs:

1. Temporary noncommercial signs on private property shall not exceed three (3) square feet in area.

2. Temporary noncommercial signs may be placed in the public right of way, subject to the following:

a. The sign shall not exceed three (3) square feet in area;

b. The sign shall not be displayed for longer than one hundred eighty (180) days per calendar year;

c. The sign shall be designed and constructed so as not to interfere with the sight distance of, or otherwise present a hazard to, motorists proceeding on or approaching on adjacent streets, alleys, driveways, or parking areas, or of pedestrians proceeding on or approaching on adjacent sidewalks or pedestrian-ways, as determined in the City's sole discretion; and

d. There shall be a minimum of thirty feet (30') between each sign pertaining to the same noncommercial topic, organization, entity or person. (Ord. 2019-1041, 5-29-2019; amd. Ord. 2021-1081, 9-8-2021)

13-7-9: LIMITATIONS ON PERMANENT SIGNS:

A. Number, Type, Size, And Height Limitations: All permanent signs subject to regulation under this Chapter are subject to the following limitations upon number, height, size, and type:

Frontage On A Public Right Of Way In Feet	Number of Signs Permitted	Type Of Signs Permitted	Maximum Sign Area for Wall Signs	Maximum Sign Area for Freestanding Signs	Maximum Height Of Signs
Less than 50	2	Canopy, wall, under canopy, and projecting	Maximum of 10% of square footage of building facade	-	Signs shall not extend above the roofline. Projected signs and under canopy signs must provide a minimum 7'6" vertical clearance from sidewalk
At least 50 but less than 100	2	Canopy, wall, under canopy, projecting, and freestanding	Maximum of 10 % of square footage of building facade	72 sf (both faces) 36 sf (per face)	Signs shall not extend above the roofline. Freestanding signs shall not exceed 5 feet and must be set back a minimum of 5' from any property lines. Projected signs and under canopy signs must provide a minimum 7'6" vertical clearance from sidewalk

At least 100 but less than 200	2	Canopy, wall, under canopy, projecting, and freestanding	Maximum of 10 % of square footage of building facade	100 sf (both faces) 50 sf (per face)	Signs shall not extend above the roofline. Freestanding signs shall not exceed 5 feet and must be set back a minimum of 5' from any property lines. Projected signs and under canopy signs must provide a minimum 7'6" vertical clearance from sidewalk
At least 200 but less than 300	3	Canopy, wall, under canopy, projecting, and freestanding	Maximum of 10 % of square footage of building facade	130 sf (both faces) 65 sf (per face)	Freestanding signs shall not exceed 5 feet and signs shall not extend above the roofline. Freestanding signs must be set back a minimum of 5' from any property lines. Projecte d signs and under canopy signs must provide a minimum 7'6" vertical clearanc e from sidewalk.
Greater than 300	3	Canopy, wall, under canopy and freestanding	Maximum of 10 % of square footage of building facade	160 sf (both faces) 80 sf (per face)	Freestanding signs shall not exceed 8 feet and signs shall not extend above the roofline. Freestanding signs must be set back a minimum of 5' from any property lines. Projected signs and under canopy signs must provide a

minimum 7'6" vertical clearance from sidewalk.

B. Retail Or Mixed Use Centers:

1. One freestanding sign shall be permitted for each street frontage of each center, subject to architectural design review and permitting under chapter 13-10 and section 13-7-11 of this code. The maximum sign area permitted is one hundred sixty (160) square feet for the total of all faces, and no one face shall exceed eighty (80) square feet. The maximum height of a freestanding sign shall be eight feet (8').

2. A maximum of forty (40) square feet of sign area shall be permitted for each individual establishment in a center, subject to architectural design review and permitting under chapter 13-10 and section 13-7-11 of this code. No combination of signs shall exceed ten percent (10%) of the facade to which they are attached.

C. Other Permitted Permanent Signs:

1. Permanent Residential Development Signs: One sign at each entrance into the development from each abutting street is permitted, subject to architectural design review and permitting under chapter 13-10 and section 13-7-11 of this code. The sign may be a single sign with two (2) faces of equal size or may be two (2) single faced structures of equal size located on each side of the entrance. Sign faces shall not exceed thirty-two (32) square feet in area. Signs may be externally illuminated.

a. Development signs shall be maintained perpetually by the developer, the owner of the sign, the homeowners' association, or some other entity who is authorized in accordance with the permit.

2. Permanent Residential Home Based Business Signs: Home based businesses may display a limit of one sign. The sign shall be no more than six (6) square feet in size and requires a city permit. The sign will not require Architectural Design Review. The sign can be placed on the home or in the yard. If the sign is placed in the yard it must be at least one (1) foot away from sidewalks and/or the property line. The sign cannot be more than 3' high from the ground. No lighting allowed of any type. In neighborhoods with Home Owners Association Covenants and Restrictions, home based business signs may not be allowed.

D. Projected And Under Canopy Permanent Signs: Projected and under canopy signs are subject to architectural design review and permitting under chapter 13-10 and section 13-7-11 of this code. A projected sign or under canopy sign may encroach within, upon or over the public right of way, including any public sidewalk, provided that, such sign meets the requirements of this Chapter, the proposed sign is designed and constructed so as not to interfere with the sight distance of, or otherwise present a hazard to, motorists proceeding on or approaching on adjacent streets, alleys, driveways, or parking areas, or of pedestrians proceeding on or approaching on adjacent sidewalks or pedestrian ways, and the sign

meets the provisions of section 13-7-8 of this code. (Ord. 2019-1041, 5-29-2019; amd. Ord. 2023-1103, 1-25-2023; Ord. 2023-1106, 6-14-2023)

13-7-10: SIGN VARIANCES:

Any person, business or entity seeking to utilize a sign that is not permitted pursuant to the regulations stated in this Chapter may seek a variance from these regulations. The planning commission reviews sign variance applications and determines if the variances are to be granted using the following criteria:

A. The granting of the sign variance would not be materially detrimental to the property owners in the vicinity, and the variance sought is of minimum sign size, height, and scope to meet the conditions and needs of the applicant;

B. The granting of the variance would not be contrary to the objectives of this Chapter and chapter 13-10 of this title;

C. The signage of the property in question cannot be adequately met under the literal interpretation and strict application of this Chapter; and

D. The granting of the variance is necessary because of special circumstances relating to property location, topography, shape, size, sight distance, and limited view to property.

(Ord. 2019-1041, 5-29-2019)

13-7-11: NONCONFORMING SIGNS:

A. For the purpose of this section, a "nonconforming sign" shall be defined as a sign that meets the following criteria:

1. The sign was lawfully erected as evidenced by prior approval by the Planning Commission; and

2. The sign existed prior to the adoption and/or relevant amendment of these regulations, in the same location affixed in a permanent manner to the ground or the building without modification other than routine maintenance and repair; and

3. The sign is associated with an existing and operating business or activity; and

4. The sign fails to meet one (1) or more requirements of this Chapter.

B. All on-site and off-site nonconforming signs not otherwise prohibited by the provisions of this Chapter, installed prior to the year 2000, shall be removed or altered to conform to the provisions of this Chapter when:

1. The nonconforming sign is of a temporary nature;

2. The nature of the business conducted on the premises changes and the sign is changed or modified either in shape, size, or legend;

3. The name of the business changes and the sign is changed or modified either in shape, size, or legend; or

4. The business is discontinued. In this event, the sign(s) and supporting structure(s) shall be removed by the property owner. If said sign(s) is not removed within the specified time period, the City may remove the sign and file a lien against the property to cover costs associated with said removal.

C. Nonconforming signs may not be enlarged or altered in a way which would increase nonconformity.

D. Should any nonconforming sign be damaged by any means to an extent of more than fifty percent (50%) of its replacement cost at time of damage, it shall not be reconstructed except in conformity with the provisions of this Chapter.

E. A nonconforming sign as defined by this section shall be deemed lawful subject to all requirements of this Chapter and this title with the following exceptions:

1. The requirement to obtain a sign installation permit; and

2. Enforcement by the City for exceeding or violating limitations on size, shape, location or design imposed by this title.

(Ord. 2019-1041, 5-29-2019)

13-7-12: ABATEMENT OF ILLEGAL SIGNS:

A. Public Nuisance Declared: Any sign that violates the provisions of this Chapter shall be deemed a public nuisance, and shall be abated in accordance with section 5-1-7 of this code, subject to the following:

1. If the sign is located on private property, the City shall notify the property owner of the existence of the public nuisance and shall direct the owner to remove the sign within ten (10) calendar days after the notice. Failure to remove the sign in accordance with the notice shall also constitute a civil violation, in accordance with section 1-13-6 of this code. The City shall be entitled to recover all costs of abatement from the property owner, including attorney's fees and costs pursuing abatement for continued violations.

2. The City may remove signs which violate the provisions of this Chapter and constitute a public nuisance from public rights of way and public property, at any time. The owner of the sign, if known, shall be given written notice that the sign shall be destroyed if it is not claimed within ten (10) days of the notice. Failure to remove the sign in accordance with the notice shall also constitute a civil violation, in accordance with section 1-13-6 of this code. The City shall be entitled to recover all costs of abatement from the property owner, including attorney's fees and costs pursuing abatement for continued violations.

(Ord. 2019-1041, 5-29-2019)

13-7-13: LIABILITY OF CITY:

This Chapter shall not be construed to relieve from or lessen the responsibility of any person owning, building, altering, constructing, or moving any sign in the City for damages to anyone injured or damaged either to person or property by any defect therein; nor shall the City, or any agent thereof, be held as assuming such liability by reason of a permit or inspection authorized herein or a certificate of inspection issued by the City or any of its agents.

(Ord. 2019-1041, 5-29-2019)

13-7-14: SEVERABILITY:

Should any section, paragraph, sentence, clause or phrase of this Chapter, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Chapter be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Chapter or its application to other persons or circumstances.

(Ord. 2019-1041, 5-29-2019)

CHAPTER 8
MEDICAL CANNABIS

SECTION:

13-8-1: Findings

13-8-2: Definitions

13-8-3: Applicability

13-8-4: Restrictions On Medical Cannabis For Personal Use

13-8-5: Collective Gardens

13-8-6: Violations

13-8-7: Penalties

13-8-1: FINDINGS:

The council adopts all of the "whereas" sections of the ordinance codified herein as findings to support this chapter, as well as the following:

A. Through its amendment/adoption of Revised Code Of Washington chapter 69.51A, the state of Washington has found that there is medical evidence to show that some patients with terminal or debilitating medical conditions benefit from the medical use of cannabis.

B. The state of Washington has determined that qualifying patients with terminal or debilitating medical conditions, who, in the judgment of their healthcare professionals, may benefit from the medical use of cannabis, shall not be arrested, prosecuted or subject to other criminal sanctions or civil consequences under state law, based solely on their medical use of cannabis, notwithstanding any other provision of law.

C. Nothing in this chapter shall be construed to supersede Washington state law relating to the acquisition, possession, manufacture, sale or use of cannabis for nonmedical purposes. Nothing in this chapter shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of cannabis for nonmedical purposes.

D. Cannabis plants, whether grown indoors or outdoors, especially as they mature prior to harvest, may produce a distinctive odor that may be detectable far beyond property boundaries.

E. Where cannabis plants have been grown outdoors in other states, local authorities have received a significant number of formal complaints of odor that may be detectable far beyond property boundaries.

F. Cannabis, whether grown for medicinal purposes or diverted to the black market, may be sold for thousands of dollars per pound.

G. The strong smell of cannabis may create an attractive nuisance, alerting persons to the location of the plants, and creating a risk of burglary, robbery and armed robbery.

H. Cannabis that is grown indoors may require excessive use of electricity which may overload standard electrical systems, creating an unreasonable risk of fire.

I. The ability of qualified patients to cultivate cannabis in collective gardens for medical purposes does not confer upon them the right to create or maintain a public nuisance. No more than forty five (45) cannabis plants are allowed on any one legal parcel, which should keep the complaints regarding odor and the risks of fire and crime to a minimum.

J. Pursuant to Revised Code Of Washington 69.51A.130, no civil or criminal liability may be imposed by any court on cities, towns, or counties or other municipalities and their officers and employees for actions taken in good faith under this chapter and within the scope of their assigned duties. (Ord. 941, 7-24-2013)

13-8-2: DEFINITIONS:

For purposes of this chapter, the following definitions apply:

CANNABIS: All parts of the plant cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. For the purposes of this chapter, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. The term "cannabis" includes cannabis products and usable cannabis.

CANNABIS PRODUCTS: Products that contain cannabis or cannabis extracts, have a measurable THC ("tetrahydrocannabinol") concentration greater than three-tenths of one percent, and are intended for human consumption or application, including, but not limited to, edible products, tinctures, and lotions. The term "cannabis products" does not include usable cannabis. The definition of "cannabis products" as a measurement of THC concentration only applies to the provisions of this chapter and shall not be considered applicable to any criminal laws related to marijuana or cannabis.

CHURCH: A structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.

COLLECTIVE GARDEN: Those gardens authorized under Revised Code Of Washington 69.51A.085, which allows qualifying patients or their designated care providers to assume responsibility for acquiring and supplying the resources required to produce and process cannabis for medical use such as, for example, a location for a collective garden; equipment, supplies, and labor necessary to plant, grow, and harvest cannabis; cannabis plants, seeds, and cuttings; and equipment, supplies, and labor necessary for proper construction, plumbing, wiring, and ventilation of a garden of cannabis plants (as limited below). Qualifying patients or their designated care providers may create and participate in collective gardens for the purpose of producing, processing, transporting and delivering cannabis for medical use subject to the following conditions:

A. No more than ten (10) qualifying patients and/or designated care providers may participate in a single collective garden at any time;

B. A collective garden may contain no more than fifteen (15) plants per qualifying patient or designated care provider, up to a total of forty five (45) plants;

C. A collective garden may contain no more than twenty four (24) ounces of usable cannabis per qualifying patient or designated care provider, up to a total of seventy two (72) ounces of usable cannabis;

D. A copy of each qualifying patient's or designated care provider's valid documentation or proof of registration with the registry established in state law (now or in the future), including a copy of the patient's proof of identity, must be available at all times on the premises of the collective garden;

E. No usable cannabis from the collective garden may be delivered to anyone other than one of the qualifying patients or designated care providers participating in the collective garden; and

F. The collective garden is exempt from business license requirements under this code.

CULTIVATION: The planting, growing, harvesting, drying or processing of marijuana plants or any part thereof.

DESIGNATED CARE PROVIDER: A person who:

A. Is eighteen (18) years of age or older;

B. Has been designated in (writing) a written document signed and dated by a qualifying patient to serve as a designated provider under this chapter and Revised Code Of Washington 69.51A; and

C. Is in compliance with the terms and conditions set forth in Revised Code Of Washington 69.51A.040. A qualifying patient may be the designated provider for another qualifying patient and be in possession of both patients' cannabis at the same time.

INDOORS: Within a fully enclosed and secure structure that complies with the Washington state building code, as adopted by the city in title 10, chapter 1 of this code and amended in title 10, chapter 2 of this code, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as two inches by four inches (2" x 4") or thicker studs overlain with three-eighths inch (3/8") or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

LEGAL PARCEL: A parcel of land for which one legal title exists. Where contiguous legal parcels are under common ownership or control, such legal parcels shall be counted as a single parcel for purposes of this chapter.

MEDICAL (OR MEDICINAL) USE OF CANNABIS: The manufacture, production, processing, possession, transportation, delivery, ingestion, application, or administration of cannabis for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating medical condition.

OUTDOORS: Any location that is not "indoors" within a fully enclosed and secure structure as defined herein.

PARK: Any area of land, including any trail, whether publicly or privately owned, that is set aside for the enjoyment and recreation of members of the public or residents of the immediate neighborhood.

PERSON: An individual or an entity.

PERSONALLY IDENTIFIABLE INFORMATION: Any information that includes, but is not limited to, data that uniquely identify, distinguish, or trace a person's identity, such as the person's name, or address, either alone or when combined with other sources, that establish the person is a qualifying patient or designated provider.

PLANT: An organism having at least three (3) distinguishable and distinct leaves, each leaf being at least three (3) centimeters in diameter, and a readily observable root formation consisting of at least two (2) separate and distinct roots, each being at least two (2) centimeters in length. Multiple stalks emanating from the same root ball or root system shall be considered part of the same single plant.

PROCESS: To handle or process cannabis in preparation for medical use.

PRODUCE: To plant, grow, or harvest cannabis for medical use.

PUBLIC PLACE: Includes any street, highway, freeway, bridge, land, path, alley, court, boulevard, sidewalk, way, lane, public way, drive, circle or other public right of way; buildings and grounds used for school purposes; public assembly facilities and grounds adjacent thereto; premises where goods and services are offered to the public for retail sale; public buildings, lobbies, halls and dining rooms of hotels, restaurants, theaters, stores, garages, and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; buses, and other public conveyances of all kinds and character, and the facilities used in conjunction therewith which are open to unrestricted use and access by the public; public beaches, parks, or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

QUALIFYING PATIENT: A person who:

A. Is a patient of a healthcare professional;

B. Has been diagnosed by that healthcare professional as having a terminal or debilitating medical condition;

C. Is a resident of the state of Washington at the time of such diagnosis;

D. Has been advised by that healthcare professional about the risks and benefits of the medical use of cannabis;

E. Has been advised by that healthcare professional that he or she may benefit from the medical use of cannabis; and

F. Is otherwise in compliance with the terms and conditions established in Revised Code Of Washington chapter 69.51A.

The term "qualifying patient" does not include a person who is actively being supervised for a criminal conviction by a corrections agency or department that has determined that the terms of this chapter and Revised Code Of Washington 69.51A are inconsistent with and contrary to his or her supervision and all related processes and procedures related to that supervision.

SCHOOL: An institution of learning for minors, whether public or private, offering regular course of instruction required by the Washington education code, or any child or day care facility. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher learning, including a community or junior college, college or university.

THC CONCENTRATION: Percent of tetrahydrocannabinol content per weight or volume of usable cannabis or cannabis product, or the combined twenty five percent (25%) of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid 26 in any part of the plant cannabis regardless of moisture content.

TERMINAL OR DEBILITATING MEDICAL CONDITION:

A. Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders; or

B. Intractable pain, limited for the purpose of this chapter to mean pain unrelieved by standard medical treatments and medications; or

C. Glaucoma, either acute or chronic, limited for the purpose of this chapter to mean increased intraocular pressure unrelieved by standard treatments and medications; or

D. Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications; or

E. Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; or

F. Diseases, including anorexia, which result in nausea, vomiting, cachexia, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications; or

G. Any other medical condition duly approved by the Washington state medical quality assurance commission in consultation with the board of osteopathic medicine and surgery as directed in this chapter.

TREATMENT FACILITY: A facility providing for treatment of drug and alcohol dependency.

USABLE CANNABIS: Dried flowers of the cannabis plant having a THC concentration greater than three-tenths of one percent. Usable cannabis excludes stems, stalks, leaves, seeds, and roots. For purposes of this definition, "dried" means containing less than fifteen percent (15%) moisture content by weight. The term "usable cannabis" does not include cannabis products.

VALID DOCUMENTATION:

A. A statement signed and dated by a qualifying patient's healthcare professional written on tamper resistant paper, which states that, in the healthcare professional's professional opinion, the patient may benefit from the medical use of cannabis;

B. Proof of identity such as a Washington state driver's license or identicard, as defined in Revised Code Of Washington 46.20.035; and

C. In the case of a designated provider, the signed and dated document valid for one year from the date of signature executed by the qualifying patient who has designated the provider.

YOUTH ORIENTED FACILITY: Elementary school, middle school, high school, public park, and any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors. This shall not include a daycare or preschool facility. (Ord. 941, 7-24-2013)

13-8-3: APPLICABILITY:

No part of this chapter is intended to or shall be deemed to conflict with federal law, including, but not limited to, the controlled substances act, 21 USC section 800 et seq., the uniform controlled substances act [1] nor to otherwise permit any activity that is prohibited under either act, or any other local, state or federal law, statute, rule or regulation. No part of this chapter is intended to or shall be construed so as to violate any provisions of the state or federal constitution. (Ord. 941, 7-24-2013)

Notes

1 1. RCW ch. 69.50.

13-8-4: RESTRICTIONS ON MEDICAL CANNABIS FOR PERSONAL USE:

A. Revised Code Of Washington 69.51A.040 allows an individual qualifying patient or designated provider to cultivate medical cannabis for personal use within his/her private residence, as long as the qualifying patient or designated provider:

1. Possesses no more than fifteen (15) cannabis plants;

2. Possesses no more than twenty four (24) ounces of usable cannabis;

3. Possesses no more cannabis product than what could reasonably be produced with no more than twenty four (24) ounces of usable cannabis; or

4. Possesses a combination of usable cannabis and cannabis product that does not exceed a combination total representing possession and processing of no more than twenty four (24) ounces of usable cannabis.

If a person is both a qualifying patient and a designated provider for another patient, Revised Code Of Washington 69.51A.040 allows possession of no more than twice the

amounts described in subsection A of this section, whether the plants, usable cannabis, and cannabis product are possessed individually or in combination between the qualifying patient and his or her designated provider. (This section does not list all of the limitations on such use in Revised Code Of Washington 69.51A.040 or chapter 69.51A. This section is only meant to provide sufficient information to distinguish between cultivation of medical cannabis for personal use, as opposed to cultivation of medical cannabis in a collective garden, and to establish certain land use restrictions on such cultivation.)

B. Any cultivation of medical cannabis for personal use under chapter 69.51A Revised Code Of Washington shall not exceed the following standards:

1. The medical cannabis cultivation area shall not exceed fifty (50) square feet in length and shall not exceed ten feet (10') in height per residence.

2. Medical cannabis cultivation lighting shall not exceed one thousand two hundred (1,200) watts.

3. Use of gas products (CO2, butane, etc.) for medical cannabis cultivation or processing is prohibited.

4. From a public right of way, there shall be no exterior evidence of medical cannabis cultivation either within or outside the residence.

5. The qualified patient or designated provider shall reside in the residence where the medical cannabis cultivation occurs.

6. The qualified patient or designated provider cultivating cannabis for personal use shall not participate in any collective garden or other medical cannabis cultivation in any other residential location.

7. The residence shall maintain a kitchen, bathrooms, and primary bedrooms for their intended use and shall not be used primarily for medical cannabis cultivation.

8. The medical cannabis cultivation area shall be in compliance with the current, adopted edition of the Washington state building code provisions regarding natural ventilation or mechanical ventilation (or its equivalents).

9. The medical cannabis cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes. (Ord. 941, 7-24-2013)

13-8-5: COLLECTIVE GARDENS:

A. No Nonconforming Status: Notwithstanding the provisions of section 13-6-6, "Nonconforming Use Permit", of this title, an existing collective garden in operation as of the effective date of this chapter shall be brought into full compliance with the provisions of this chapter within one year of its effective date.

B. Location Restrictions: Collective gardens are subject to the following location restrictions:

1. Collective Gardens Prohibited: Collective gardens may not be established in the following areas:

a. Indoors or outdoors within one thousand feet (1,000') of a youth oriented facility, a daycare center, a preschool, a school, a park, or any church or residential treatment facility;

b. Outdoors within one hundred feet (100') of any occupied legal residential structure located on a separate legal parcel;

c. Outdoors in a mobile home park within one hundred feet (100') of an occupied mobile home;

d. Indoors or outdoors within one thousand feet (1,000') of any other collective garden; and

e. In any location where the cannabis plants are visible from the public right of way or publicly traveled private roads.

2. Distance: The distance between the above listed uses and the collective garden where the cannabis is being cultivated shall be measured in a straight line from the nearest point on the fence required by this chapter, or if the cannabis is cultivated indoors, from the nearest exterior wall of the building in which the cannabis is cultivated to the nearest boundary line of the property on which the facility, building or structure or portion of the facility, building or structure in which the above listed use occurs is located. The distance in subsections B1b and B1c of this section between the collective garden and any residential structure or mobile home shall be measured from the fence required in this chapter to the nearest exterior wall of the residential structure or mobile home.

C. Operating Standards:

1. Indoor Or Outdoor Operation: The following restrictions apply to the operation of collective gardens, whether they are located indoors or outdoors:

a. Odor: The cultivation of cannabis shall not subject residents of neighboring parcels who are of normal sensitivity to objectionable odors;

b. Lighting: All lights used for the cultivation of cannabis shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel upon which they are placed;

c. Noise: The cultivation of medical cannabis in a collective garden shall not exceed the noise level standards as set forth in title 5, chapter 8 of this code;

d. Visibility: Cannabis shall not be grown or on display in any location within the city where the cannabis plants are visible from the public right of way or a public place;

e. Signage: There shall be no exterior signage relating to the collective garden;

f. Gas Prohibited: The use of gas products (CO2, butane, etc.) for medical cannabis cultivation is prohibited;

g. Compliance With Codes: The collective garden shall be in compliance with the applicable provisions of the currently adopted edition of the Washington state building code; and

h. Nuisance: The collective garden shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration, or other adverse impacts, or be hazardous due to use or storage of materials, processes, products or waste.

2. Outdoor Operation: In addition to the operation restrictions in subsection C1 of this section, the following restrictions apply to collective gardens located outdoors:

a. Lighting: The use of light assistance for the outdoor cultivation of cannabis shall not exceed a maximum of six hundred (600) watts of lighting capacity per one hundred (100) square feet of growing area; and

b. Fencing: All cannabis grown outside of any structure or building must be fully enclosed by a secure fence at least six feet (6') in height. The fence must include a lockable gate that is locked at all times when a qualified patient is not in the immediate area. Said fence shall not violate any other ordinance or code provision relating to height and location restrictions and shall not be constructed or covered with plastic or cloth except shade cloth may be used on the inside of the fence.

3. Indoor Operation: In addition to the operation restrictions in subsection C1 of this section, the following restrictions shall apply to collective gardens located indoors:

a. Limitation On Square Footage Devoted To Collective Garden: The indoor collective garden shall be limited to no more than one hundred (100) contiguous square feet per legal parcel;

b. Exterior Appearance: The indoor collective garden shall be located in a structure within a fully enclosed and secure structure, as defined in section 13-8-2 of this chapter (definition of "indoors");

c. Lighting: Interior structure lighting, exterior structure lighting and driveway and/or parking area lighting shall be of sufficient foot-candles and color rendition so as to allow the ready identification of any individual committing a crime on site at a distance of no less than forty feet (40') from the structure;

d. Security: Security measures at the collective garden shall include, at a minimum, the following:

(1) Robbery and burglary alarm systems which are professionally monitored and maintained in good working condition;

(2) Exterior lighting that illuminates all exterior entrances;

(3) Deadbolt locks on all exterior doors; and

(4) Windows and roof hatches secured with bars on the windows so as to prevent unauthorized entry, and be equipped with latches that may be released quickly from the inside to allow exit in the event of an emergency.

D. Delivery Only Among Members: No usable cannabis from the collective gardens may be delivered to anyone other than one of the qualifying patients participating in the collective garden. Collective garden employees/volunteers or collective garden members may not sell any cannabis plants or usable cannabis. Such activities may be prosecuted under the uniform controlled substances act, chapter 69.50 Revised Code Of Washington.

E. No On Site Sales Of Paraphernalia: There shall be no on site display or sale of paraphernalia used for the use or consumption of medical cannabis at the collective garden.

F. Home Occupation: Collective gardens permitted as a home occupation are subject to the following additional conditions:

1. No signs, logos, trademarks or other symbols are displayed indicating the nature or location of the business or occupation;

2. No exterior structural alterations are made to accommodate the occupation; and

3. No cannabis or cannabis products may be distributed, sold or displayed on any exterior portion of the premises.

G. Nuisance: Nothing in this section (or this chapter) shall be construed as a limitation on the city's authority to abate any violation which may exist from the cultivation of cannabis plants from any location, indoor or outdoor, including from within a fully enclosed and secure building. (Ord. 941, 7-24-2013)

13-8-6: VIOLATIONS:

A. It is a violation of this chapter for any person owning, leasing, occupying or having charge, control or possession of any parcel of land within the city to cause or allow such parcel of land, or any portion thereof, to be used for the indoor or outdoor cultivation of marijuana or cannabis plants for medicinal purposes in violation of subsection 13-8-4B1 through B9, 13-8-5A, 13-8-5B1a through B1e, 13-8-5C1a through C1h, 13-8-5C2a and C2b, 13-8-5C3a through C3d, 13-8-5E, or 13-8-5F1 through F3 of this chapter.

B. The cultivation of more than the number of cannabis plants set forth in this chapter on one legal parcel, either indoors or outdoors, within the city, regardless of whether the persons growing the cannabis is/are a "qualified patient", a designated provider, or a member of a "collective garden" as defined herein, is a prohibited use and a violation of this chapter.

C. Any violations of this chapter may be enforced by a city code enforcement officer(s) in the manner as set forth in title 15, chapter 11, "Enforcement", and title 1, chapter 13, "Code Enforcement", of this code. Any violations of the uniform controlled substances act, chapter 69.50 Revised Code Of Washington, the medical cannabis act, chapter 69.51A Revised Code Of Washington, or chapter 69.53 Revised Code Of Washington (use of buildings for unlawful drugs), shall be subject to enforcement by the Orting chief of police, all duly appointed city of Orting police officers, and all duly appointed law enforcement officers with jurisdiction in the city. In addition, any violation of subsection A or B of this section is deemed to be a public nuisance and may be abated by the city under the procedures set forth in state law and/or this code for the abatement of public nuisances. (Ord. 941, 7-24-2013)

13-8-7: PENALTIES:

A. A violation of any of the provisions of subsections 13-8-4B1 through B9 of this chapter (cultivations standards) shall constitute a class 1 civil infraction subject to a maximum penalty of two hundred fifty dollars ($250.00) for each violation, not including monetary assessments.

B. A violation of subsection 13-8-5A, "No Nonconforming Status", of this chapter shall constitute a class 1 civil infraction subject to a maximum penalty of two hundred fifty dollars ($250.00) for each violation, not including monetary assessments.

C. A violation of any of the provisions of subsections 13-8-5B1a through B1d of this chapter (collective gardens prohibited) shall constitute a class 1 civil infraction subject to a maximum penalty of two hundred fifty dollars ($250.00) for each violation, not including monetary assessments. A violation of subsection 13-8-5B1e of this chapter shall constitute a class 3 civil infraction subject to a maximum penalty of fifty dollars ($50.00) for each violation, not including monetary assessments.

D. A violation of any of the provisions of subsections 13-8-5C1a through C1c and C1e through C1h of this chapter (operating standards - indoor or outdoor) shall constitute a class 1 civil infraction subject to a maximum penalty of two hundred fifty dollars ($250.00) for each violation, not including monetary assessments. A violation of subsection 13-8-5C1d of this chapter shall constitute a class 3 civil infraction subject to a maximum penalty of fifty dollars ($50.00) for each violation, not including monetary assessments.

E. A violation of any of the provisions of subsections 13-8-5C2a and C2b of this chapter (operating standards - outdoor operations) shall constitute a class 1 civil infraction subject to a maximum penalty of two hundred fifty dollars ($250.00) for each violation, not including monetary assessments.

F. A violation of any of the provisions of subsections 13-8-5C3a through C3d of this chapter (operating standards - indoor operations) shall constitute a class 1 civil infraction subject to a maximum penalty of two hundred fifty dollars ($250.00) for each violation, not including monetary assessments.

G. A violation of any of the provisions of subsection 13-8-5E, "No On Site Sales Of Paraphernalia", of this chapter shall constitute a class 1 civil infraction subject to a maximum penalty of two hundred fifty dollars ($250.00) for each violation, not including monetary assessments.

H. A violation of any of the provisions of subsections 13-8-5F1 through F3 of this chapter (home occupation) shall constitute a class 1 civil infraction subject to a maximum penalty of two hundred fifty dollars ($250.00) for each violation, not including monetary assessments.

I. It shall be unlawful to willfully fail to comply with any provision of subsection 13-8-4B1 through B9, 13-8-5A, 13-8-5B1a through B1e, 13-8-5C1a through C1h, 13-8-5C2a and C2b, 13-8-5C3a through C3d, 13-8-5E, or 13-8-5F1 through F3 of this chapter, or to willfully fail to comply with a civil regulatory order issued pursuant to this chapter. Such willful failure shall constitute a misdemeanor and shall be subject to a maximum penalty of one thousand dollars ($1,000.00) or ninety (90) days in jail or by both such fine and imprisonment. (Ord. 941, 7-24-2013)

CHAPTER 9
WIRELESS COMMUNICATIONS SERVICES FACILITIES

SECTION:

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13-9-1: PURPOSE:

A. The purpose of this chapter is to regulate the placement, construction, modification and appearance of wireless communications services facilities, in order to protect the health, safety and welfare of the public, while not unreasonably interfering with the deployment of competitive wireless communications services facilities throughout the City. The purpose of this chapter may be achieved through adherence to the following objectives:

1. Protect residential areas and land uses from potential adverse impacts that wireless communications services facilities might create, including but not limited to negative impacts on aesthetics, environmentally sensitive areas, historically significant locations, and health and safety of persons and property;

2. Establishment of clear and nondiscriminatory local regulations concerning wireless communications services facilities and services that are consistent with federal and state laws and regulations;

3. Encourage providers of wireless communications services facilities to locate facilities, to the extent feasible, in areas where the adverse impact on the public health, safety and welfare is minimal;

4. For macro facilities, encourage the location of those facilities in nonresidential areas and allow macro facilities in residential areas only when necessary to meet functional requirements of the communications industry as defined by the Federal Communications Commission;

5. Minimize the total number of macro facilities in residential areas;

6. Encourage and, where legally permissible, require cooperation between competitors and, as a primary option, joint use of new and existing towers, tower sites and suitable structures to the greatest extent possible, where doing so would significantly reduce or eliminate additional negative impact on the City;

7. Ensure wireless communications services facilities are configured in a way that minimizes the adverse visual impact of the facilities, as viewed from different vantage points, through careful design, landscape screening, minimal impact siting options and camouflaging techniques, dispersion of unscreened features to lessen the visual impact upon any one location, and through assessment of current location options, siting, future available locations, and innovative siting techniques;

8. Enable wireless communication companies to enter into lease agreements with the City to use city property for the placement of wireless facilities, where consistent with other public needs, as a means to generate revenue for the City;

9. Balance the City's intent to minimize the adverse impacts of wireless communications services facilities with the ability of the providers of communications services to deploy such services to the community quickly, effectively and efficiently;

10. Provide for the prompt removal of wireless communications services facilities that are abandoned or no longer inspected for safety concerns and building code compliance, and provide a mechanism for the City to cause these abandoned wireless communications services facilities to be removed as necessary to protect the citizens from imminent harm and danger;

11. Avoid potential damage to people and adjacent properties from tower failure and falling equipment, through strict compliance with state building and electrical codes; and

12. Disperse the adverse impacts of small cell facilities as evenly as possible throughout the community, especially when joint use does not minimize additional visual impact.

B. In furtherance of these objectives, the City shall give due consideration to the zoning code, existing land uses, and environmentally sensitive areas when approving sites for the location of wireless communications services facilities.

C. These objectives were developed to protect the public health, safety and welfare, to protect property values, and to minimize and disperse visual impact, while furthering the development of enhanced communications services in the City. These objectives were designed to comply with the Telecommunications Act of 1996 and its implementing regulations. The provisions of this chapter are not intended to, and any ambiguities herein shall not be interpreted in such a manner that would materially inhibit the deployment of wireless communications services facilities. This chapter shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent wireless facilities.

D. To the extent that any provision of this chapter conflicts with any other city ordinance, this chapter shall control. Otherwise, this chapter shall be construed consistently with the other provisions and regulations of the City.

E. In reviewing any application to place, construct or modify wireless communications services facilities, the City shall act within federally required time periods. Any decision to deny an application shall be in writing, supported by substantial evidence contained in a written record. The City shall approve, approve with conditions, or deny the application in accordance with this title, this chapter, the adopted Orting comprehensive plan, and other applicable ordinances and regulations.

F. Alternative Methods of Compliance: The City Administrator or designee in consultation with other City staff, as applicable, may accept alternative methods of complying with the development regulations of this chapter, provided it can be demonstrated that the alternative method is at least equivalent to such standards in terms of implementing the general purpose of this chapter. The City Administrator or designee shall not accept alternative methods of compliance that are inconsistent with the City

Comprehensive Plan or with conditions of approval imposed through a land use action. Decisions on alternative methods of compliance need to be documented in the project file and can be appealable in the same manner as an administrative interpretation. The City Administrator or designee shall periodically forward decisions on alternative methods of compliance to the Planning Commission for its information.

(Ord. 2019-1049, 9-25-2019)

13-9-2: APPLICABILITY:

A. Except as provided herein, all wireless communications services facilities shall comply with the provisions of this chapter.

The standards and process requirements of this chapter supersede all other review process, setback, height or landscaping requirements of the Orting Municipal Code.

B. Environmental: All proposed installations are subject to a threshold determination under the State Environmental Policy Act (SEPA) according to Chapter 15-14 OMC unless categorically exempt pursuant to WAC 197-11-800. All proposals are subject to the critical area requirements and the shoreline master program (Title 11 of this code.)

C. Master Permit Agreement Needed:

1. Consistent with RCW chapter 35.99 and Chapter 8-8 of this code, any person, corporation or entity that proposes to locate any portion of a wireless communications services facilities within the City right-of-way must have a valid fully executed master permit with the City before submitting applications for right-of-way construction permits.

2. Wireless providers interested in obtaining a master permit must apply according to the procedures of Chapter 8-8 of this code as well as supplying the following, in order to have a complete application:

a. Submit three valid fully executed master permits that the provider has with other cities in Washington state, PROVIDED THAT, this requirement shall be excused to the extent that the provider does not have sufficient valid master permits in other jurisdictions to meet that requirement;

D. Right-of-Way Construction Permit: A right-of-way construction permit is required prior to performing any work within the City right-of-way pursuant to Title 8 of this code.

(Ord. 2019-1049, 9-25-2019)

13-9-3: EXEMPTIONS:

The following are exemptions from the provisions of this chapter:

A. Routine maintenance or repair of wireless communication facilities.

B. Radar systems for military and civilian communication and navigation.

C. Handheld, mobile, marine and portable radio transmitters and/or receivers.

D. Satellite antennas, including direct to home satellite services.

E. Licensed amateur (ham) radio stations and citizen band stations.

F. Earth station antenna(s) one meter or less in diameter and located in any zone.

G. Earth station antenna(s) two (2) meters or less in diameter and located in the business and commercial zones.

H. A temporary wireless communications facility or COW installed for providing coverage of a special event such as news coverage or sporting event, subject to approval by the City. The wireless facility shall be exempt from the provisions of this chapter for up to two (2) weeks before and after the duration of the special event.

I. A temporary wireless communication facility or COW installed for a period of up to one hundred eighty (180) days, subject to renewals at the City's discretion, to provide service during repair, replacement, or relocation of an existing facility or construction of a new facility.

J. Subject to compliance with all other applicable standards of this chapter, in the event of an emergency, the emergency provisions of Chapter 8-8 of this code shall be followed.

(Ord. 2019-1049, 9-25-2019)

13-9-4: PROHIBITIONS:

A. The following wireless communications services facilities are prohibited in Orting:

1. Guyed towers.

2. Lattice towers.

B. Monopoles are prohibited in the following locations:

1. All residential zones;

2. MUTC Mixed Use-Town Center Zone;

3. OS Open Space and Recreation Zone;

4. Within the City rights-of-way.

(Ord. 2019-1049, 9-25-2019)

13-9-5: GENERAL MACRO FACILITY SITING CRITERIA AND DESIGN CONSIDERATIONS:

A. The City of Orting encourages wireless communication providers to use existing sites or more frequent, less noticeable sites instead of attempting to provide coverage through use of taller towers. To that end, applicants shall consider the following priority of preferred locations for wireless communications services facilities:

1. Co-location, without an increase in the height of the building, pole or structure upon which the facility would be located;

2. Co-location, where additional height is necessary above existing building, pole, or structure;

3. A replacement pole or structure for an existing one;

4. A new pole or structure altogether.

B. Co-location shall be encouraged for all wireless communications services facilities applications and is implemented through less complex permit procedures.

1. To the greatest extent technically feasible, applicants for new monopole facilities shall be required to build mounts capable of accommodating at least one other carrier.

2. New macro wireless communications services facilities that are not co-located will require a conditional use permit (C) under the provisions of section 13-6-2 of this code and shall be processed in accordance with Title 15 of this code for a Type III permit. Separation requirements will be a condition of approval.

C. Noise: Any facility that requires a generator or other device which will create noise audible beyond the boundaries of the site must demonstrate compliance with Chapter 5-8 of this code, Noise Control. A noise report, prepared by an acoustical engineer, shall be submitted with any application to construct and operate a wireless communications services facility that will have a generator or similar device.

The City may require that the report be reviewed by a third-party expert at the expense of the applicant.

D. Business License Requirement: Any person, corporation or entity that operates a wireless communications services facility within the City shall have a valid business license issued annually by the City. Any person, corporation or other business entity which owns a monopole also is required to obtain a business license on an annual basis.

E. Signage: Only safety signs or those mandated by a government entity with jurisdiction may be located on wireless communications services facilities. No other types of signs are permitted on wireless communications services facilities.

F. Any application must demonstrate that there is sufficient space for temporary parking for regular maintenance of the proposed facility.

G. Finish: A monopole may be constructed of laminated wood, fiberglass, steel, or similar material. The pole shall be a neutral color so as to reduce its visual obtrusiveness, subject to any applicable standards of the FAA or FCC.

H. Design: The design of all buildings and ancillary structures shall use materials, colors, textures, screening and landscaping that will blend the facilities with the natural setting and built environment. All macro towers must be approved by the Architectural Design Board.

I. Color: All antennas and ancillary facilities located on buildings or structures other than monopoles shall be of a neutral color that is identical to or closely compatible with the color of the supporting structure so as to make the antenna and ancillary facilities as visually unobtrusive as possible.

J. Lighting: Monopoles shall not be artificially lighted unless required by the FAA, FCC or other government entity with jurisdiction. If lighting is required and alternative lighting options are permitted, the City shall review the lighting alternatives and approve the design that would cause the least disturbance to the surrounding area. No strobe lighting of any type is permitted on any monopole, unless required by the FAA.

K. Advertising: No advertising is permitted at wireless communications services facilities sites or on any ancillary structure or facilities equipment enclosure.

L. Equipment Enclosure: Each applicant shall use the smallest equipment enclosure practical to contain the required equipment and a reserve for required co-location.

M. Radio Frequency Emissions Compliance: The applicant shall demonstrate that the project will not result in levels of radio frequency emissions that exceed FCC standards, including FCC Office of Engineering Technology (OET) Bulletin 65, Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields, as amended.

N. Landscaping And Screening:

1. The visual impacts of wireless communications services facilities should be mitigated and softened through landscaping or other screening materials at the base of a monopole, facility equipment compound, equipment enclosures and ancillary structures. If the antenna is mounted flush on an existing building or camouflaged as part of the building and other equipment is housed inside an existing structure, no landscaping is required. The City may reduce or waive the standards for those sides of the wireless communications services facilities that are not in public view, when a combination of existing vegetation, topography, walls, decorative fences or other features achieve the same degree of screening as the required landscaping; in locations where the visual impact of the facility would be minimal; and in those locations where large wooded lots not capable of subdivision and natural growth around the property perimeter provide a sufficient buffer.

2. Landscaping shall be installed on the outside of fences. Existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or as a supplement to landscaping or screening requirements. The following requirements apply:

a. A solid screen of evergreen trees or shrubs shall be placed around the perimeter of the equipment cabinet enclosure, except that a maximum ten-foot (10') portion of the fence may remain without landscaping in order to provide access to the enclosure.

b. Landscaping area shall be a minimum of five feet (5') in width around the perimeter of the enclosure.

c. Vegetation selected should be native and drought tolerant.

d. Landscaping shall be located so as not to create sight distance hazards or conflicts with other surrounding utilities.

3. When landscaping is used, the applicant shall submit a performance assurance pursuant to section 13-5-2 (H) of this code.

4. The use of chain link, plastic, or wire fencing is prohibited. Ornamental metal, stone, wood, or vinyl fencing materials are preferred.

(Ord. 2019-1049, 9-25-2019)

13-9-6: PERMITS AND SHOT CLOCKS:

A. No person may place, construct, reconstruct, modify or operate a wireless communications services facility, subject to this chapter, without first having in place a master permit agreement for right-of-way locations with a subsequent right-of-way permit and/or a building permit, as applicable, issued in accordance with this chapter. Except as otherwise provided herein, the requirements of this chapter are in addition to the applicable requirements of this title and Title 8 (Public Ways and Property) and Title 11 (Critical Areas and Shoreline Management) of this code.

B. Applications will be reviewed based on the type of wireless communications services facilities requested to be permitted. Each wireless communications services facility requires the appropriate type of project permit review, as shown in Table A. In the event of uncertainty on the type of a wireless facility, the City Administrator or designee shall have the authority to determine what permits are required for the proposed facility.

TABLE A

Request	Location	Building Permit Required	Right-Of-Way (ROW) Permit Required	FCC Shot Clocks For Permit Review
Eligible facilities request	Existing tower or base station	Yes, if any elements on private property	Yes, if any elements in the ROW	60 days
New macro facility	Co-location	Yes, if any elements on	Yes, if any elements in the ROW	90 days

		private property		
New macro facility	New structure or monopole (see section 13-9-4 of this chapter, prohibited locations, and subsection 13-9-5B2 of this chapter for C permit)	Yes, if any elements on private property	Yes, if any elements in the ROW	150 days
Small wireless facility (small cell node)	Co-location	Yes, if any elements on private property	Yes, if any elements in the ROW	60 days
Small wireless facility (small cell node)	New structure or freestanding small cell pole	Yes, if any elements on private property	Yes, if any elements in the ROW	90 days
Temporary facility	Varies	Yes, if applicable	Yes, if any elements in the ROW	Standard permit quotes

C. Timelines:

1. Macro Cell: The application review period begins when all required application materials have been received and fees paid. If the City determines that the application is incomplete and provides notice to the applicant within thirty (30) calendar days of the date of application, the clock stops. The clock restarts when the City receives the applicant's supplemental submission in response to the City's notice of incompleteness. For subsequent determinations of incompleteness, the clock tolls (pauses) if the City provides written notice within ten (10) days that a supplemental submission did not provide the requested information. For new structures or monopoles, see section 13-9-5 (B)(2) above for C Permit requirement.

2. Small Wireless Facility (Small Cell Node): The application review period begins when all required application materials have been received and fees paid. If the City determines that the application is incomplete and provides notice to the applicant within ten (10) calendar days of the date of application, the clock stops. The clock resets to zero (0) when the City receives the applicant's supplemental submission in response to the City's notice of incompleteness. For subsequent determinations of incompleteness, the clock tolls (pauses) if the City provides written notice within ten (10) days that a supplemental submission did not provide the requested information.

D. Batched Small Wireless Facility (Small Cell Node) applications: If an applicant is applying for a small wireless network in a contiguous service area, multiple identical small wireless facilities may be batched into one application. The City may approve, deny or

conditionally approve all or any portion of the small wireless facilities proposed in the application. The denial of one or more small wireless facility locations within one submission shall not be the sole basis for a denial of other locations or the entire batched application for small wireless facilities. Should an applicant file a single application for a batch that includes both collocated and new structures for small wireless facilities, the longer 90-day shot clock shall apply to ensure the City has adequate time to review the new construction sites.

E. Any application submitted pursuant to this chapter for projects located on public or private property shall be reviewed and evaluated by the City as described in this chapter. The Public Works Director or his/her designee shall review all proposed wireless communications services facilities that are located partially or fully within the City rights-of-way. All applications will be reviewed and evaluated pursuant to the provisions of this chapter.

F. All applications for wireless communications services facilities shall be reviewed for compliance with the applicable design standards. Permits for all macro towers must be approved by the Architectural Design Board.

G. The applicant is responsible for obtaining all other permits and approvals from any other appropriate governing body or agency with jurisdiction (i.e., Washington State Department of Labor and Industries, Federal Aviation Administration, Puget Sound Energy, etc.).

H. No provision of this chapter shall be interpreted to allow the installation of a wireless communications services facilities which minimizes parking, landscaping, or other site development standards established by this code.

I. Wireless communications services facilities that are governed under this chapter shall not be eligible for variances under section 13-6-3 of this code. Any request to deviate from this chapter shall be based solely on the exceptions set forth in this chapter, including alternative methods of compliance under section 13-9-1 (F) of this code.

J. Third-Party Review: Applicants may use various methodologies and analyses, including geographically based computer software, to determine the specific technical parameters of the services to be provided utilizing the proposed wireless communications services facilities, such as expected coverage area, antenna configuration, capacity, and topographic constraints that affect signal paths. In certain instances, a third-party expert may be needed to review the engineering and technical data submitted by an applicant for a permit. The City may at its discretion require third-party engineering and technical review as part of a permitting process. The costs of the technical third-party review shall be borne by the applicant.

1. The selection of the third-party expert is at the discretion of the City. The third-party expert review is intended to address interference and public safety issues and be a site-specific review of engineering and technical aspects of the proposed wireless communications services facilities and/or a review of the applicants' methodology and equipment used, and is not intended to be a subjective review of the site which was

selected by an applicant. Based on the results of the expert review, the City may require changes to the proposal. The third-party review shall address the following:

a. The accuracy and completeness of submissions;

b. The applicability of analysis techniques and methodologies;

c. The validity of conclusions reached;

d. The viability of other site or sites in the City for the use intended by the applicant; and

e. Any specific engineering or technical issues designated by the City.

K. Notwithstanding other remedies that may be available under federal law, failure of the City to issue permits within or otherwise comply with the FCC shot clock requirements does not provide a "deemed" grant of approval for macro or small wireless facilities, as it does for an eligible facilities request. No work may occur until the permit issues.

(Ord. 2019-1049, 9-25-2019)

13-9-7: APPLICATION REQUIREMENTS:

The following information must be submitted as part of a complete application for a wireless communications services facility permit in the City of Orting:

A. Project description including a design narrative and co-location analysis indicating the alternative locations considered;

B. Site information on scaled plans, including:

1. Site plan;

2. Elevation drawings;

3. Utility plan showing existing utilities, proposed facility location, and undergrounding;

4. Screening, camouflaging, or landscaping plan and cost estimate, as appropriate;

C. Photos and photo simulations showing the existing appearance of the site and appearance of the proposed installation from nearby public viewpoints;

D. Noise report, if applicable;

E. Radio Frequency (RF) emissions standards. The applicant shall provide the certification of an RF engineer with knowledge of the proposed development that the wireless communications services facilities will comply with RF standards adopted by the Federal Communications Commission (FCC). The City recognizes that the Federal Telecommunications Act of 1996 gives the FCC sole jurisdiction in the field of regulation of

RF emissions and wireless facilities that meet FCC standards shall not be conditioned or denied on the basis of RF impacts.

F. Application for architectural design review.

G. Any other documentation deemed necessary by the City in order to issue a decision.

(Ord. 2019-1049, 9-25-2019)

13-9-8: ELIGIBLE FACILITIES REQUESTS:

This section implements section 6409 of the Spectrum Act (codified at 47 U.S.C. 1455), which requires the City of Orting to approve any eligible facilities request for a modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station.

A. Definitions: The following definitions only apply to eligible facilities requests as described in this section and do not apply throughout this chapter.

1. BASE STATION: Is a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein nor any equipment associated with a tower. Base station includes, without limitation:

a. Equipment associated with wireless communications services as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

b. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and back-up power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems ("DAS") and small cell networks).

c. Any structure other than a tower that, at the time the relevant application is filed (with jurisdiction) under this section, supports or houses equipment described in subsections (A)(1)(a) and (b) of this section that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support.

The term does not include any structure that, at the time the relevant application is filed with the City under this section, does not support or house equipment described in subsections (A)(1)(a) and (b) of this section.

2. COLLOCATION: The mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communication purposes.

3. ELIGIBLE FACILITIES REQUEST: Any request for modification of an existing tower or base station that does not substantially increase the physical dimensions of such tower or base station, involving:

a. Collocation of new transmission equipment;

b. Removal of transmission equipment; or

c. Replacement of transmission equipment.

4. ELIGIBLE SUPPORT STRUCTURE: Any tower or base station as defined in this section; provided, that it is existing at the time the relevant application is filed with the City.

5. EXISTING: A constructed tower or base station is existing if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process; provided, that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

6. SITE: For towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

7. SUBSTANTIAL CHANGE: A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

a. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than ten percent (10%) or by the height of one (1) additional antenna array with separation from the nearest existing antenna, not to exceed twenty (20) feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten percent (10%) or more than ten feet (10'), whichever is greater.

(1) Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act;

b. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than ten feet (10'), or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet (6');

c. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets; or, for towers in the public streets and base stations, it involves installation of any new equipment cabinets on the ground if there are no preexisting ground cabinets associated with the structure, or else involves installation of ground cabinets that are more

than ten percent (10%) larger in height or overall volume than any other ground cabinets associated with the structure;

d. It entails any excavation or deployment outside the current site;

e. It would defeat the concealment elements of the eligible support structure; or

f. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment; provided, however, that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified above.

B. Qualification As An Eligible Facilities Request: Upon receipt of an application for an eligible facilities request, the City will review the application to determine whether it qualifies as an eligible facilities request.

C. Time Frame For Review: Within sixty (60) days of the date on which a network provider submits an eligible facilities request application, the City must approve the application unless it determines that the application is not covered by this section.

D. Tolling Of The Time Frame For Review: The sixty (60) day review period begins to run when the application is submitted, and may be tolled only by mutual agreement by the City and the applicant or in cases where the City determines that the application is incomplete. The time frame for review of an eligible facilities request is not tolled by a moratorium on the review of applications.

1. To toll the time frame for incompleteness, the City must provide written notice to the applicant within thirty (30) days of receipt of the application, clearly and specifically delineating all missing documents or information required in the application.

2. The time frame for review begins running again when the applicant makes a supplemental submission in response to the City's notice of incompleteness.

3. Following a supplemental submission, the City will notify the applicant within ten (10) days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The time frame is tolled in the case of second or subsequent notices pursuant to the procedures identified in this subsection. Second or subsequent notice of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.

E. Determination That Application Is Not An Eligible Facilities Request: If the City determines that the applicant's request does not qualify as an eligible facilities request, the City must deny the application.

F. Failure To Act: In the event the City fails to approve or deny a request for an eligible facilities request within the time frame for review (accounting for any tolling), the request is deemed granted. The deemed grant does not become effective until the applicant notifies the City in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

G. To the extent feasible, additional antennas and equipment shall maintain the appearance intended by the original facility, including, but not limited to, color, screening, landscaping, camouflage, concealment techniques, mounting configuration, or architectural treatment.

(Ord. 2019-1049, 9-25-2019)

13-9-9: NEW BUILDING-MOUNTED MACRO WIRELESS COMMUNICATIONS SERVICES FACILITIES STANDARDS:

A. Generally: Wireless communications services facilities located on the roof or on the side of the building shall be grouped together, integrated to the maximum possible degree with the building design, placed toward the center of the roof and/or thoroughly screened from residential building views and from public views using radio frequency-transparent panels. Building-mounted wireless communications services facilities shall be painted with nonreflective colors to match the existing surface where the antennas are mounted.

B. Height: The following requirements shall apply:

1. Mixed-Use Town Center And Mixed-Use Town Center North Zones: For buildings at, or which exceed, the height limit of the underlying zone, antennas shall be flush-mounted, and no portion of the antenna may extend above the building on which it is mounted. For buildings below the height limit, antennas may be built to the maximum height of the zone provided they are screened consistent with the existing building in terms of color, architectural style and material. Flush-mounted antennas may encroach into a required setback or into the City right-of-way if a right-of-way use agreement is established with the City. Antennas shall not project into the right-of-way by more than two feet (2') and shall provide a minimum clearance height of 20 feet (20') over any pedestrian or vehicular right-of-way.

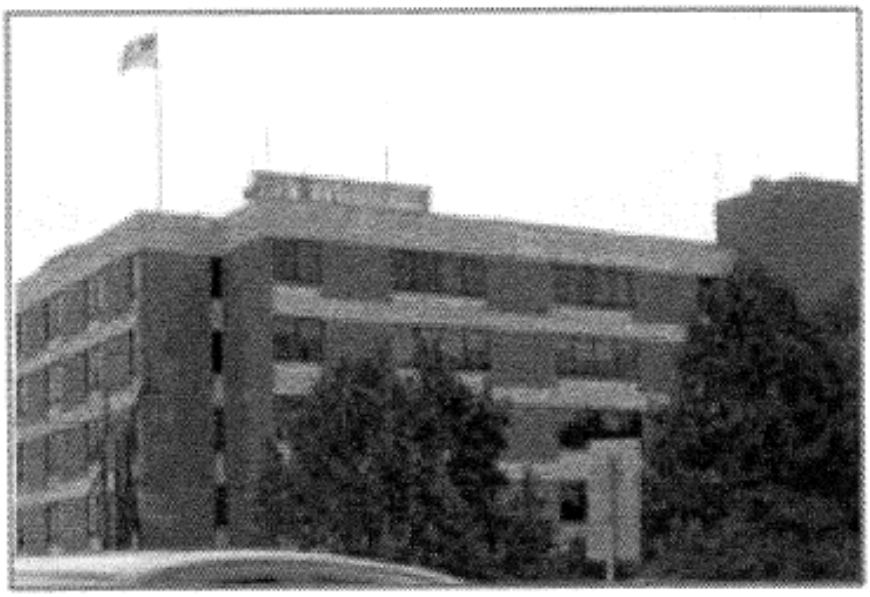
2. Outside The Mixed-Use Town Center And Mixed-Use Town Center North Zones: The maximum height of building- mounted facilities and equipment shall not exceed ten feet (10') above the top of the roof on which the facility is located. This standard applies to all buildings regardless of whether they are at or above the maximum height of the underlying zone. Such antennas must be well integrated with the existing structure or designed to look like common rooftop structures such as chimneys, vents and stovepipes.

C. Equipment Enclosure: Equipment enclosures for building-mounted wireless communications services facilities shall first be located within the building on which the facility is located. If an equipment enclosure within the building is reasonably unavailable, then an equipment enclosure may be incorporated into the roof design provided the enclosure meets the height requirement for the zone. If the equipment can be screened by placing the equipment below existing parapet walls, no additional screening is required. If screening is required, then the screening must be consistent with the existing building in terms of color, architectural style and material. Finally, if there is no other choice but to locate the equipment enclosure on the ground, the equipment must be enclosed within an

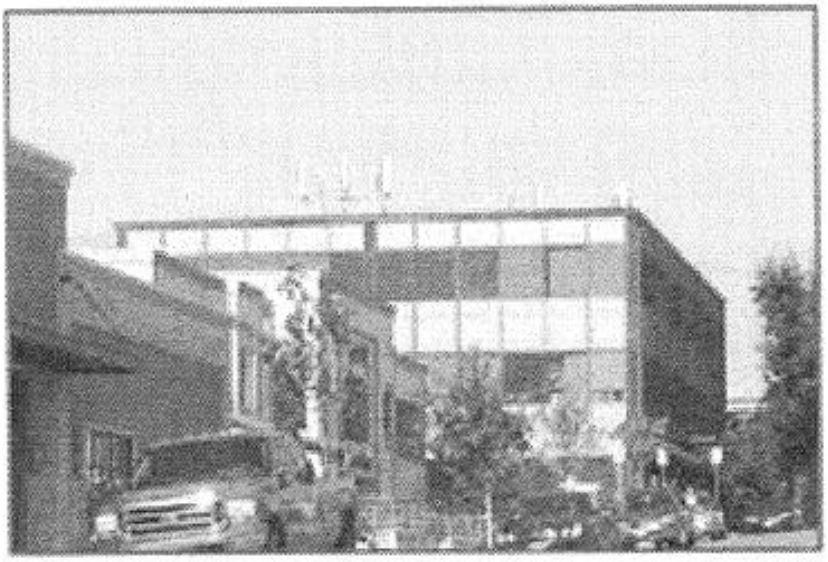
accessory structure which meets the setbacks of the underlying zone and be screened in accordance this chapter.

D. Feed Lines And Coaxial Cables: Feed lines and cables should be located below the parapet of the rooftop, if present. If the feed lines and cables are visible from a public right-of-way or adjacent property, they must be painted to match the color scheme of the building.

ACCEPTABLE BUILDING-MOUNTED MACRO EXAMPLE



UNACCEPTABLE BUILDING-MOUNTED MACRO EXAMPLE



(Ord. 2019-1049, 9-25-2019)

13-9-10: NEW STRUCTURE-MOUNTED MACRO WIRELESS COMMUNICATIONS SERVICES FACILITIES STANDARDS:

A. Generally: Wireless communications services facilities located on structures other than buildings, such as utility poles, light poles, flag poles, transformers, and/or tanks, shall be designed to blend with these structures and be mounted on them in an inconspicuous manner. Installation of wireless communications services facilities on utility poles, light poles, transformers, etc. shall comply with the requirements of Puget Sound Energy, as applicable.

1. Wireless communications services facilities located on structures within city rights-of- way adjacent to any residential zone shall satisfy the following requirement:

a. No metal pole or tower shall be used within the right-of-way adjacent to a residentially zoned neighborhood unless required in order to comply with the provisions of the State Electrical Code. Wooden poles of height and type generally in use in the surrounding residential neighborhood shall be used unless prohibited by the State Electrical Code.

2. Wireless communications services facilities located on structures shall be painted with nonreflective colors in a scheme that blends with the underlying structure.

B. Height:

1. The maximum height of structure-mounted wireless communications services facilities shall not exceed the maximum height specified for each structure or zoning district; provided the wireless communications services facilities may extend up to six feet above the top of the structure on which the wireless communications services facilities is installed. Antennas and related equipment shall be mounted as close as practicable to the structure.

2. Only one extension is permitted per structure.

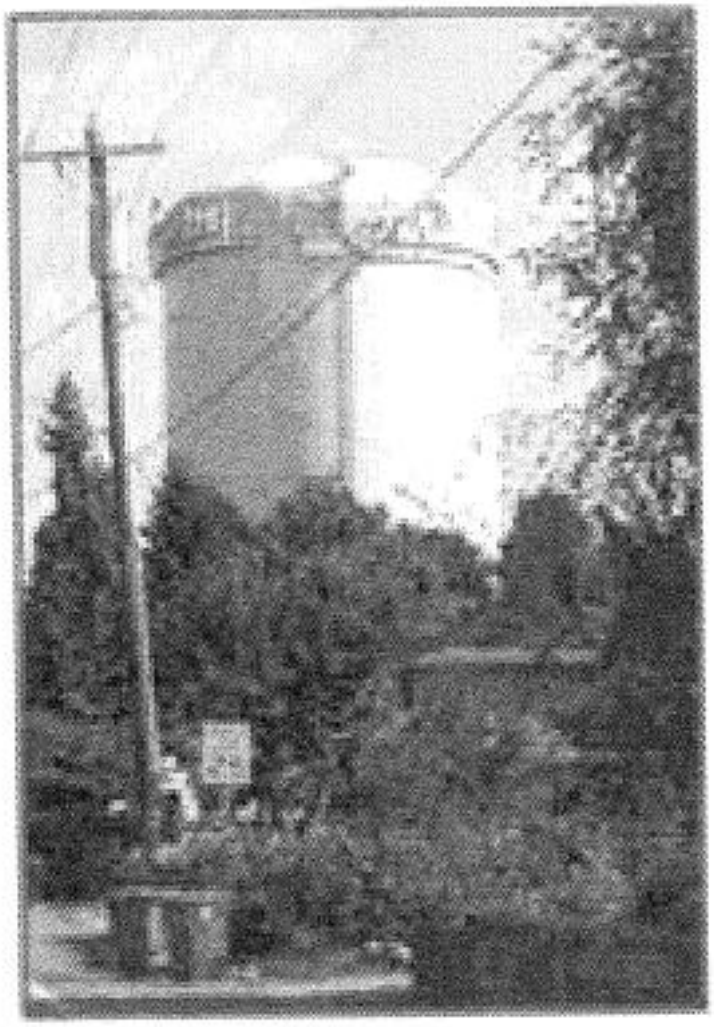
3. If installed on an electrical transmission or distribution pole, a maximum 15-foot vertical separation is required from the height of the existing power lines at the site (prior to any pole replacement) to the bottom of the antenna. This vertical separation is intended to allow wireless carriers to comply with the electrical utility's requirements for separation between their transmission lines and the carrier's antennas.

C. Equipment Enclosure: If the equipment enclosure is within the right-of-way, the enclosure shall be underground. It is preferred that equipment enclosures on private property be underground; however, if there is no other feasible option but to locate the equipment enclosure above ground on private property, the equipment must be enclosed within an accessory structure which meets the setbacks of the underlying zone and be screened in accordance this chapter.

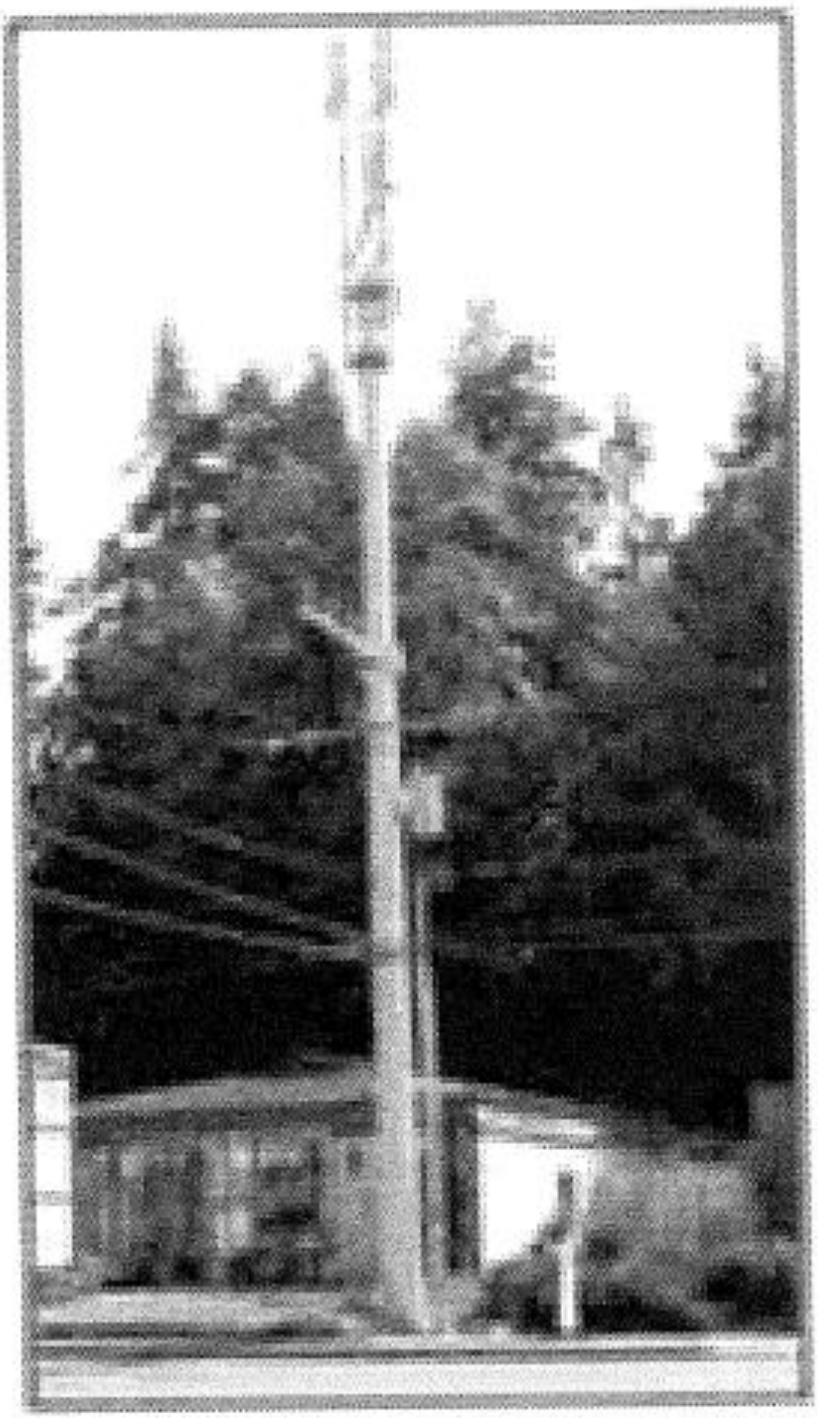
D. Feed Lines And Coaxial Cable: Feed lines and cables must be painted to closely match the color scheme of the structure which supports the antennas.

E. Only wireless communication providers with a valid master permit shall be eligible to apply for a right-of-way construction permit, which shall be required prior to installation of facilities within the City right-of-way and be in addition to other permits specified in this chapter.

ACCEPTABLE STRUCTURE-MOUNTED MACRO EXAMPLE



UNACCEPTABLE STRUCTURE-MOUNTED MACRO EXAMPLE



(Ord. 2019-1 049, 9-25-2019)

13-9-11: NEW MONOPOLE (MACRO WIRELESS COMMUNICATIONS SERVICES FACILITIES) STANDARDS:

A. To the greatest extent technically feasible, applicants for new monopole facilities must build mounts capable of accommodating at least one additional carrier.

B. No part of a monopole, antennas or antenna equipment may exceed the maximum height of the zone where the facility is located.

C. Monopoles must be completely shrouded. All antennas, equipment and cables must be concealed.

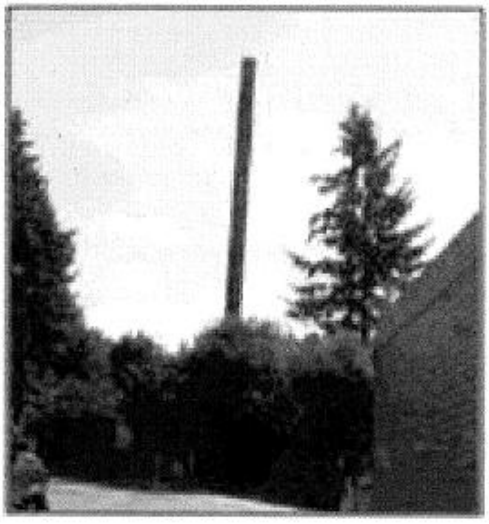
D. All monopole facilities must conform to the following site development standards:

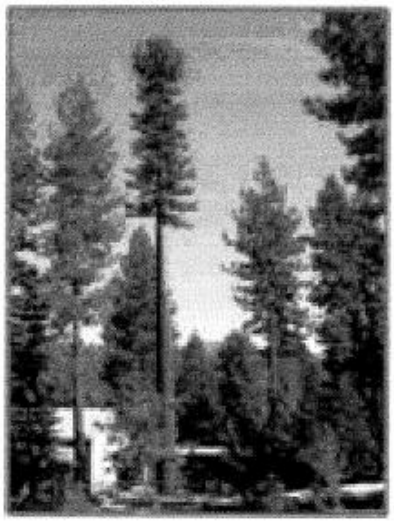
1. To the greatest extent possible, monopole facilities shall be located where existing trees, existing structures and other existing site features camouflage these facilities and/or stealth technology is utilized. Stealth technology will be reviewed by the Architectural Design Board for compliance with Architectural Design Review (ADR) Guidelines.

2. Existing mature vegetation should be retained to the greatest possible degree in order to help conceal the facility.

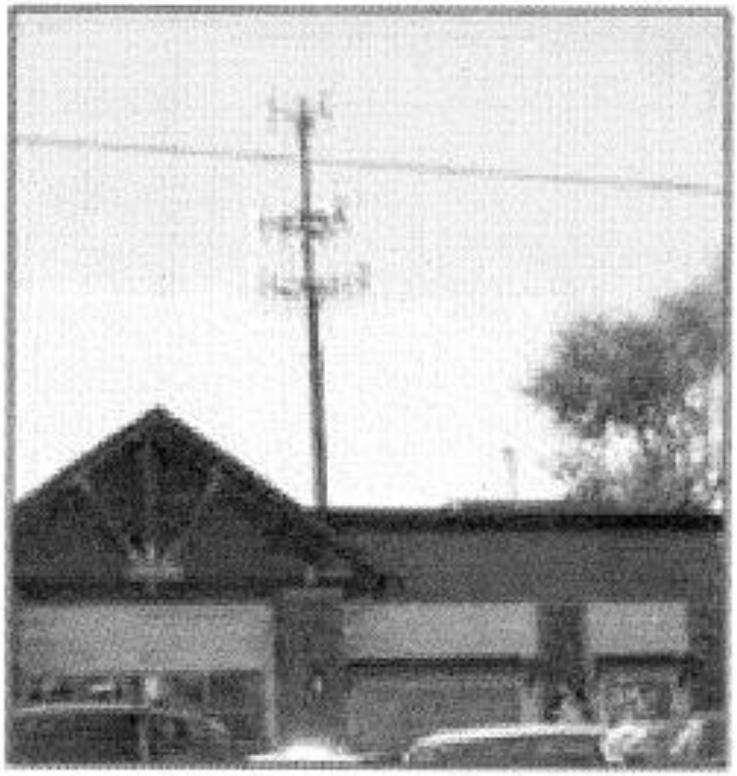
3. It is preferred that equipment enclosures on private property be underground; however, if there is no other feasible option but to locate the equipment enclosure above ground on private property, the equipment must be enclosed within an accessory structure which meets the setbacks of the underlying zone and be screened in accordance with this chapter. See section 13-9-4 of this code for monopole prohibited locations.

ACCEPTABLE MONOPOLE MACRO EXAMPLES





UNACCEPTABLE MONOPOLE MACRO EXAMPLE



(Ord. 2019-1049, 9-25-2019)

13-9-12: TEMPORARY FACILITIES:

A. The installation of a "cell-on-wheels" or COWs and the installation site shall comply with all applicable laws, statutes, requirements, rules, regulations, and codes, including, but not limited to, the adopted Building, Fire, and Electrical Codes.

B. All COWs and related appurtenances sited for emergencies, shall be completely removed from the installation site within 30 days of the date of the end of the emergency as determined by the City Administrator or designee.

(Ord. 2019-1049, 9-25-2019)

13-9-13: SMALL WIRELESS COMMUNICATIONS SERVICES FACILITIES STANDARDS (SMALL CELL):

Unlike macro facilities which are intended to provide wireless coverage over large areas, the goal of a small wireless deployment is to provide additional capacity in localized areas, including residential neighborhoods, using smaller antennas and equipment. The intent of

this section is to describe the City's location options for small cell deployments and provide appropriate design standards to ensure that the negative visual impacts of wireless facilities are minimized, and the City's long-term goal of utility undergrounding is not frustrated.

A. Permitted Locations:

1. Small cell attachments to buildings are permitted in any zone and are not subject to the dispersion requirement below.

2. Dispersion Requirement: No two small wireless facilities shall be located within 300 lineal feet of each other as measured along the right-of-way line.

3. Installations in the Mixed-Use Town Center and Mixed-Use Town Center North zones shall be limited to building attachments or through the replacement or new installation of a street light designed to contain a small wireless facility that complies with the adopted architectural design review guidelines.

B. Location Options: Wireless providers shall attempt to site their small wireless communications services facilities pursuant to the following siting preferences (in descending order starting with the most preferred):

1. Outside The Right-of-Way / Private Property:

a. Roof-mounted on an existing building.

(1) Small cell facilities may be built to the maximum height of the underlying zone provided they are screened consistent with the existing building in terms of color, architectural style and materials.

(2) Such facilities must be concealed and well-integrated with the existing structure or designed and located to look like common rooftop elements such as chimneys, elevator penthouses or screened HVAC equipment.

(3) Height Exception: Antennas may be located on buildings that are nonconforming for height provided that, they are constructed to be no taller than the adjacent façade or an existing parapet. Equipment may be located on a roof behind a parapet that is nonconforming for height.

b. Façade-mounted on an existing building.

(1) Small cell antennas may be mounted to the side of a building if they do not interrupt and are integrated with the building's architectural theme.

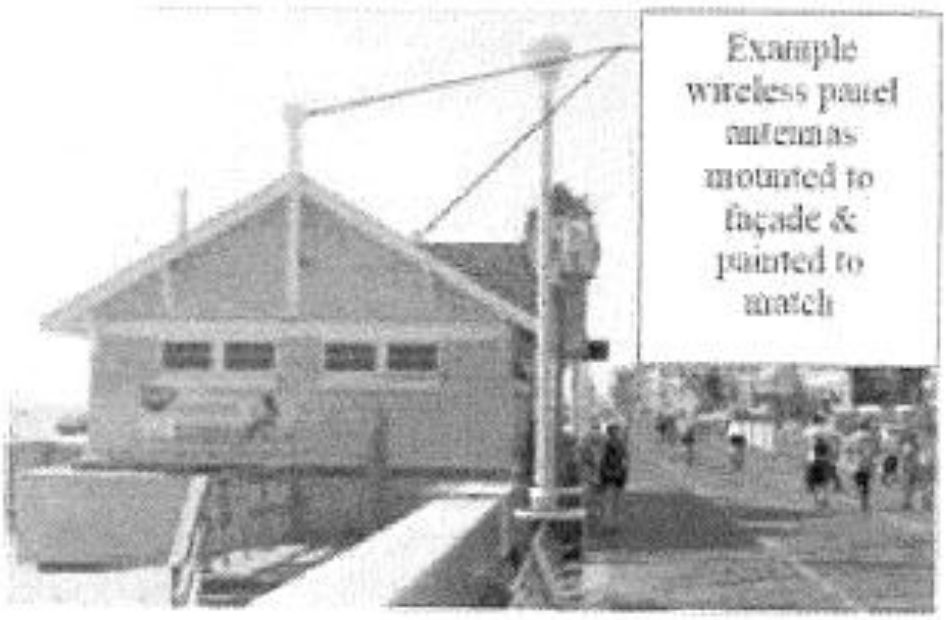
(2) To the extent technically feasible, new architectural features such as columns, pilasters, corbels, or similar ornamentation that conceals the antennas should be used if it complements the architecture of the existing building.

(3) If concealment is not feasible, the antennas must be camouflaged. The smallest feasible mounting brackets must be used, and the antennas must be painted and textured to match the adjacent building surfaces, to the extent technically feasible.

(4) Facade-mounted antennas may encroach into a required setback. Antennas may not project into the right-of-way more than twelve inches (12") and shall provide a minimum clearance height of twenty feet (20') over any pedestrian or vehicular right-of-way.

(5) To the extent technically feasible, all other equipment must be located within the building, screened by an existing parapet, or completely concealed and well-integrated with the existing structure or designed and located to look like common rooftop elements such as chimneys, elevator penthouses or screened HVAC equipment. Exposed cabling/wiring is prohibited.

(6) Height Exception: Antennas may be located on buildings that are nonconforming for height provided that, they are constructed to be no taller than the adjacent façade or an existing parapet. Equipment may be located on a roof behind a parapet that is nonconforming for height



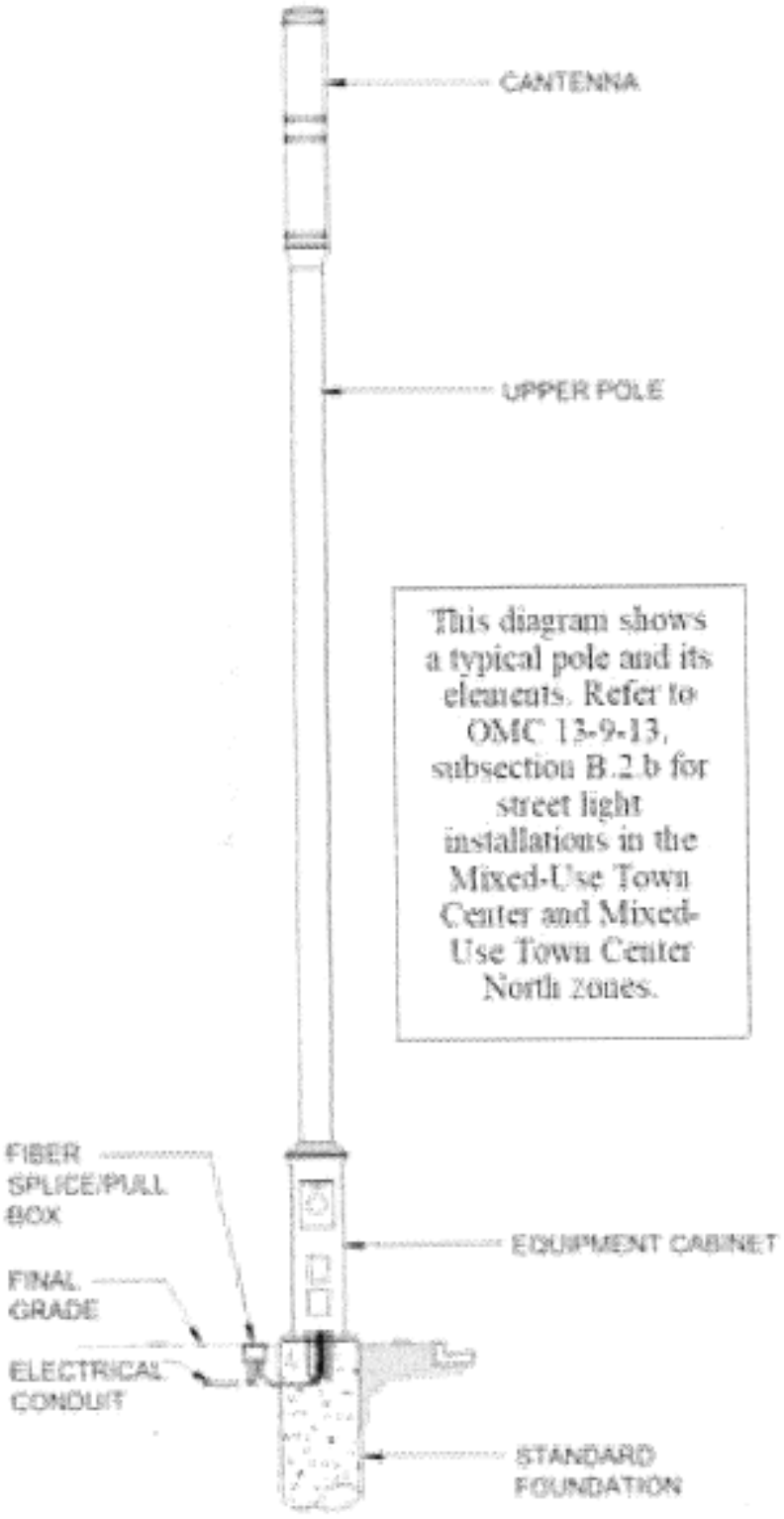
c. Freestanding Small Cell on Private Property:

(1) Dimensional Requirements:

(A) A freestanding small cell may not exceed fifty feet (50') in height measured from the top of the foundation to the top of the cantenna/antenna.

(B) The cantenna/antenna must have a maximum outer diameter of 16 inches, to the extent technically feasible, and be tapered to transition from the upper pole.

(2) Appearance Requirements:



(A) All small cell carrier equipment must be housed internal to the equipment cabinet or hidden within the cantenna/antenna. The cantenna/antenna, upper pole and equipment cabinet must be the same color, unless otherwise approved by the City.

(B) All hardware connections shall be hidden from view.

(C) To the extent technically feasible, no equipment may be attached to the outside of the pole.

(D) The freestanding small cell pole must be served by underground power and fiber, if fiber is to be connected.

(E) May provide space for future collocation by another provider inside the same freestanding small cell pole facilities.

(3) Placement requirements. Freestanding small cells shall be located as follows, to the extent technically feasible:

(A) Located such that they in no way impede, obstruct, or hinder the usual pedestrian or vehicular travel, or violate applicable law.

(B) Outside the Residential Zones, Mixed-Use Town Center, and Mixed-Use Town Center North zones.

(C) Not to be located along the frontage of a Historic building, deemed historic on a federal, state, or local level.

(D) Not to significantly create a new obstruction to property sight lines.

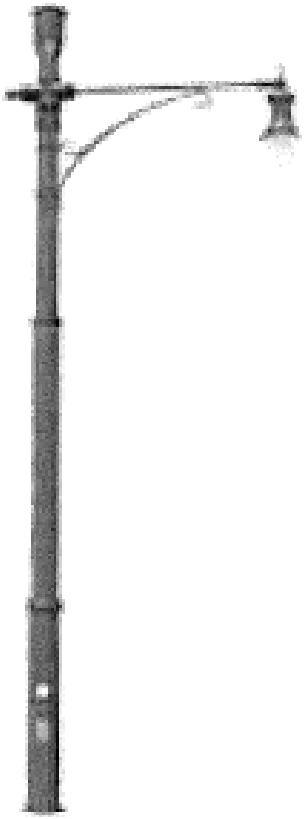
(E) In alignment with existing trees, utility poles, and streetlights.

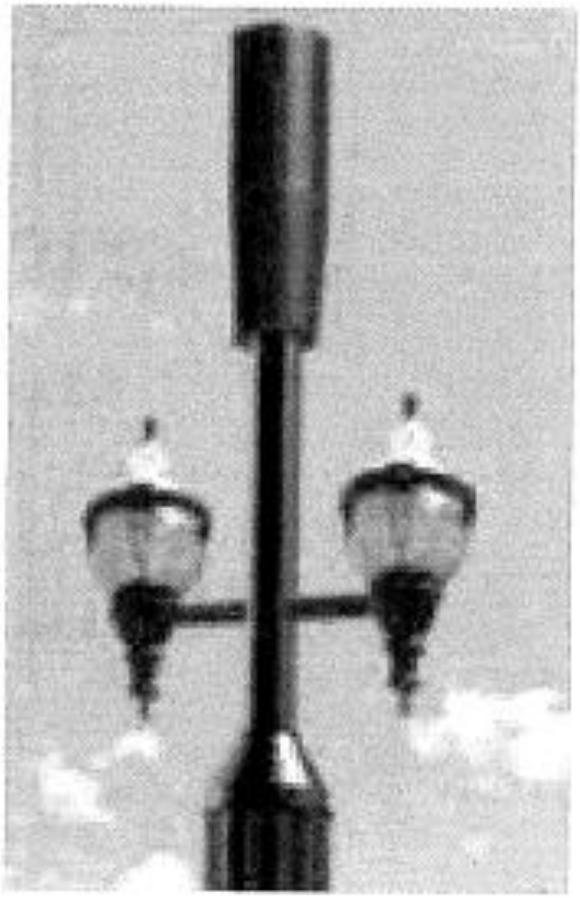
(F) With appropriate safety clearance from existing utilities.

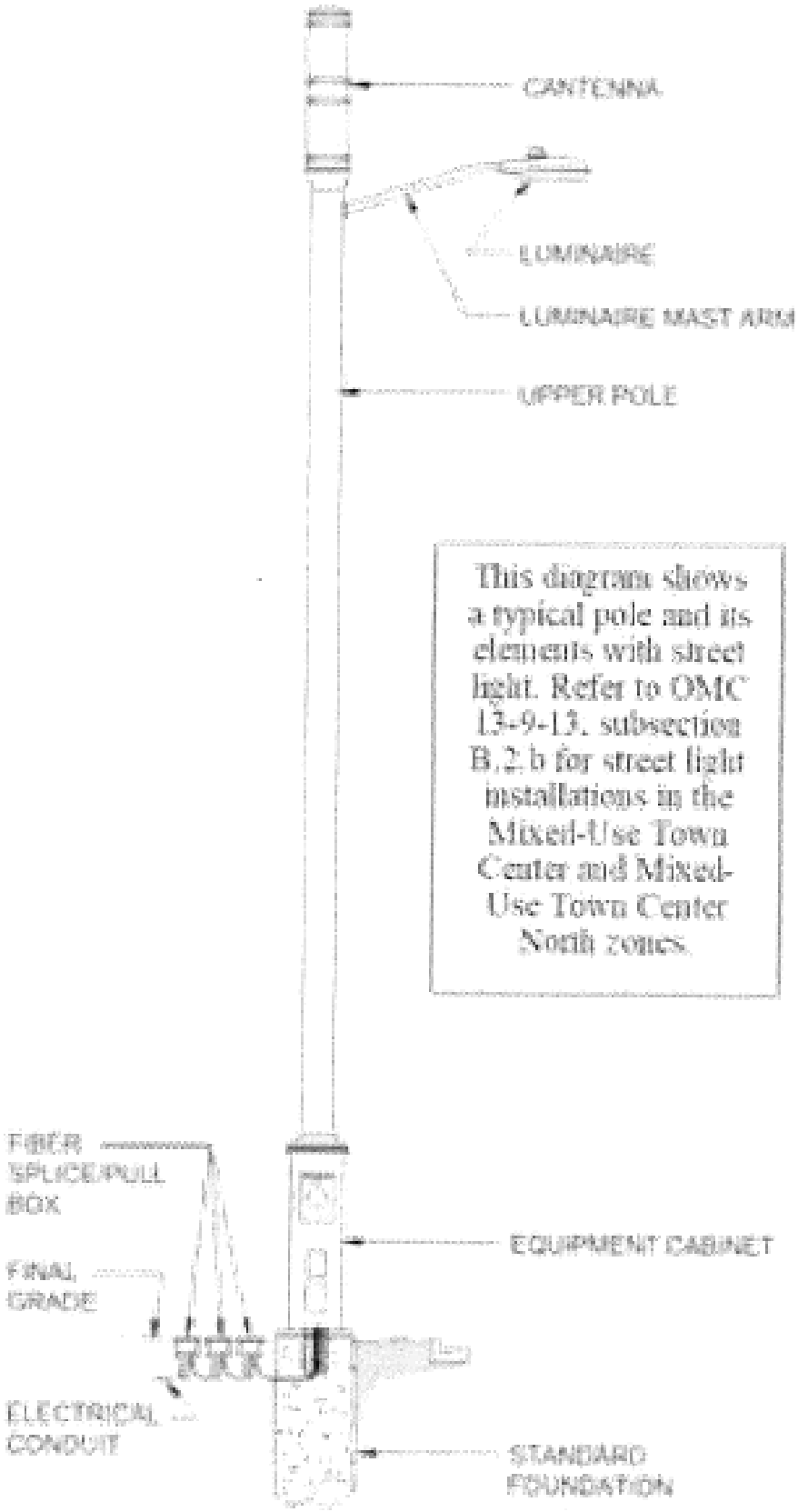
(G) On the same side of the street as existing power lines, regardless of whether power is underground or overhead;

(H) No two (2) freestanding small cell poles may be located within 300 lineal feet of each other as measured along the right-of-way line.

2. Within The Right-Of-Way - Existing/Replaced Hollow Street Light Pole Or Utility Pole:







This diagram shows a typical pole and its elements with street light. Refer to OMC 13-9-13, subsection B.2.b for street light installations in the Mixed-Use Town Center and Mixed-Use Town Center North zones.

a. Installation of small wireless communications services facilities on street lights and utility poles shall comply with the requirements of Puget Sound Energy, as applicable.

b. Combination small cell and streetlight pole should be located where an existing streetlight pole can be utilized or removed and replaced with a pole that allows for small wireless facility installation in the same location.

c. Pole design shall match or be compatible with the aesthetics of existing streetlights installed adjacent to the pole. In the Mixed-Use Town Center and Mixed-Use Town Center North zones, poles designed to contain a small wireless facility shall comply with the adopted architectural design review guidelines.

d. A decorative transition shall be installed over the equipment cabinet upper bolts, or a decorative base cover shall be installed to match the equipment cabinet size.

e. An internal divider shall separate electrical wiring and fiber, per the pole owner.

f. Weatherproof grommets shall be integrated in the pole design to allow cable to exit the pole, for external shrouds, without water seeping into the pole.

g. For installations on existing street lights, the antenna shall either be fully concealed within the pole or placed on top of the pole. A cantenna/antenna on top of a pole shall be integrated into the pole design so that it appears as a continuation of the original pole, including colored or painted to match or be compatible with the pole. All cabling and mounting hardware/brackets from the bottom of the antenna to the top of the pole shall be fully concealed and integrated with the pole, to the extent technically feasible.

h. Street light pole shall be located as follows, to the extent technically feasible:

(1) In a manner that does not impede, obstruct, or hinder pedestrian or vehicular travel.

(A) In alignment with existing trees, utility poles, and streetlights.

(B) Within the street amenity zone wherever possible.

(C) Equal distance between trees when possible, with a minimum of fifteen-foot (15') separation such that no proposed disturbance shall occur within the critical root zone of any tree.

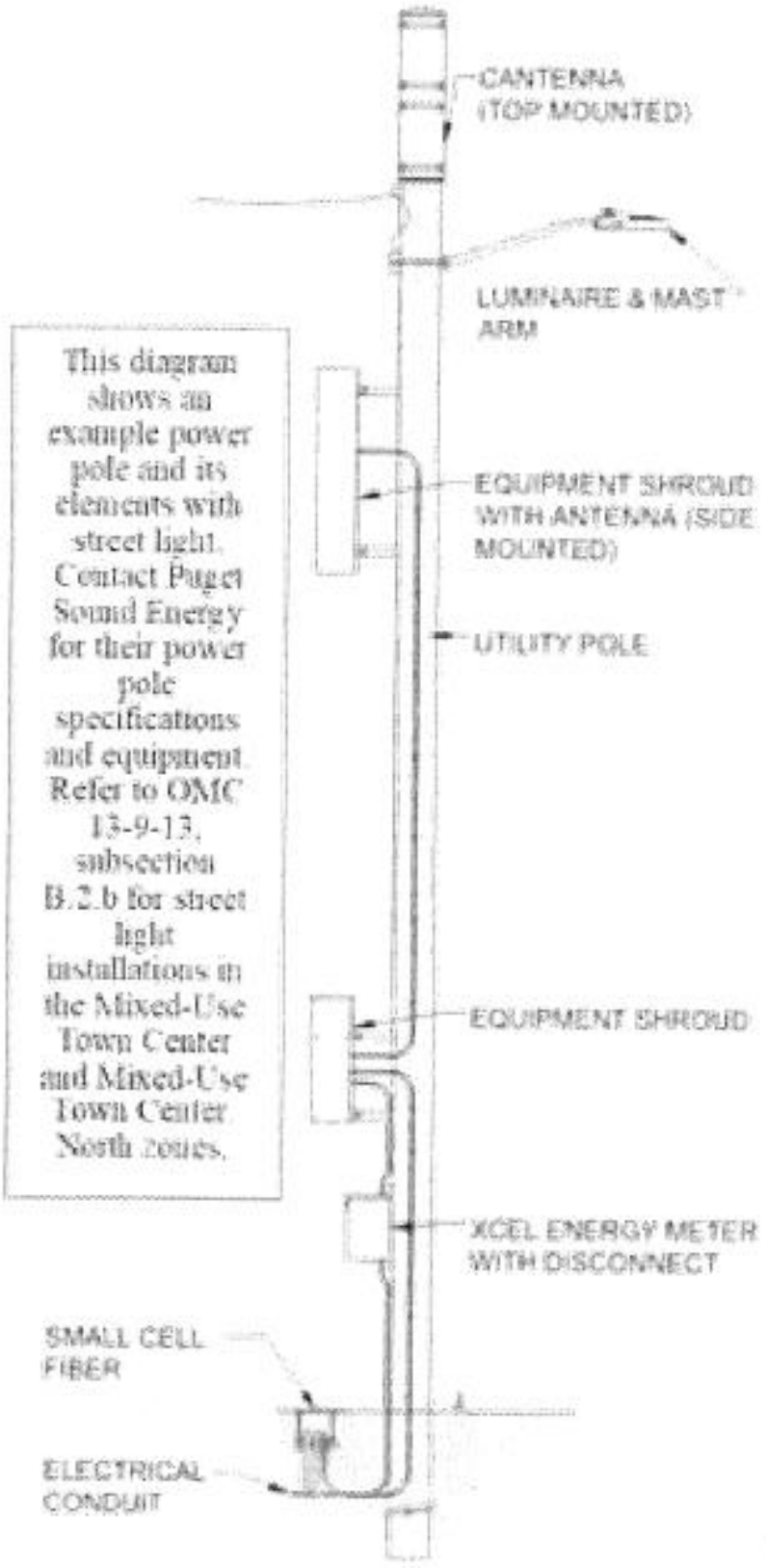
(D) With appropriate clearance from existing utilities.

(E) Outside the clear sight triangle, as determined by the City, at intersection corners.

(F) Ten feet (10') away from the intersection of an alley with a street.

(2) All conduit, cables, wires and fiber must be routed internally in the light pole.

3. Within The Right-Of-Way - Existing Single-Phase Power Pole (Installation On Top Of Pole):


CANTENNA
(TOP MOUNTED)
LUMINAIRE & MAST ARM
This diagram shows an example power pole and its elements with street light. Contact Puget Sound Energy for their power pole specifications and equipment. Refer to OMC 13-9-13, subsection B.2.b for street light installations in the Mixed-Use Town Center and Mixed-Use Town Center North zones.
EQUIPMENT SHROUD WITH ANTENNA (SIDE MOUNTED)
UTILITY POLE
EQUIPMENT SHROUD
XCEL ENERGY METER WITH DISCONNECT
SMALL CELL FIBER
ELECTRICAL CONDUIT

a. Installation of small wireless communications services facilities on existing single-phase power poles shall comply with the requirements of Puget Sound Energy.

b. A cantenna/antenna on top of a pole shall be integrated into the pole design so that it appears as a continuation of the original pole, including colored or painted to match or be compatible with the pole. All cabling and mounting hardware/brackets from the bottom of the antenna to the top of the pole shall be fully concealed and integrated with the pole, to the extent technically feasible.

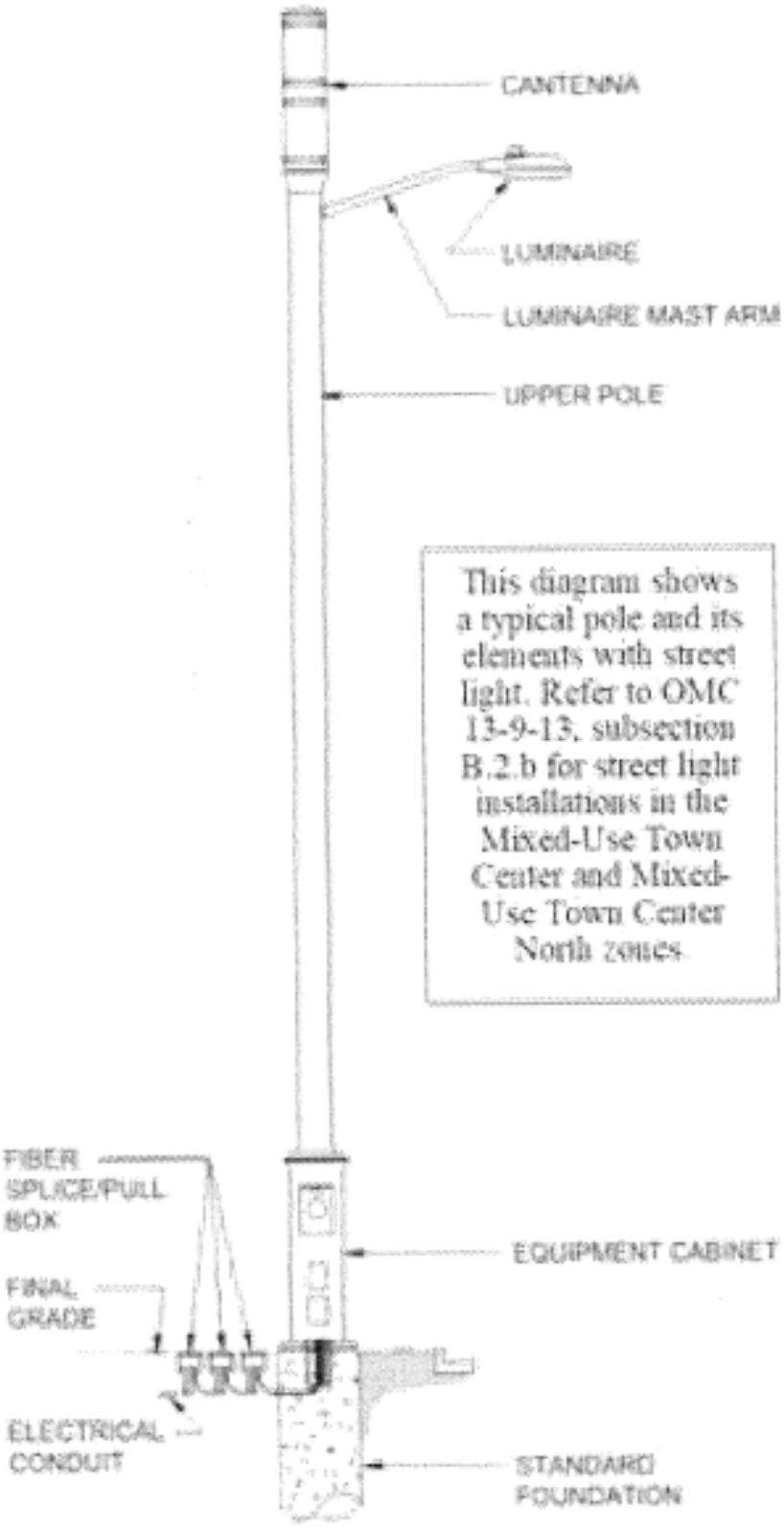
c. Equipment enclosures and all ancillary equipment and boxes shall be colored or painted to match the color of the surface of the pole in which they are attached. All related equipment shall not be mounted more than five inches (5") from the surface of the pole, unless a further distance is technically required, and is confirmed in writing by the pole owner.

d. All cables and wires shall be routed through conduit along the outside of the pole. The outside conduit shall be colored or painted to match or be compatible with the color of the surface of the pole. The number of conduit shall be minimized to the number technically necessary to accommodate a small wireless facility.

e. An existing power pole in a proposed location may be replaced with a taller pole for the purpose of accommodating a small wireless facility; provided, that the height of any replacement pole may not exceed fifty (50) feet to the top of the antenna(s), or the maximum height allowed by the definition of "small wireless facility", whichever is greater.

f. The replacement pole shall comply with the City's sidewalk clearance requirements and ADA requirements.

4. Within The Right-Of-Way - Freestanding Small Cell Pole Or New Street Light:


CANTENNA
LUMINAIRE
LUMINAIRE MAST ARM
UPPER POLE
This diagram shows a typical pole and its elements with street light. Refer to OMC 13-9-13, subsection B.2.b for street light installations in the Mixed-Use Town Center and Mixed-Use Town Center North zones.
FIBER SPLICE/PULL BOX
FINAL GRADE
ELECTRICAL CONDUIT
EQUIPMENT CABINET
STANDARD FOUNDATION

a. Refer to section 13-9-13, subsections (B)(1)(c) of this code for dimensional and appearance standards. Installation of small wireless communications services facilities on street lights shall comply with the requirements of Puget Sound Energy, as applicable.

b. New Street Light: The replacement street light pole requirements are also applicable to the new street light option, except that a street light would be incorporated into the design of the facility. In addition, the following applies, to the extent technically feasible:

(1) A street light shall not be installed unless it has been identified by the Public Works Director or designee that a street light is necessary at the location in which the small cell facility is proposed. A street light may be required to be installed instead of a freestanding pole.

(2) In the Mixed-Use Town Center and Mixed-Use Town Center North zones, poles designed to contain a small wireless facility shall comply with the adopted architectural design review guidelines.

c. Placement requirements for freestanding small cell poles. Freestanding small cell poles shall be located in compliance with the following, to the extent technically feasible:

(1) Located such that they in no way impede, obstruct, or hinder the usual pedestrian or vehicular travel, obstruct the legal access to or use of the public ROW, violate applicable law, violate or fail to substantially comply with public ROW design standards, specifications, or design district requirements, violate the Federal Americans with Disabilities Act of 1990, or in any way create a risk to public health, safety, or welfare.

(2) Outside the Mixed-Use Town Center and Mixed-Use Town Center North zones.

(3) Not to be located along the frontage of a historic building, deemed historic on a federal, state, or local level.

(4) Not to significantly create a new obstruction to property sight lines.

(5) In alignment with existing trees, utility poles, and streetlights.

(6) Within the street amenity zone wherever possible.

(7) Equal distance between trees when possible, with a minimum of 15-foot separation such that no proposed disturbance shall occur within the critical root zone of any tree.

(8) With appropriate clearance from existing utilities.

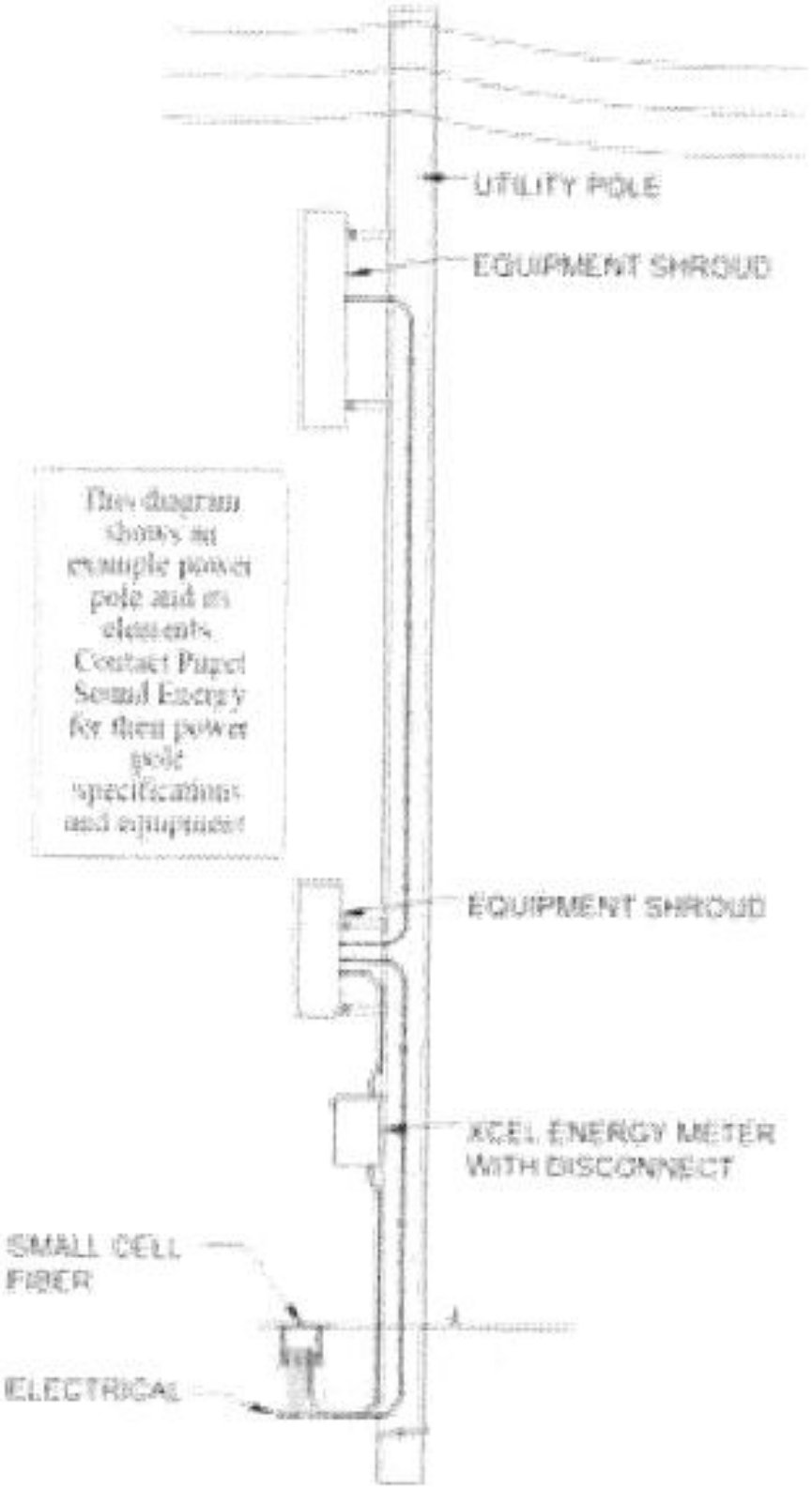
(9) Outside the clear sight triangle, as determined by the City, at intersection corners.

(10) Ten feet (10') away from the intersection of an alley with a street.

(11) On the same side of the street as existing power lines, regardless of whether power is underground or overhead;

(12) No two freestanding small cell poles may be located within 300 lineal feet of each other as measured along the right-of-way line.

5. Within The Right-Of-Way - Existing Power Pole (Installation Below Top Of Pole):


UTILITY POLE
EQUIPMENT SHROUD
This diagram shows an example power pole and its elements. Contact Puget Sound Energy for their power pole specifications and equipment
EQUIPMENT SHROUD
XCEL ENERGY METER WITH DISCONNECT
SMALL CELL FIBER
ELECTRICAL

a. Installation of small wireless communications services facilities on existing power poles shall comply with the requirements of Puget Sound Energy.

b. Antennas should be placed in an effort to minimize visual clutter and obtrusiveness.

c. The inside edge of a side mounted canister antenna/equipment shroud shall be no more than twelve inches (12") from the surface of the pole.

d. Antennas and equipment located within a unified enclosure shall not exceed twenty eight (28) cubic feet. To the extent possible, the unified enclosure shall be placed so as to appear as an integrated part of the pole or behind banners or signs.

e. The unified enclosure may not be placed more than six inches (6") from the surface of the pole, unless a further distance is technically required and confirmed in writing by the pole owner.

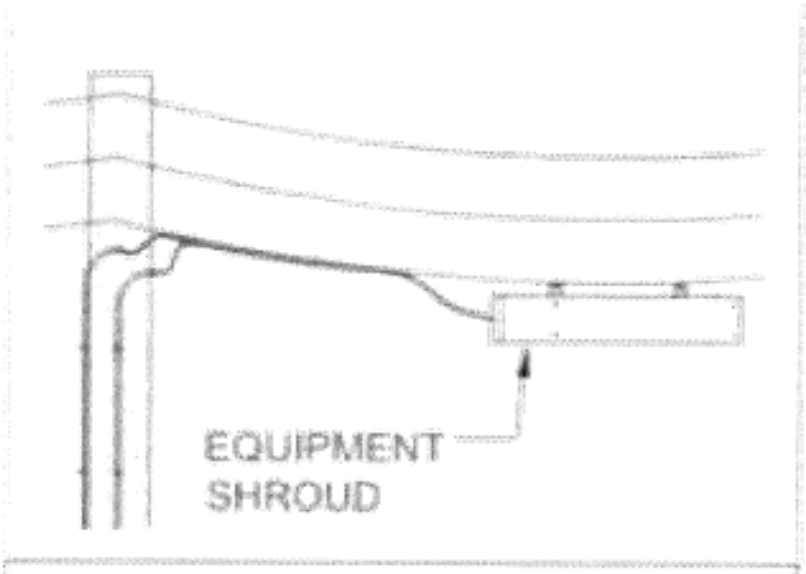
f. Equipment enclosures and all ancillary equipment and boxes shall be colored or painted to match the color of the surface of the pole in which they are attached. All related equipment shall not be mounted more than six inches (6") from the surface of the pole, unless a further distance is technically required, and is confirmed in writing by the pole owner.

g. All cables and wires shall be routed through conduit along the outside of the pole. The outside conduit shall be colored or painted to match the color of the surface of the pole. The number of conduit shall be minimized to the number technically necessary to accommodate a small wireless facility.

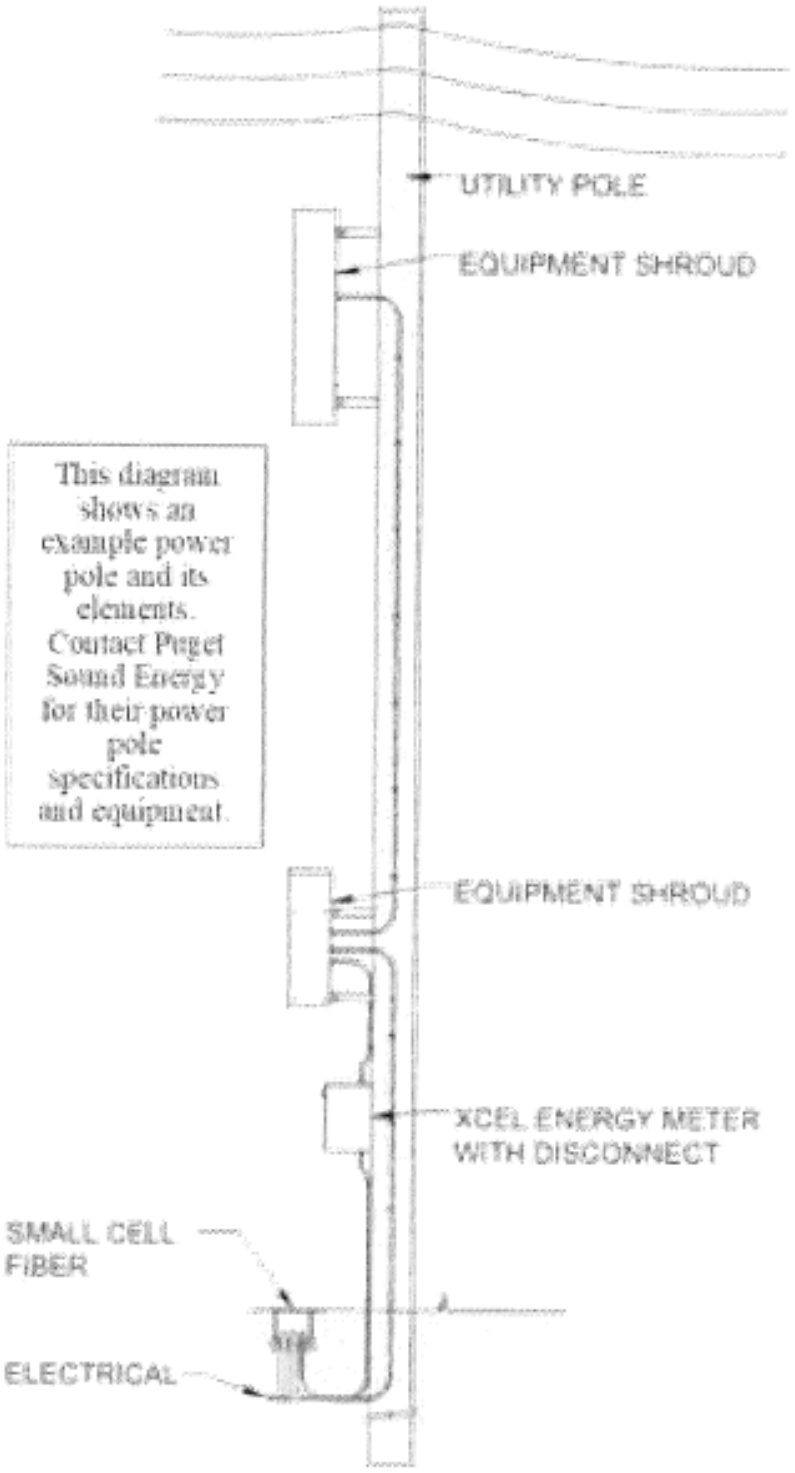
h. An existing power pole in a proposed location may be replaced with a taller pole for the purpose of accommodating a small wireless facility; provided, that the height of any replacement pole may not extend more than ten feet (10') above the height of the existing pole, or the maximum height allowed by the definition of "small wireless facility," whichever is greater, unless a further height increase is required and confirmed in writing by the pole owner and that such height increase is the minimum extension possible to provide sufficient separation and/or clearance from electrical and wireline facilities.

i. The replacement pole shall comply with the City's sidewalk clearance requirements and ADA requirements.

6. Within The Right-Of-Way - Strand-Mounted:



This graphic is intended to represent an example strand mount antenna. Contact Puget Sound Energy for their specifications and equipment requirements / allowances.


UTILITY POLE
EQUIPMENT SHROUD
This diagram shows an example power pole and its elements. Contact Puget Sound Energy for their power pole specifications and equipment.
EQUIPMENT SHROUD
XCEL ENERGY METER WITH DISCONNECT
SMALL CELL FIBER
ELECTRICAL

a. Installation of small wireless communications services facilities mounted on cables strung between existing utility poles shall comply with the requirements of Puget Sound Energy.

b. Each strand mounted antenna shall not exceed three (3) cubic feet in volume.

c. Only two (2) strand mounted facilities are permitted between any two (2) existing poles.

d. The strand mounted devices shall be placed as close as possible to the nearest utility pole, in no event more than five feet (5') from the pole unless a greater distance is technically necessary or required for safety clearance and confirmed in writing by the pole owner.

e. No strand mounted device shall be located in or above the portion of the roadway open to vehicular traffic.

f. Ground mounted equipment to accommodate such strand mounted facilities is not permitted, except when placed in pre-existing equipment cabinets, underground or on zoned property or when required by another party, such as an electrical meter.

g. Pole mounted equipment enclosures and all ancillary equipment and boxes shall be colored or painted to match the color of the surface of the pole in which they are attached. All related equipment shall not be mounted more than six inches (6") from the surface of the pole, unless a further distance is technically required, and is confirmed in writing by the pole owner.

(1) All cables and wires shall be routed through conduit along the outside of the pole. The outside conduit shall be colored or painted to match the color of the surface of the pole. The number of conduit shall be minimized to the number technically necessary to accommodate a small cell wireless facility.

h. Such strand mounted devices must be installed with the minimum excess exterior cabling or wires (other than the original strand) necessary to meet the technological needs of the facility.

C. Location Preference Criteria: A proposed small wireless facility location shall only be allowed in a lower ranking location as provided in the location hierarchy in subsection B above, if the applicant can demonstrate that all higher-ranking locations are not technically feasible to locate the particular small wireless facility.

D. Small Wireless Facility General Standards:

1. Ground mounted equipment in the rights-of-way is prohibited, unless such facilities are placed underground, or the applicant can demonstrate that pole mounted or undergrounded equipment is technically infeasible. If ground mounted equipment is necessary, then the applicant must submit a plan of how the equipment will be concealed that is consistent with these standards. Generators located in the rights-of-way are prohibited.

2. No equipment shall be operated to produce noise in violation of Chapter 5-8 of this code.

3. Replacement poles, new poles, and all equipment shall comply with the Americans with Disabilities Act ("ADA"), city construction and sidewalk clearance standards, and state and federal regulations in order to provide a clear and safe passage within the rights-of-way.

4. Replacement poles shall be located as near as possible to the existing pole with the requirement to remove the abandoned pole.

5. The design criteria as applicable to small wireless facilities described herein shall be considered concealment elements and such small cell facilities may only be expanded upon through an eligible facilities request described in section 13-9-8 of this code, when the modification does not defeat the concealment elements of the facility.

6. No signage, message, or identification other than the manufacturer's identification or identification required by governing law is allowed to be portrayed on any antenna, and any such signage on equipment enclosures shall be of the minimum amount possible to achieve the intended purpose; provided, that signs are permitted as concealment techniques where appropriate.

7. Antennas and related equipment may not be illuminated except for security reasons, required by a federal or state authority, or unless approved as part of a concealment element plan.

8. Side arm mounts for antennas or equipment are prohibited.

(Ord. 2019-1049, 9-25-2019)

13-9-14: ABANDONMENT OR DISCONTINUATION OF USE:

A. At such time that a licensed carrier plans to abandon or discontinue operation of a wireless communications services facility, such carrier will notify the City by certified U.S. Mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation of operations.

B. In the event that a licensed carrier fails to give such notice, the wireless communications services facilities shall be considered abandoned upon the discovery of such discontinuation of operations.

C. Within ninety (90) days from the date of abandonment or discontinuation of use, the carrier shall physically remove the wireless communications services facilities. "Physically remove" shall include, but not be limited to:

1. Removal of antennas, mounts or racks, the equipment enclosure, screening, cabling and the like from the subject property.

2. Transportation of the materials removed to a repository outside of the City.

3. Restoration of the wireless communications services facilities site to its pre-permit condition, as determined by the City, and that any landscaping provided by the wireless communications services facilities operator may remain in place.

4. If a carrier fails to remove a wireless communications services facility in accordance with this section, the City shall have the authority to enter the subject property and physically remove the facility. Costs for removal of the wireless communications services facility shall be charged to the wireless communications services facilities owner or operator in the event the City removes the facility.

(Ord. 2019-1049, 9-25-2019)

13-9-15: MAINTENANCE:

A. The applicant shall maintain the wireless communications services facility to standards that may be imposed by the City by ordinance or through a permit condition. Such maintenance shall include, but not be limited to, repair of damaged shrouds or enclosures, painting, structural integrity, and landscaping.

B. In the event the applicant fails to maintain the facility, the City of Orting may undertake enforcement action as allowed by existing codes and regulations.

(Ord. 2019-1049, 9-25-2019)

13-9-16: DEFINITIONS:

A. ANTENNA(S): Any apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Commission authorization, for the provision of personal wireless service and any commingled information services.

B. CELL-ON-WHEELS (COW): Are used to provide temporary service, usually for special events, before the installation of a permanent wireless site, or in emergencies.

C. CO-LOCATION: Means the mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes, whether or not there is an existing antenna on the structure.

D. CONCEALED FACILITY: A wireless communications services facility where:

1. The antennas, mounting apparatus, and any associated equipment are fully recessed/concealed from all sides with a structure that achieves total integration with the existing building or structure; and

2. All cable is routed internally or completely screened from view; and

3. The associated equipment is completely within the building or structure, placed in an underground vault, or is within another element such as a bench, mail box or kiosk.

E. DISTRIBUTED ANTENNA SYSTEM (DAS): Is a network of spatially separated antenna sites connected to a common source that provides wireless service within a discrete geographic area or structure.

F. EQUIPMENT: Any equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

G. FREESTANDING SMALL CELL POLE: is a freestanding structure which consists of a single vertical pole, fixed into the ground and/or attached to a foundation built for the sole purpose of supporting small wireless antennas and associated equipment.

H. GUYED TOWER: Means a monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

I. LATTICE TOWER: Is a wireless communication support structure which consists of metal crossed strips or bars to support antennas and related equipment.

J. LICENSED CARRIER: Is a company authorized by the Federal Communications Commission to build and operate a commercial mobile radio services system.

K. MACRO CELL FACILITY (MACRO FACILITY): A large wireless communications services facility that provides radio frequency coverage served by a high-power cellular system. Generally, macro cell antennas are mounted on ground-based towers, rooftops and other existing structures, at a height that provides a clear view over the surrounding buildings and terrain. Macro cell facilities typically contain antennas that are greater than three (3) cubic feet per antenna and typically cover large geographic areas with relatively high capacity and are capable of hosting multiple wireless service providers.

L. MONOPOLE: Means a freestanding structure which consists of a single vertical pole, fixed into the ground and/or attached to a foundation with no guy wires built for the sole or primary purpose of supporting macro antennas and their associated equipment.

M. POLES: Utility poles, light poles or other types of poles, used primarily to support electrical wires, telephone wires, television cable, lighting, or guide posts; or are constructed for the sole purpose of supporting wireless communications services facilities.

N. SATELLITE EARTH STATION ANTENNA: Includes any antenna in any zoning district that:

1. Is designed to receive direct broadcast satellite service, including direct-to-home satellite services, and that is one meter or less in diameter;

2. Is two (2) meters or less in diameter in areas where commercial or industrial uses are generally permitted;

3. Is designed to receive programming services by means of multi-point distribution services, instructional television fixed services, and local multi-point distribution services, that is one meter or less in diameter or diagonal measurement; and

4. Is designed to receive television broadcast signals.

O. SMALL WIRELESS FACILITY (OR SMALL CELL NODE / SMALL CELL FACILITY): A wireless facility that meets each of the following conditions:

1. The facilities:

a. Are mounted on structures fifty feet (50') or less in height including their antennas, or

b. Are mounted on structures no more than ten percent (10%) taller than other adjacent structures, or

c. Do not extend existing structures on which they are located to a height of more than fifty feet (50') or by more than ten percent (10%), whichever is greater;

2. Each antenna associated with the deployment, excluding antenna equipment, is not more than three (3) cubic feet in volume;

3. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than twenty eight (28) cubic feet in volume;

4. The facilities do not require antenna structure registration under FCC rule;

5. The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified by FCC rule.

P. UNLICENSED WIRELESS SERVICES: Means the offering of communications services using duly authorized devices which do not require individual licenses but does not mean the provision of direct- to-home satellite services.

Q. WIRELESS COMMUNICATION SERVICES: Means any personal wireless services as defined in the Federal Telecommunications Act of 1996, including federally licensed wireless communications services consisting of cellular services, personal communications services (PCS), specialized mobile radio services (SMR), enhanced specialized mobile radio services (ESMR), paging, and similar services that currently exist or that may be developed in the future.

R. WIRELESS COMMUNICATIONS SERVICES FACILITIES / WIRELESS COMMUNICATIONS FACILITY (WCF): Means an unstaffed facility for the transmission and reception of radio or microwave signals used for commercial communications. A WCF provides services which include cellular phone, personal communication services, other mobile radio services, and any other service provided by wireless common carriers licensed by the Federal Communications Commission (FCC). WCFs are composed of two or more of the following components:

1. Antenna;

2. Mount;

3. Equipment enclosure;

4. Security barrier.

S. WIRELESS COMMUNICATIONS SERVICES FACILITIES / WIRELESS COMMUNICATIONS FACILITY (WCF), BUILDING-MOUNTED: Means a wireless communications services facility mounted to the roof, wall or chimney of a building.

T. WIRELESS COMMUNICATIONS SERVICES FACILITIES / WIRELESS COMMUNICATIONS FACILITY (WCF), CAMOUFLAGED: Means a wireless communications services facility that is disguised, hidden, or integrated with an existing structure that is not a monopole, guyed or lattice tower, or placed within an existing or proposed structure.

U. WIRELESS COMMUNICATIONS SERVICES FACILITIES / WIRELESS COMMUNICATIONS FACILITY (WCF), EQUIPMENT ENCLOSURE: Means a small structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning and emergency generators.

V. WIRELESS COMMUNICATIONS SERVICES FACILITIES / WIRELESS COMMUNICATIONS FACILITY (WCF), RELATED EQUIPMENT: Is all equipment ancillary to a wireless communications services facilities such as coaxial cable, GPS receivers, conduit and connectors.

W. WIRELESS COMMUNICATIONS SERVICES FACILITIES / WIRELESS COMMUNICATIONS FACILITY (WCF), STRUCTURE-MOUNTED: Means a wireless communications services facility located on structures other than buildings, such as light poles, utility poles, flag poles, transformers, and/or tanks. (Ord. 2019-1049, 9-25-2019)

CHAPTER 10
ARCHITECUTRAL DESIGN REVIEW

13-10-1: ARCHITECTURAL DESIGN REVIEW:

A. Purpose: These regulations are intended to implement and further the comprehensive plan of the city by ensuring that all development in the mixed use-town center and mixed use- town center north, and all commercial and public development within the city limits, is designed to be consistent with the adopted theme of "turn of century: western or Victorian". All new installation, replacement, construction, renovation, remodel or alteration of, or other modifications to, buildings, miscellaneous structures and street furniture located on private property, public ways and other exterior public property in the mixed use-town center and mixed use-town center north; all buildings, miscellaneous structures and street furniture located on private property, public ways and other exterior public property used for commercial business or public facilities within the city limits; all multi-family buildings (which expressly does not include duplexes) and cottage

developments within the city limits; and, all signs made subject to the requirements of this section pursuant to chapter 7 of this title, are subject to architectural design review and approval as described in this section. These regulations are adopted for the following purposes:

1. To promote the public welfare and to provide for the enhancement of the city and its development in keeping with its historical heritage;

2. To attract visitors to the city;

3. To improve the visual quality of site development and architecture of private and public buildings, recognizing the interdependence of land values, aesthetics and good site planning;

4. To minimize discordant and unsightly development, to avoid inappropriate and poor quality building designs, to enhance the beauty and balance of the community, which are proper and necessary concerns of city government;

5. To promote economic and environmental well being through the distinctive character and natural attractiveness of the city; and

6. To recognize environmental and aesthetic design as an integral part of the planning and development process.

B. Exemptions: The regulations in this section do not apply to landmarks, in-kind maintenance, repair, or replacement activities on, or of, existing structures, signs, street furniture, paint, or other exterior features, existing as of the time of adoption of this chapter, that are otherwise subject to these guidelines.

C. Turn Of Century: Western Or Victorian: A style of building, architecture and exterior lighting used in the city and the area from statehood in 1889, through World War I, adopted as the architectural theme for all buildings in the mixed use town center (MUTC) zone and all commercial buildings in all other zones. Examples of such architectural style may be found in the following publications:

1. "The History Of The Town Of Orting", Alice Rushton, Warren's Printing And Graphic Arts Center, Olympia, Washington.

2. "Historic Preservation Of Tacoma", city of Tacoma, department of community development, Tacoma, Washington, 1979.

3. "Ghost Towns Of The West", William Carter, Sunset Publishing Corporation, Menlo Park, California, 1992.

4. "A Victorian Housebuilders Guide", George E. Woodward and Edward G. Thompson, Dover Publications, Inc., 31 E. 2nd St., Mineola, NY 11501, 1988.

Copies of said publications, exterior paint color charts, and similar related reference works shall be available at the Orting City Hall for review by the public.

D. Architectural Design Review And Approval: Any building, structure, development, sign or other property subject to ADR and approval pursuant to this section shall conform in exterior design to the turn of century: Western or Victorian theme according to the design standards adopted by the city. No building or sign permit shall be issued for any installation, replacement, construction, renovation, alteration or remodel of, or other modifications to, any building, structure, development or sign subject to ADR and approval pursuant to this section, without first obtaining architectural design approval pursuant to the requirements of this section; this requirement does not overwhelm nonconforming rights that may apply to a structure as governed by OMC 13-5-9. Evaluation of a project, and the Planning Commission's resulting decision on an application for architectural design review (ADR) will be based on an application's consistency with the guidelines, standards, or criterion set forth in the ADR Guidelines (adopted by reference herein) or in this chapter.

1. ADR applications shall be processed in accordance with the procedures set forth in this section and Title 15 of this code. Staff shall consult the applicant during the review of the ADR permit, as needed, to verify details of the application. The Planning Commission shall, during no more than one public meeting, review and consider the final submittal for the ADR application, the staff report, any comments or submittals from the public or applicant, the provisions of this chapter and other applicable provisions of this code, the city of Orting Comprehensive Plan, and any other applicable laws, rules, regulations and design standards. The planning commission, based on the above-stated considerations, shall either approve, approve with conditions, or deny the submittal with written findings. Approvals may be conditioned by the planning commission to resolve any inconsistencies between the proposal and the ADR standards. The decision of the planning commission may be appealed as per title 15, chapter 10 of this code.

E. Architectural Design Review Standards: The following standards shall be employed in determining whether the application is consistent with turn of century: Western or Victorian design theme:

1. Relationship To Building Site:

   a. The site shall be planned to accomplish a desirable transition with the streetscape and to facilitate pedestrian movement. This can be achieved by:

      i. Installing planted areas or planter boxes separating the building from the pedestrian path;

      ii. Installing outdoor customer seating or plaza area;

      iii. Locating parking behind or between buildings, when feasible;

      iv. Locating service areas in a manner which is screened from public view, or;

      v. Through other methods of connecting the site to its fronting street and pedestrian paths proposed by the applicant.

b. The height and scale of each building shall be compatible with its site and adjoining buildings. This can be achieved by:

i. Maintaining alignment of horizontal elements along adjoining buildings, including window heights, windowsills, moldings, or height of commercial ground floor space, or;

ii. Through other methods of creating consistency among the scale of a building and its surrounding buildings proposed by the applicant.

2. Relationship Of Building and Site to Adjoining Area:

a. Harmony in design with adjoining areas in materials, building scale, and other architectural design features is encouraged. This can be achieved by:

i. Paint that is complementary and contrasting to adjoining structures;

ii. Using building materials, colors, textures, and other design features that vary from adjoining buildings; or

iii. Through other methods of creating consistency among the scale of the building and its surrounding buildings proposed by the applicant.

b. Attractive landscape transitions to adjoining properties will be provided. This can be achieved by:

i. Adhering to the "Landscaping & Site Treatment" provisions in the ADR Guidelines and as codified in OMC 13-10-1(E)(3).

3. Landscape And Site Treatment:

a. Preserve existing physical features through site design and create inviting landscaped areas. Inviting landscaped areas include those that:

i. Include street trees listed on the City's Approved Street Tree List, or other trees approved through the ADR permitting process;

ii. Include plantings that are maintained to not obstruct walkways or limit pedestrian movement;

iii. Do not include nuisance species, which are chiefly those with thorns, spines, spinose teeth, or prickles, and

iv. Do not include any species included on the State or County noxious weed lists.

The City maintains all above-referenced lists at City Hall and can provide them, on request.

b. Design landscape treatments that enhance architectural features, strengthen vistas, and provide shade. This can be accomplished by:

i. Installing landscaping in a manner that frames views of vistas. When landscaping to frame views of vistas, applicants are encourage to select deciduous species; or

ii. Using landscaping to add depth, texture, or interruption to a building façade; or

iii. Through other methods of designing landscape treatments to enhance architectural features, strengthen vistas, and provide shade proposed by the applicant.

c. Provide screening of service areas using landscaping, fences, walls, or a combination thereof. In this context, service areas shall be considered “screened” provided an opaque fence of at least 6-feet in height, or similar vegetative or structural screening, separates the service area from public view.

d. Provide exterior lighting that is subtle and attractive and that enhances the building and site. This can be achieved by:

i. Shielding light sources so that light bulbs do not extend below the horizontal plane of the bottom of the shield; or

ii. On lighting affixed to structures, directing light at an angle toward the structure; or

iii. Selecting era-appropriate lighting fixture styles. Lighting fixture styles representative of the early 20th century typify Orting’s adopted architectural theme and are encouraged; these include carriage lamp fixtures and gaslights of wrought iron and glass.

4. Building Design: The adopted architectural theme in Orting is "turn of century: Western or Victorian". The Planning Commission’s evaluation of a project design will include a review of the building design’s consistency with the following standards:

a. Western architecture of the 1800s and early 1900s usually involved wooden false front effects, wooden porches, cornices, and wooden post supported canopies. Building styles also included exteriors of masonry, brick, and stone. Dimensional lumber or rough sawn unplugged plywood with wooden batts, spaced not more than eighteen inches (18") on center, can be used as an exterior building material, as well as masonry, brick, and stone. Siding with metal, T1-11, particleboard, chipboard, and other similar wood product is prohibited.

b. On site construction is the preferred building method for commercial structures subject to this chapter. The use of factory-built structures, mobile homes, and trailers is discouraged because of the difficulty in modifying them to meet the requirements of this chapter. Construction trailers are allowed temporarily and must comply with OMC 13-4-2.

c. The front facade of the building shall provide a well-proportioned and interesting three-dimensional spatial quality. In this context, “well-proportioned and interesting” can be achieved by incorporating one or more of the following:

i. Horizontal or vertical shifts.

a. A façade may not exceed 80-feet in length without a horizontal shift in the building footprint measuring one-tenth of the façade length. A shift alteration in the roof design shall accompany horizontal shifts.

b. No single run of ridge, cornice, or fascia (excluding eaves) may exceed 80-feet in length without a five-foot transition in height. Cupolas and other minor projections above roof lines do not meet the vertical shift requirement.

ii. Visual terminus to tops of buildings.

a. A roof must have a minimum 4/12 pitch with eaves extending at least 2-feet beyond exterior building walls, or must be a flat roof with projecting cornices.

iii. Use false fronts to enhance the front façade of low-rise buildings with flat rooflines.

iv. Through other methods of designing the building to be well-proportioned and interesting proposed by the applicant.

d. All facades of the building shall be compatible with the front facade. This can be achieved by:

i. Maintaining alignment of horizontal elements along facades, including window heights, windowsills, moldings, or height of commercial ground floor space.

ii. Using building materials, colors, textures, and other design features similar to the front façade.

iii. Incorporating other design solutions that create compatibility among all building facades proposed by the applicant.

e. Canopies, awnings or marquees can be pitched and covered with shake shingles or other period material. Flat canopies/porches enclosed by an ornate wooden banister and toprail are allowed. Ornate banisters and trim may be used to enhance building design as representative of the adopted design theme, “turn of the century: Western or Victorian.”

f. Window shapes shall be square, arched, or rectangular and shall incorporate grids creating the appearance of more than one window pane. A wooden window frame with mullions, grilles, muntins, or similar material creating the appearance of multiple panes is appropriate. Decorative pediments and sills may be used to enhance window design as representative of Orting’s adopted design theme, “turn of the century: Western or Victorian.”

g. Colors shall be harmonious with adjacent buildings and characteristics of colors used in the early 1900s. City of Orting Planning staff maintain a color palette of acceptable colors for use in Orting that can be provided to applicants for reference of permissible exterior paint colors.

5. Signs: The following standards may be used by the Planning Commission to interpret and apply the provisions of OMC 13-7-4 to site specific conditions:

a. Signs are part of the architectural theme. Size, materials, color, lettering, location, number, and arrangement shall be characteristic of the early 1900s;

b. The number and size of signs shall be minimized to avoid visual clutter;

c. All exterior signs subject to ADR shall comply with the provisions of this section and chapter 7 of this title. The following signs shall be exempt:

(1) Flags, insignias, the United States flag are exempt, not to include flutter signs (as they are defined in OMC 13-7-2);

(2) Commemorative plaques with engraved lettering less than one inch (1") in height;

(3) Window signs, including window cling;

(4) Temporary signs, provided they are used for only a period of less than thirty (30) days. Temporary signs are limited in size to six (6) square feet per side of the sign or twelve (12) square feet in area in total. Only one temporary sign visible from the public right-of-way is allowed per tenant in a commercial space;

d. Illuminated exterior signs are not characteristic of early 1900s design and shall not be allowed as the primary business sign; and

e. Signs are preferred to be illuminated by indirect lighting which shall be lighted in such a manner that glare from the light source is not visible to pedestrian or vehicle traffic.

F. Applications: Applications for ADR shall be submitted to the City and processed as a Type 2a permit application in accordance with OMC 15-4-2. ADRs may be consolidated with other required City permits and processed according to OMC 15-5-1. Applications shall provide the following information with the adopted application fee to the City:

1. Site plans showing buildings, parking areas, landscaping signs, and other architectural features of the site conditions in their existing state and as proposed;

2. Building elevations showing all features of the proposal including, but not limited to, doors, windows, signs, canopies, parapets, and finish materials;

3. Detail drawings showing moldings, light fixtures, sign lettering, and other features;

4. Color selections consistent with subsection (E)(4)(g) of this chapter;

5. Any other written or graphic information describing and illustrating the proposal;

6. A completed application form; and

7. Data to be obtained to address feasibility of incorporating LID BMPs, if proposed to be used.

All application materials shall become the property of the city after it is submitted for review.

G. Architectural Design Review: Applications for ADR shall be processed by the Planning Commission as a Type 2a application consistent with OMC Chapter 15-4 and related provisions in Title 15. A staff report shall be prepared and made available to the public at least seven (7) calendar days prior to the Planning Commission public meeting for an ADR application. The Planning Commission shall deliberate the ADR application at no more than one public meeting before issuing a decision on the application. The Planning Commission findings and record of decision shall be in writing and published within two (2) weeks of the decision. The record of decision shall be placed in the permit file.

Minor amendments to a design approved by the Planning Commission shall be processed administratively as a Type 1 permit application pursuant to section 15-12-2 of this code. Major amendments to the design approved by Planning Commission shall be processed by the Planning Commission as a Type 2a permit application through a new design review pursuant to section 15-12-3 of this code.

H. ADR Preapplication Review: Applicants for ADR may participate in an ADR Preapplication meeting as set forth in OMC 15-5-2 to seek early feedback from the Planning Commission on the proposed design's consistency with the ADR provisions set forth in the ADR Guidebook and in OMC 13-10-1(E). An ADR Preapplication may be requested via written request to the Planning Commission Secretary; the written request may be accompanied by any drawings, renderings, plans, details, or other project materials for the preliminary review and feedback of the Planning Commission. ADR Preapplication meetings are offered at no charge to the applicant.

Participation in an ADR Preapplication meeting could afford an opportunity for the applicant to incorporate any feedback from staff and Planning Commission into its proposal before applying for an ADR permit. The ADR Preapplication is voluntary; it does not constitute a formal required component of the design review process, and its review by the Planning Commission does not amount to the limit of one public meeting allowed for review of ADR applications set forth via OMC 13-10-1(G).

I. Financial Security: The city may require a reasonable bond, letter of credit, assignment of funds or similar financial instrument, to secure the installation of required improvements that are a condition of design review approval.

J. Time Limit: Unless the owner submits a fully completed building or sign permit application necessary to bring about the approved installation, replacement, construction, renovation, alteration, remodel, or other modifications, or if no building or sign permit application is required, substantially commences the uses allowed, within eighteen (18) months from the date of ADR approval, such ADR approval shall expire and be null and

void. For the purposes of this section, the date of approval shall be the date on which the final written decision of the Planning Commission as adopted is transmitted to the applicant. In the event of appeal, the date of approval shall be the date on which a final decision is entered by the City Council or court of competent jurisdiction. A request for extension may be granted as a minor amendment in accordance with section 15-12-2 of this code; provided that, a written request is submitted at least thirty (30) calendar days prior to the expiration date, the extension is for no longer than twelve (12) months, and good cause in the opinion of the Administrator is shown for the requested extension. The applicant is responsible for knowledge of the expiration date.

(Ord. 886, 9-8-2010; amd. Ord. 943, 5-14-2014; Ord. 2019-1057, 1-8-2020; Ord. 2021-1081, 9-8-2021, Ord. 2025-1145, 6-11-2025)

City of Orting
Council Agenda Summary Sheet

	Agenda Bill #	Recommending Committee:	Study Session Dates	Regular Meeting Dates
Subject: Orting Municipal Code (OMC) Title 15 Update	**AB25-83**	**CGA - 2.5.2025**	**10.15.2025**	**11.25.2025** **12.10.2025**
	Department:	Community Development Department		
	Date Submitted:	**11.29.2025**		
Cost of Item:		N/A		
Amount Budgeted:		N/A		
Unexpended Balance:		N/A		
Bars #:		N/A		
Timeline:		Take action on December 10, 2025		
Submitted By:		**Kim Gunderson, Planning Consultant**		

Fiscal Note: None

Attachments: Ordinance 2025-1150 with OMC Title 15 (final edited version)

SUMMARY STATEMENT:

The City is in need of holistic updates to the Orting Municipal Code (OMC) as they are applied by the Community Development Department (CDD). CDD staff regularly maintain a log of updates to provisions throughout the OMC needed for staff to apply the OMC consistently, apply best practice in our field, correct ambiguity, align the OMC with new or revised RCW and ICC requirements, and reflect the current goals and intentions of the Orting City Council. The body of work presented via AB25-83 is not limited to work governed by RCW; rather, it is a voluntary effort recommended by staff to improve the readability, applicability, and defensibility of the OMC.

Staff intend to present recommended edits to OMC Title 15, Development Code Administration, to the City Council at its November 25, 2025 regular meeting. The edits being presented to City Council in November represent a legislative body of work that has been recommended for Council's approval by Orting's Planning Commission. At the November 25 meeting, staff will request Council to set a public hearing on the adoption of Ordinance 2025-1150 at its regular session on December 10, 2025.

Substantively, recommended edits to Title 15:

- Add clarity and otherwise consolidate definitions in Chapter 2.
- Create a requirement for a Notice of Application for Type 2 and Type 5 permits, increasing public engagement and differentiating Type 1 permits from Type 2 permits.
- Assigning Council as the decision-maker for plat alterations and vacations, as required by RCW.
- Assigning preliminary plats and unit lot subdivisions as Type 2 decisions, requiring a Notice of Application to engage neighboring property owners while facilitating a more expeditious permitting path for home builders.
- Removed calculation of school impact fees, which are set by Pierce County Code.
- Creates a 60-day docketing process for annual Comprehensive Plan Amendment requests, adding clarity to the duration of the required docketing.
- Expand the allowed maximum term of a Development Agreement from 5 years to 10 years as greater incentive to such a substantial development.

All recommended staff edits are reflected as redlines in the Attachment and include the recommended edit offered by Council in October.
RECOMMENDED MOTION: <u>Motion</u>: To adopt Ordinance No. 2025-1150, an ordinance of the city of Orting, Washington, adopting revisions to the Orting Municipal Code (OMC), Title 15, Development Code Administration; providing for severability; and establishing an effective date.

CITY OF ORTING

WASHINGTON

ORDINANCE NO. 2025-1150

AN ORDINANCE OF THE CITY OF ORTING, ADOPTING REVISIONS TO THE ORTING MUNICIPAL CODE TITLE 15, DEVELOPMENT CODE ADMINISTRATION; ENTERING LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Orting ("City"), Washington is a fully planning city under the state Growth Management Act ("GMA"), Chapter 36.70A Revised Code of Washington ("RCW"), planning under RCW 36.70A.040; and

WHEREAS, the City has established priorities that highlight the importance and desire of amending the Orting Municipal Code (OMC) to improve clarity, remove ambiguities, ease its understanding and application, represent the goals and priorities of the City, and implement new legislation required of fully planning cities under the GMA, and for code cities to comply with chapter 35.21 RCW; and

WHEREAS, the City's Planning Commission has reviewed proposed updates to Titles 15 of the OMC ("the project") following engaged workshops with City staff and has considered the proposal in light of received public feedback; and

WHEREAS, on July 3, 2025, the City's State Environmental Policy Act (SEPA) Responsible Official issued a Determination of Nonsignificance for the project; and

WHEREAS, on October 6, 2025, the City's Planning Commission held a public hearing on the project and recommended the City Council approve the project; and

WHEREAS, on December 10, 2025, the City Council held a public hearing on the project and considered the Planning Commission's recommendation to approve the project; and

WHEREAS, the City Council finds that the project meets the criteria set forth in OMC 15-12-4, and aligns or implements aforementioned RCW or WAC provisions, and implements the goals and priorities established by the City; and

WHEREAS, the City Council desires to update Orting Municipal Code provisions that are out of date or unrepresentative of current or best practice, to better reflect the adopted goals and policies of the City; and

WHEREAS, the City Council has determined it is in the best interest of the City of Orting to amend Orting Municipal Code, Title 15, Development Code Administration; and

NOW, THEREFORE, the City Council of the City of Orting, Washington, do ordain as follows:

Section 1. Findings. The City Council adopts the recitals set forth above and incorporates those recitals as if fully set forth herein. The City Council also adopts those recitals as findings of fact justifying enactment of this Ordinance. The City Council may adopt additional findings when a public hearing is held or when presented with evidence.

Section 2. OMC Title 15, Revised. Orting Municipal Code Title 15, Development Code Administration, is hereby revised as set forth in **Exhibit A** attached hereto and fully incorporated herein by reference.

Section 3. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this Ordinance, including the correction of clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

Section 4. Savings Clause. Those portions of ordinances which are repealed or amended by this Ordinance remain in force and effect until the effective date of this Ordinance. Such repeals and amendments must not be construed as affecting any existing right acquired under the ordinances repealed or amended, nor as affecting any proceeding instituted thereunder, nor any rule, regulation, or order promulgated thereunder, nor the administrative action taken thereunder. Notwithstanding the foregoing actions, obligations under such ordinances or permits issued thereunder and in effect on the effective date of this Ordinance continue in full force and effect, and no liability thereunder, civil or criminal, is in any way modified. Further, it is not the intention of these actions to reenact any ordinances or parts of ordinances previously repealed or amended, unless this Ordinance specifically states such intent to reenact such repealed or amended ordinances.

Section 5. Transmittal to State. Pursuant to RCW 36.70A.106, a complete and accurate copy of this Ordinance shall be transmitted to the Department of Commerce within ten (10) days of adoption.

Section 6. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 7. Effective Date. This ordinance shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 10 day of December, 2025.

CITY OF ORTING

Joshua Penner, Mayor

ATTEST/AUTHENTICATED:

Kimberly Agfalvi, CMC
Assistant City Administrator/City Clerk

Approved as to form:

Daniel G. Lloyd
Lighthouse Law Group

City Attorney

Filed with the City Clerk:
Passed by the City Council:
Ordinance No.

Date of Publication:
Effective Date:

TITLE 15
DEVELOPMENT CODE ADMINISTRATION

CHAPTER 1
INTRODUCTION

SECTION:

15-1-1: Intent

15-1-2: Rules Of Interpretation

15-1-1: INTENT:

The purpose of this title is to combine and consolidate the application, review, and approval procedures for land development within the city to ensure that procedures are clear and concise. It is further intended to comply with state guidelines for combining and expediting development review and integrating environmental review and land use development plans. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

15-1-2: RULES OF INTERPRETATION:

A. For the purposes of the development code, all words used in this code shall have their normal and customary meanings, unless specifically defined otherwise in this code. Where a term is defined in title 15 and in other titles of this code, the definition of the term in title 15 shall apply to its use in this title. Where a term is used in this title and is not defined in this title, the City may rely on the definition of the term as it is defined in the current edition of the Merriam Webster dictionary.

B. Words used in the present tense include the future.

C. The plural includes the singular and vice versa.

D. The words "will" and "shall" are mandatory.

E. The word "may" indicates that discretion is allowed.

F. The word "used" includes designed, intended, or arranged to be used.

G. Distances shall be measured horizontally unless otherwise specified.

(Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

CHAPTER 2
DEFINITIONS

SECTION:

15-2-1: Definitions

15-2-1: DEFINITIONS:

ADMINISTRATOR: The city administrator or his/her designee.

APPLICANT: A person, party, firm, corporation, or other legal entity seeking development approval from the city.

ARCHITECTURAL DESIGN REVIEW: Review and approval conducted pursuant to section 13-10 of this code. (Ord. 886, 9-8-2010; amd. Ord. 2024-1136, 12-11-2024)

BINDING SITE PLAN: A drawing to a scale specified by local ordinance which: (a) Identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other matters specified by local regulations; (b) contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as are established by the local government body having authority to approve the site plan; and (c) contains provisions making any development be in conformity with the site plan.

BOUNDARY LINE ADJUSTMENT: The adjustment or extinguishment of a boundary line between existing lots which results in no more lots than existed before the adjustment. A boundary line adjustment may result in the legal combination of lots.

BUILDING: A structure having a roof for the shelter of persons or property.

BUILDING AREA, BUILDING SITE: An area within a lot upon which a building could be practicably built, bound by the setbacks. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 830, 6-28-2006)

CITY: The city of Orting.

CITY ADMINISTRATOR: The city administrator of the city of Orting or his or her designee.

CITY COUNCIL: The city council of the city of Orting.

CLOSED RECORD APPEAL: See HEARING, CLOSED RECORD.

COMMUNITY DEVELOPMENT DIRECTOR: The Director of the City of Orting's Department of Community Development, or as assigned.

COMPREHENSIVE PLAN: The Orting comprehensive plan adopted in 1996, as amended.

COMPREHENSIVE PLAN AMENDMENT: An amendment or change to the text or maps of the comprehensive plan.

COMPREHENSIVE PLAN AMENDMENT, EMERGENCY: An amendment or change to the text or maps of the comprehensive plan made when an emergency exists or to resolve an appeal of a comprehensive plan filed with the growth management hearings board or with the court, in accordance with RCW 36.70A.130(2)(b).

CONDITIONAL USE: A use allowed in one or more zones as defined by the zoning title, but which because of characteristics peculiar to such use, the size, technological processes or equipment, or because of the exact location with reference to surroundings, streets, and existing improvements or demands upon public facilities, requires a conditional use permit to apply the discretion of the city staff and hearing examiner to make such uses consistent and compatible with other existing or permissible uses in the same zone and mitigate adverse impacts of the use.

CRITICAL AREAS: Refer to the term's definition in OMC 11-1-2. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

DATE OF DECISION: The date on which final action occurs on a permit application and from which the appeal period is calculated.

DAY: A twenty four (24) hour period commonly referred to as "calendar day" and not "work day."

DESIGN STANDARDS: Dimensional and other quantitative standards, including, but not limited to, lot sizes and dimensions, setbacks, building placement and design requirements for improvements such as streets, sidewalks, storm drainage facilities and other standards used by the city to control physical development. Design standards may be codified or adopted for use by City staff to determine an applicant's compliance. Provisions of this code, the City of Orting Development Standards, and other dimensional or quantitative standards adopted by reference in the Orting Municipal Code are sources of design standards.

DEVELOPER: Any person who proposes an action or seeks a permit regulated by this title and titles 10, 11, 12 and 13 of this code, inclusive.

DEVELOPMENT: Any land use permit or action regulated by this title and titles 12 and 13 of this code, including, but not limited to, subdivisions, planned unit developments, binding site plans, rezones, conditional use permits, or variances.

DEVELOPMENT CODE: Orting Municipal Code, this title and titles 12 and 13.

DWELLING UNIT: A building or portion thereof providing complete housekeeping facilities for one family or household unit. Dwelling unit does not include recreational vehicles or mobile homes. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 808, 6-30-2005; Ord. 2024-1136, 12-11-2024)

EFFECTIVE DATE: The final decision of the decision maker shall be effective on the date stated in the decision, motion, resolution, or ordinance; provided, that the date from which appeal periods shall be calculated shall be the date of the written decision of the decision maker. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

FINAL DECISION: The final action by the administrator, planning commission, hearing examiner, or city council. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

HEARING, OPEN RECORD: A hearing, conducted by a hearing body or officer authorized to conduct such hearings, that creates the record through testimony and submission of evidence and information, under procedures prescribed by the local government by ordinance or resolution. An open record hearing may be held prior to a local government's decision on a project permit to be known as a "open record predecision hearing." An open record hearing may be held on an appeal, to be known as an "open record appeal hearing," if no open record predecision hearing had been held on the project permit.

HEARING, CLOSED RECORD (also known as “Closed Record Appeal”): A hearing, conducted by a hearing body or officer, including the legislative body, authorized to conduct such hearings, that review the record of testimony and evidence and information created at the open record hearing. A closed record hearing or “closed record appeal” follows an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed.

HEARING EXAMINER: The official appointed by the mayor to adjudicate land use decisions as set forth in this title. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

LOT: A fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width, depth, and area. The term shall include tracts or parcels, and shall include those legally created divided lands that are nonconforming to minimum zoning requirements.

LOT OF RECORD: An area or parcel of land as shown on an officially recorded plat or subdivision, or an area or parcel of land to which a deed or contract is officially recorded as a unit of property, or which is described by metes and bounds or as a fraction of a section. (Ord. 778, 10-30-2003, eff. 11-11-2003)

MAJOR AMENDMENT: Any proposed revisions to approved site plans, preliminary subdivisions, preliminary short subdivisions, or preliminary planned unit developments (PUDs) amounting to an adjustment in excess of the provisions set forth in OMC 15-12-2(C).

MINOR AMENDMENT: Proposed revisions to approved site plans, preliminary subdivisions, preliminary short subdivisions, or preliminary planned unit developments (PUDs) amounting to a limited adjustment not in excess of the provisions set forth in OMC 15-12-2(C).

(Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

NONCONFORMING LOT: A lawfully established lot which does not conform to the dimensional provisions of the development code.

NONCONFORMING STRUCTURE: A lawfully erected structure which does not conform to the dimensional provisions of the development code.

NONCONFORMING USE: A lawfully established use which does not conform to the allowed use provisions of the development code. (Ord. 778, 10-30-2003, eff. 11-11-2003)

PARCEL: Real property having a parcel number or deeded real property, undefined lot, a lot having a legal description, or right-of-way owned or held by the state, county, or city.

PARTY OF RECORD: Any permit applicant, any person who has testified at a hearing or has submitted a written statement related to a development action and who provides the city with a complete address and/or email address.

PERSON: Any person, firm, business, corporation, partnership of other associations or organization, marital community, municipal corporation, or governmental agency.

PLANNED UNIT DEVELOPMENT: A flexible zoning concept that results in as good or better use of land than that produced through the standards of the regular zone classifications. The uses within the PUD depend on the uses in the underlying zone. The residential densities and bulk and scale of the development within the PUD may vary to provide more flexibility and creativity in addressing the site and project aesthetics, natural areas, and open space planning.

PLANNED UNIT DEVELOPMENT, FINAL: A clean representation of a planned unit development demonstrating compliance with an approved preliminary planned unit development.

PLANNED UNIT DEVELOPMENT, MAJOR AMENDMENT: See definition of “Major Amendment” in this chapter.

PLANNED UNIT DEVELOPMENT, MINOR AMENDMENT: See definition of “Minor Amendment” in this chapter.

PLANNED UNIT DEVELOPMENT, PRELIMINARY: A clean and approximate representation of a planned unit development including all information set forth in OMC 13-6-4(M)(2).

PLAT: A scale drawing of a subdivision showing lots, blocks, streets or tracts or other divisions or dedications of land to be subdivided.

PLAT, FINAL: A precise drawing of a subdivision and dedications which conforms to the approved preliminary plat, meets all the conditions of preliminary plat approval and meets the requirements of the Pierce County auditor for recording.

PLAT, FINAL SHORT: A precise drawing of a short subdivision and dedications which conforms to the approved preliminary short plat, meets all the conditions of approval and meets the requirements of the Pierce County auditor for recording.

PLAT, PRELIMINARY: A neat and approximate scale drawing of a proposed subdivision, showing the existing conditions and the proposed layout of streets, lots, blocks and other information needed to properly review the proposal.

PLAT, PRELIMINARY SHORT: A neat and approximate scale drawing of a proposed short subdivision, showing the existing conditions and the proposed layout of streets, lots, blocks and other information needed to properly review the proposal.

PLAT, SHORT: A scale drawing of a short subdivision showing lots, blocks, streets or tracts or other divisions or dedications of land to be subdivided .

PRIMARY OR PRINCIPAL USE: The predominant use of the land or building to which all other uses are secondary.

PROJECT: A proposal for development.

PROJECT PERMIT or PROJECT PERMIT APPLICATION: Any land use or environmental permit or license required from a local government for a project action, including but not limited to subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area ordinances, site-specific rezones which do not require a comprehensive plan amendment, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as otherwise specifically included in this subsection. Project permits or project permit applications expressly exclude applications for building permits.

PUBLIC FACILITIES AND UTILITIES: Land or structures owned by or operated for the benefit of the public use and necessity, including, but not limited to, public facilities defined in Revised Code of Washington 36.70A.030, as amended.

PUBLIC HEARING: An open record hearing at which evidence is presented and testimony is taken or a closed record hearing conducted to review the record and render a final decision.

PUBLIC IMPROVEMENT: Any structure, utility, infrastructure, street, access, roadway, public open space, recreational improvement, or sidewalk for use by the public, required as a condition of development approval.

PUBLIC MEETING: An informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the local government's decision. A public meeting may include, but is not limited to, a design review or architectural control board meeting, a special review district or community council meeting, or a scoping meeting on a draft environmental impact statement. A public meeting does not include an open record hearing. The proceedings at a public meeting may be recorded and a report or recommendation may be included in the local government's project permit application file.

PUBLIC OPEN SPACE: Any publicly owned land, including, but not limited to, parks, playgrounds, waterways, and trails. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

REZONE: A change in classification from one zoning district to another. (Ord. 778, 10-30-2003, eff. 11-11-2003)

SIGN: A structure or graphic display designed to inform or attract the attention of persons not on the premises on which the sign is located.

SITE PLAN: A scale drawing which shows the areas and locations of all buildings, streets, roads, improvements, easements, utilities, open spaces and other principal development features for a specific parcel of property.

SITE PLAN, BINDING: A site plan reviewed and approved pursuant to titles 12 and 13 of this code, containing the inscriptions or attachments setting forth the limitations and conditions of use for a specific parcel of property and meeting the requirements of the Pierce County auditor for recording.

STREET: A public or private right of way or easement which provides vehicle access to lots or potential lots.

STRUCTURE: A combination of materials constructed and erected permanently in or on the ground or attached to something having a permanent location on the ground, not including utility poles and related ground or pad mounted equipment, residential fences less than six feet (6') high, retaining walls, rockeries and other similar improvements of a minor character less than three feet (3') high.

SUBDIVISION: A division of land into ten (10) or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership, including resubdivision of previously subdivided land, except as provided in this title.

SUBDIVISION CODE: Title 12 of this code.

SUBDIVISION, SHORT: A division of land into nine (9) or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership, except as provided in this title. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2021-1073, 3-10-2021; Ord. 2024-1136, 12-11-2024)

TRACT: Any contiguous quantity of land in the possession of, owned by, or recorded as the property of the same claimant, person or company. (Ord. 778, 10-30-2003, eff. 11-11-2003)

USE: The purpose which lands or structures serve or for which they are occupied, maintained, arranged, designed or intended. (Ord. 778, 10-30-2003, eff. 11-11-2003)

VARIANCE, ADMINISTRATIVE: A permissible and limited modification of the application of dimensional standards set forth in title 13 of this code, to a particular property, subject to decision by the community development director.

VARIANCE, GENERAL: A permissible modification of the application of dimensional standards set forth in title 13 of this code, to a particular property, subject to decision issued by the city's hearing examiner. (Ord. 778, 10-30-2003, eff. 11-11-2003)

YARD: The lot area between lot lines and the building area. (Ord. 778, 10-30-2003, eff. 11-11-2003)

ZONE, ZONE DISTRICT: A defined area of the city within which the use and development of land is regulated as set forth in title 13 of this code.

ZONING CODE: Title 13 of this code. (Ord. 778, 10-30-2003, eff. 11-11-2003)

CHAPTER 3
ADMINISTRATION

SECTION:

15-3-1: Roles And Responsibilities

15-3-2: City Administrator

15-3-3: City Council

15-3-4: Planning Commission

15-3-5: Hearing Examiner

15-3-1: ROLES AND RESPONSIBILITIES:

A. Regulation Of Land Development: The regulation of land development is a cooperative process involving different elected and appointed boards and city staff. The specific responsibilities of these bodies are set forth below.

B. Developers: A developer is expected to read and understand the city development code and be prepared to fulfill the obligations placed on the developer by this title, by titles 11, 12, 13, and 14 of this code, and by other adopted codes and standards of the city, including the Orting Public Works Standards and the Orting Shoreline Master Program. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

15-3-2: CITY ADMINISTRATOR:

The administrator shall review and act on the following:

A. Authority: The administrator is responsible for the administration of this title and titles 11, 12, 13, and 14 of this code.

B. Administrative Interpretation: Upon request or as determined necessary, the administrator shall interpret the meaning or application of the provisions of said titles and issue a written administrative interpretation within the time set forth in OMC 15-9-8. Requests for interpretation shall be written and shall concisely identify the issue and desired interpretation.

C. Administrative Approvals: Administrative approvals are set forth in chapter 4 of this title as type 1 and type 2 permit applications.

D. Permit Procedures: The administrator shall determine the proper procedure for all development applications. See section 15-4-2 of this title. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-3-3: CITY COUNCIL:

In addition to its legislative responsibility, the city council shall review and act on the following subjects:

A. Recommendations of the planning commission;

B. Appeals of planning commission recommendations and decisions, with the exception of decisions of the planning commission pursuant to section 13-6-7 , "Architectural Design Review", and title 13, chapter 7, "Sign Regulations", of this code that are subject to appeal to the hearing examiner, in which case the city council shall review and act on the recommendation of the hearing examiner on appeal; and

The review criteria for the above actions are contained in chapter 9 of this title. (Ord. 886, 9-8-2010; amd. Ord. 2024-1136, 12-11-2024)

15-3-4: PLANNING COMMISSION:

The planning commission shall review and render decisions on architectural design review applications, sign permits, sign code variances, major amendments to PUDs, and shall review and make recommendations on the following applications and subjects:

A. Amendments to the comprehensive plan.

B. Amendments to the environmentally critical areas code, title 11 of this code.

C. Amendments to the subdivision title, title 12 of this code.

D. Amendments to the zoning title, title 13 of this code, or the official zoning map.

E. Applications for Type 4 and Type 5 permits, as they are set forth in OMC 15-4-1, Table 15-4-2 of this title.

F. Other legislative actions as requested by the city council.

The review criteria for the above actions are contained in chapter 9 of this title. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

15-3-5: HEARING EXAMINER:

The hearing examiner shall serve at the pleasure of the mayor. The hearing examiner shall interpret, review and implement land use regulations as provided by ordinance and may

perform other quasi-judicial functions as are delegated by ordinance. Unless otherwise specified, the term "hearing examiner" shall also mean deputy examiners and examiners pro tem. Hearing examiners shall be appointed based on their qualifications for the duties of the office including education and experience.

A. Influence And Conflict Of Interest: No person, including city officials, elected or appointed, shall attempt to influence the hearing examiner in any matter pending before him/her, except at a public hearing duly called for such purpose, or to interfere with the hearing examiner in the performance of his/her duties in any way; provided, that this section shall not prohibit the city attorney from rendering legal service to the hearing examiner upon request. The hearing examiner shall be subject to the same code of ethics as set forth in Revised Code Of Washington 42.23.

B. Rules: The hearing examiner shall have the power to prescribe rules for the scheduling and conduct of hearings and other procedural matters related to his/her duties.

C. Powers: The hearing examiner shall have the authority to:

1. Review and decide the following land use permit matters pursuant to RCW 35A.63.170, the decisions of which shall be rendered within ten working days following conclusion of all testimony and hearings, unless a longer period is mutually agreed to in writing between the applicant and the hearing examiner:

a. Conditional use permits.

b. Variances.

c. Appeals of administrative decisions or determinations.

d. Appeals of administrative decisions or determinations pursuant to Revised Code Of Washington 43.21C.

2. Review and decide civil violations in conjunction with enforcement actions of the city as described in chapter 11, "Enforcement", of this title.

D. Procedures: The hearing examiner shall:

1. Receive and examine available information;

2. Conduct public hearings in accordance with the provisions of this title, Revised Code Of Washington 42.32 and all other applicable law, and prepare a record thereof;

3. Administer oaths and affirmations;

4. Issue subpoenas and examine witnesses; provided that no person shall be compelled to divulge information which he/she could not be compelled to divulge in a court of law;

5. Regulate the course of the hearing;

6. Make and enter findings of fact and conclusions to support his/her decisions;

7. Conduct conferences for the settlement or simplification of the issues;

8. Conduct discovery;
9. Dispose of procedural requests or similar matters;
10. Take official notice of matters of law or material facts;
11. Issue summary orders in supplementary proceedings; and
12. Take any other action authorized by or necessary to carry out this chapter.

The above authority may be exercised on all matters for which jurisdiction is assigned to the hearing examiner by city ordinance, code or other legal action of the city council. The nature of the hearing examiner's decision shall be as specified in this chapter and in each ordinance or code which grants jurisdiction to the hearing examiner. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

CHAPTER 4
TYPES OF PERMIT ACTIONS

SECTION:

15-4-1: Procedures For Processing Permit Applications

15-4-2: Determination Of Procedure Type

15-4-3: Exemptions

15-4-1: PROCEDURES FOR PROCESSING PERMIT APPLICATIONS:

All development permit applications shall be classified as one of the following: type 1, type 2, type 2a, type 3, type 3a or type 4. Legislative decisions are type 5 actions. Exclusions from the requirements of permit applications procedures are included at section 15-4-3 of this chapter. Table 15-4-1 of this section describes the city's permit processing procedures.

TABLE 15-4-1

	Procedure for Permit Applications						
	Type 1	Type 2	Type 2a	Type 3	Type 3a	Type 4	Type 5
Recommendation by	n/a	n/a	Administrator	Administrator	Administrator	Planning commission	Planning commission
Decision by	Administrator	Administrator	Planning Commission	Hearing Examiner	Planning Commission	City Council	City Council
Notice of application	No	Yes	No	Yes	Yes	Yes	Yes
Open record public hearing or open record appeal of final decision	Only if appealed. Open record hearing with hearing examiner.	Only if appealed. Open record hearing with hearing examiner.	Only if appealed. Open record hearing with hearing examiner; recommendation made by hearing examiner to the city council	Yes, before hearing examiner	Yes, before planning commission	Yes, before planning commission	Yes, before planning commission
Closed record appeal/final decision	No, unless appealed to city council	No, unless appealed to city council	City council	No, unless appealed to city council	No, unless appealed to city council	Yes, before council	Yes, or council may hold another public hearing
Judicial appeal	Yes	Yes	Yes	Yes	Yes	Yes	Yes (or appeal to the Growth Management Hearings Board, as applicable)

Table 15-4-2 of this section describes the types of decisions rendered in each permit procedure category.

TABLE 15-4-2

	Decisions					
Type 1 (Administrator)	Type 2 (Administrator)	Type 2a (Planning Commission)	Type 3 (Hearing Examiner)	Type 3a (Planning Commission)	Type 4 (Council)	Type 5 (Council)
Permitted uses; boundary line adjustments; cottage development; home occupations; minor amendments to subdivisions and PUD; nonconforming use or structure permit; temporary construction trailer; minor amendments to site plans; final plats; mobile/ manufactured home parks or subdivisions; binding site plans	Preliminary plats; unit lot subdivisions, short plats; site plan review, minor variances, land clearing and grading; shoreline permits; administrative variances; administrative interpretations; landscape plan modifications; alternative landscape plans; site plans and major amendments thereto[2]	Architectural design review; sign permits	Conditional use permits; major variances; critical areas variances; critical areas reasonable use exception	Sign code variances; major amendments to PUDs; transfer of development right proposals	Preliminary PUDs; final PUDs; plat vacations; plat alterations	Comprehensive plan amendments; development regulations; shoreline master program amendments; zoning text amendments; zoning map amendments; annexations; development agreements

Notes:

Repealed.

(Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 830, 6-28-2006; Ord. 886, 9-8-2010; Ord. 2021-1073, 3-10-2021; Ord. 2021-1074, 3-10-2021; Ord. 2024-1136, 12-11-2024)

15-4-2: DETERMINATION OF PERMIT TYPE AND PROCESS:

A. Determination of Permit Type. The administrator shall determine the proper procedure for all development applications. Questions concerning an appropriate procedure for a specific project shall be resolved by using the higher numbered procedure.

B. Consolidated Review Process. At the request of an applicant, an application that involves two (2) or more permits may be processed collectively under the highest numbered procedure that is required for any part of the application. Permit applications excluded from consolidated permit review processing are set forth in OMC 15-4-3(B). (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

15-4-3: EXEMPTIONS:

A. The following permits or approvals are specifically excluded from the provisions of this title:

1. Landmark designations;

2. Street vacations;

3. Street use permits;

4. Impact fee decisions; and

5. Concurrency determinations.

B. Pursuant to RCW 36.70B.140(2), building permits, boundary line adjustments, or other construction permits, or similar administrative approvals categorically exempt from environmental review under SEPA 1 or permits and approvals for which environmental review has been completed in conjunction with other permit procedures, are excluded from the following:

1. Notice of application unless an open public hearing is required;

2. Consolidated permit review processing;

3. Joint public hearings;

4. Single report stating all of the decisions and recommendations made as of the date of the report do not require an open public record hearing; and

5. Notice of decision. (Ord. 778, 10-30-2003, eff. 11-11-2003)

Notes

1 1. RCW 43.21C. See chapter 14 of this title.

CHAPTER 5
APPLICATION PROCESS

SECTION:

15-5-1: Application

15-5-2: Preapplication Meetings

15-5-3: Contents Of Applications

15-5-4: Letter Of Completeness

15-5-5: Technical Review Committee

15-5-6: Environmental Review

15-5-1: APPLICATION:

A. Consolidation: Permit application types may, at the request of the applicant, be consolidated and processed as set forth in OMC 15-4-2(B) to avoid process duplication.

B. Submittal: All applications for development permits, design review approvals, variances and other city approvals under the development code shall be submitted on forms provided by the city. All applications shall be signed by the property owner, lessee, contract purchaser, or a city agency, or by an authorized agent thereof, or by a person otherwise authorized by the owner to make application for a development permit. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 887, 9-8-2010; Ord. 2024-1136, 12-11-2024)

15-5-2: PREAPPLICATION MEETINGS:

A. Informal: Applicants for development are encouraged to contact the city prior to scheduling a preapplication meeting to generally discuss the proposed development, city design standards, design alternatives, and required permits and application and approval procedures. Requests for city staff to review conceptual or preliminary project materials and offer an assessment of code requirements and regulatory consistency amounts to a formal preapplication request and will be processed as set forth in subsection B of this section.

B. Formal: Every person proposing a development in the city, including sign permits, with the exception of building permits, may attend a formal preapplication meeting attended by the City Engineer, Building Official, and Community Development Director. The purpose of the meeting is to discuss the nature of the proposed development, application and permit requirements, fees, review process and schedule, applicable plans, policies and regulations. In order to expedite development review, the city may invite all affected jurisdictions, agencies and/or special districts to the preapplication meeting.

1. A description of the requirements for a complete application; a general summary of the permit review procedures; references to the relevant code provisions or development standards that may apply to the proposal; and any other relevant information that the city may deem pertinent to the proposal will be provided by the city at the meeting or immediately following the meeting.

2. It is impossible for the meeting to be an exhaustive review of all potential issues. Staff's discussion of a project's feasibility and its subjection to regulation is limited to the amount of information offered by a person proposing development at the preapplication conference. The discussions at the meeting or the materials cited in subsection B1 of this section shall not bind the city or prohibit the city's future application or enforcement of all applicable law.

3. The fee associated with a formal preapplication meeting shall be the fee set forth in the adopted fee schedule.

4. The applicant should provide a completed preapplication form, and any conceptual or preliminary project materials available, including site plans, surveys, and renderings. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 887, 9-8-2010; Ord. 2024-1136, 12-11-2024)

15-5-3: CONTENTS OF APPLICATIONS:

A. Repealed.

15-5-4: LETTER OF COMPLETENESS:

A. Time Limit: Within twenty eight (28) days of receiving a signed application, the city shall review the application and, as set forth below, provide applicants with a written determination that the application is complete or incomplete (except as described in subsection D of this section).

B. Complete Application; Materials Required: A project permit application shall be declared complete only when it contains all of the following materials:

1. A fully completed, signed, and acknowledged development application and all applicable review fees. The applicant shall apply for all permits required by the city, and may do so sequentially or as a consolidated permit suite. It is the applicant's responsibility to determine if additional permits are required by other jurisdictions.

2. A fully completed, signed, and acknowledged environmental checklist for projects subject to review under the state environmental policy act (SEPA).

3. Information addressing the approval criteria associated with the application(s) for the desired project.

4. Any supplemental information or special studies identified during the preapplication meeting, or determined during a review of submitted application materials.

5. All applications for approval under this title and titles 11, 12, 13 and 14 of this code shall include the information specified for each permit type in the applicable title and chapter. The administrator may require additional information as reasonably necessary to fully and properly evaluate the proposal.

C. Incomplete Applications; Determination: For applications determined to be procedurally incomplete, the city shall identify, in writing, the specific requirements or information necessary to constitute a procedurally complete application. Upon submittal of the additional information, the city shall, within fourteen (14) days, issue a letter of completeness or identify what additional information is required. The city's determination of completeness shall not preclude the city from requesting additional information or studies either at the time of notice of completeness or at a later time, if new information is required or where there are substantial changes in the proposal.

1. If the applicant receives a determination from the city that an application is procedurally incomplete, the applicant shall have ninety (90) days to submit the additional required information.

2. If the applicant either refuses in writing to submit the additional material or fails to meet the deadline for resubmittal, the application shall lapse.

3. In those situations where the application has lapsed because the applicant has failed to submit the required material within the necessary time period, or the applicant has elected to withdraw the application, the applicant may request a refund of the application fee unrelated to the city's determination of completeness. The amount of the refund shall be determined by the city based on its expenditures associated with the administration of the application.

D. Complete Application: A project permit application shall be deemed procedurally complete under this section on the twenty-ninth day after receiving the application, if the city does not provide a written determination to the applicant that the application is procedurally incomplete as provided in subsection C of this section within twenty eight (28) days of the application. The determination of completeness shall be made when the application is sufficiently and procedurally complete for review even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness, or the city's failure to provide a written determination of completeness, shall not preclude the city's ability to request additional information or studies whenever new information is required, or when substantial changes have been made to the proposal.

E. Other Agencies: To the extent known by the city, other agencies with jurisdiction over the application shall be identified in the city's determination of completeness. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

15-5-5: Repealed.

15-5-6: ENVIRONMENTAL REVIEW:

A. Policies And Procedures: Developments and planned actions subject to the provisions of the state environmental policy act (SEPA), RCW chapter 43.21C, shall be reviewed in accordance with the policies and procedures contained in chapter 14 of this title.

B. Exemptions: Environmental review shall be conducted concurrently with development project review. The following are exempt from concurrent review:

1. Projects categorically exempt from SEPA, as set forth in chapter 14 of this title.

2. Components of previously completed planned actions, to the extent permitted by law and consistent with the EIS for the planned action. (Ord. 778, 10-30-2003, eff. 11-11-2003)

CHAPTER 6
IMPACT FEES

SECTION:

15-6-1: Authority And Purpose

15-6-2: Applicability

15-6-3: Geographic Scope

15-6-4: Imposition Of Impact Fees

15-6-5: Approval Of Development

15-6-6: Fee Schedules And Establishment Of Service Area

15-6-7: Calculation Of Impact Fees

15-6-8: Impact Fee Account Funds Established

15-6-9: Use Of Funds

15-6-10: Assessment And Collection

15-6-11: Adjustments, Independent Calculations

15-6-12: Credits

15-6-13: Refunds

15-6-14: Appeals And Payments Under Protest

15-6-15: Council Review

15-6-16: Administrative Fees

15-6-17: Exemption Or Reductions

15-6-18: Relationship To Environmental Impact Mitigation

15-6-19: Severability

15-6-1: AUTHORITY AND PURPOSE:

A. This chapter is enacted pursuant to the city's police powers, RCWs 82.02, 58.17, and 43.21C. The purpose of this chapter is to:

1. Maintain a program for financing school, park, and transportation capital improvements necessitated in whole or in part by development within the city consistent with the goals and policies of the comprehensive plan;

2. Ensure adequate levels of service within the city;

3. Establish means to charge and collect impact fees to ensure that all new development bears its proportionate share of the capital costs of off site facilities reasonably necessary to accommodate the growth and maintain adopted level of service standards;

4. Ensure that the city pays its fair share of the capital cost of facilities necessitated by public uses unrelated to new growth; and

5. Ensure fair collection and administration of impact fees.

B. The provisions of this chapter shall be liberally construed to effectively carry out its purpose in the interests of public health, safety and welfare. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-6-2: APPLICABILITY:

A. The requirements of this chapter shall apply to all development regulated by this title and titles 12 and 13 of this code unless otherwise exempted.

B. Mitigation of impacts on schools, parks and transportation facilities located in jurisdictions outside the city will be required when:

1. The other affected jurisdiction has reviewed the development's impact(s) under its adopted impact fee regulations and has recommended to the city that there be a requirement to mitigate the impact; and

2. There is an interlocal agreement between the city and the affected jurisdiction specifically addressing impact analysis and mitigation.

C. The following are exempted from impact fees:

1. Alteration, expansion, reconstruction, or replacement of existing single-family or multi-family dwelling units that does not result in additional dwelling units.

2. As for school impact fees only, any new dwelling unit subject to restrictions that may be legally enforced by a private party or governmental entity limiting occupants to a minimum adult age or to populations that do not include children under the age of eighteen (18), including nursing homes and retirement centers; provided that this exclusion ceases if the exempted dwelling unit(s) is later converted to permanent use as a dwelling not subject to the restrictions.

3. As for school impact fees only, hotels, motels, and other transient accommodations provided that this exclusion ceases if the exempted development is later converted to permanent use as a dwelling not subject to these restrictions.

4. Accessory dwelling units (exemption applies to school and park impact fees only).

5. Development which has impact mitigation provided through environmental review under the state environmental policy act addressing the impact.

6. Development for which school facility impacts or park impacts have been mitigated by the payment of, or promise or obligation to pay fees, dedicate land, or construct or improve school facilities as part of a permit approval process granted prior to the effective date of this chapter unless the terms of the agreement expressly provide otherwise.

7. Development that meets the requirements for exemption per section 15-8-17 of this chapter. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 808, 6-30-2005; Ord. 2021-1073, 3-10-2021; Ord. 2024-1136, 12-11-2024)

15-6-3: GEOGRAPHIC SCOPE:

Impact fees shall be charged and collected for development within the corporate city limits. All unincorporated areas annexed to the city on and after the effective date hereof shall be subject to the provisions of this chapter. After the adoption of interlocal agreements with other local, regional or state jurisdictions, the geographic boundaries may be expanded accordingly. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

15-6-4: IMPOSITION OF IMPACT FEES:

A. Impact fees may be required pursuant to the fee schedule adopted through the process described herein, or mitigation may be provided through other means such as the purchase, installation and/or improvement of facilities; or the dedication of land.

B. Impact fees shall:

1. Only be imposed for school, park, and transportation facilities needs that are reasonably related to the impacts of development;

2. Not exceed the proportionate share of the costs of school, park, and transportation facilities that will reasonably benefit the new development;

3. Be used for school, park and transportation facilities that will reasonably benefit the new development;

4. Not be used to correct existing operational and/or maintenance deficiencies;

5. Not be imposed to mitigate impacts or meet facility needs that are being addressed through other laws or programs;

6. Not be collected for improvements to other jurisdictions' facilities unless the city and the other affected jurisdiction have an interlocal agreement;

7. Not be collected for projects vested prior to the adoption date hereof unless changes or modifications to the development proposal require an amendment to the previous city approval and result in greater impacts than previously addressed by the vested approval;

8. Be collected only once for each development, unless changes or modifications to the development proposal require an amendment to the previous city approval and result in greater impacts than previously addressed by the vested approval;

9. Be collected for system improvement costs previously incurred by the city, to the extent that said improvements are intended to serve new development and that additional fees shall not be collected for system deficiencies; and

10. Be only collected on residential developments for school and park impact mitigation. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

15-6-5: APPROVAL OF DEVELOPMENT:

Approvals and permits granted by the city shall include findings and conclusions pertaining to impact mitigation fees consistent with this chapter. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-6-6: FEE SCHEDULES AND ESTABLISHMENT OF SERVICE AREA:

A. Impact fees are established by city council resolution.

B. The boundaries of the service area are the same as the corporate city limits. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

15-6-7: CALCULATION OF IMPACT FEES:

A. School impact fees are based on planned school facility development provided by the Orting School District and included in the comprehensive plan and in Pierce County code

4A.30. Refer to Pierce County code and Orting School District for methodology of impact fee calculations and current impact fee schedule.

B. Park impact fees are based on the level of service standards for parks and trails established in the comprehensive plan.

1. It is the city's intent to maintain the ratio of park land to population established in the comprehensive plan land use element. Dedication of land for public parks and recreation facilities is the preferred method for mitigating impacts on such facilities caused by the development of new households.

2. When creation of a new household (in the form of a subdivision, short plat, planned unit development, manufactured housing park, or residential building permit on a lot for which a parks impact fee has not been collected) is proposed, the city shall require dedication of land necessary to meet the park land to population ratio established in the comprehensive plan land use element. In the event that land dedication is determined by the city to be unfeasible, a mitigation fee in accordance with table 15-6-3 of this section shall be assessed. The amount of land to be dedicated for each dwelling unit shall be as shown in table 15-6-2 of this section:

PARKS LAND DEDICATION FORMULA, TABLE 15-6-2

Park land area per household: 8*43,560/322.58 = 1,080 square feet/ household (rounded)

Given the following variables:

a) Comprehensive plan park land-to-population ratio = eight (8) acres per thousand (1,000)

b) Average household size = three and one-tenth (3.1) persons per household

c) Households per thousand (1,000) = 1,000/3.1 = 322.58

3. The fee value of land to be dedicated may be determined by either of the following methods:

a. The applicant may provide a fair market appraisal of the improved property value. The appraisal shall be prepared by a member of the Appraisal Institute (AI).

b. The city may calculate the average improved land value using Pierce County assessor's data for all new dwelling units constructed in the previous calendar year.

4. Park impact fee (PIF) assessments in lieu of land dedication shall be collected based on table 15-6-3 of this section and specified by city council resolution:

TABLE 15-6-3
PARKS IMPACT FEE FORMULA

Given the following variables:

A

=

Adjustment in accordance with Revised Code of Washington 82.02.050 and 060 to provide a balance between impact fees and other sources of public funds to meet capital facilities needs. For park improvements this adjustment is fifty (50) percent, so that A = 0.5.

HS

=

Average household size of three and one-tenth (3.1) persons.

PLOS

=

Adopted park land level of service standard of eight (8) acres per thousand (1,000) population.

PLR

=

Proportionate land requirement per new household of two-one-hundredths (0.0248) acre calculated as PLOS ÷ 1,000 x HS.

PV

=

Park land value of fifteen thousand dollars ($15,000) per acre and park improvement value of one hundred and four thousand dollars ($104,000).

TLOS

=

Adopted trails level of service standard of one-fourth mile per thousand (1,000) population.

TV

=

Trails land and improvement value of thousand dollars ($44,000) per mile.

PTR

=

Proportionate trail requirement per new household of 0.000775 calculated as TLOS ÷ 1,000 x HS.

Therefore:

PIF = A x [PLR x PV + PTR x TV]

PIF = 0.5 x [0.0248 x $119,000 + 0.000775 x $44,000] = $1,492 per new household (unless amended by city council resolution)

(Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2022-1092, 3-30-2022; Ord. 2024-1136, 12-11-2024)

15-6-8: IMPACT FEE ACCOUNT FUNDS ESTABLISHED:

A. Park Impact Fee Fund: There is hereby created and established a special purpose park and recreation facilities impact fee fund to receive park impact fees. All park impact fees and investment income received pursuant to this title shall be deposited into the park impact fee fund. Procedures for administration of the funds shall be established by the administrator. Expenditures from these funds shall be made in accordance with the city's normal budget procedures. Annually, the city shall prepare a report on each impact fee account showing the source and amount of all monies collected, interest earned, and capital or system improvements that were financed in whole or in part by impact fees.

B. School Impact Fee Fund: The Orting school district shall maintain a school impact fee suspense fund into which all school impact fees shall be deposited.

C. Transportation Impact Fee Fund: There is hereby created and established a special purpose transportation facilities impact fee fund to receive transportation impact fees. All transportation impact fees and investment income received pursuant to this title shall be deposited into the transportation impact fee fund. Procedures for administration of the funds shall be established by the administrator. Expenditures from these funds shall be made in accordance with the city's normal budget procedures. Annually, the city shall prepare a report on each impact fee account showing the source and amount of all monies collected, interest earned, and capital or system improvements that were financed in whole or in part by impact fees. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-6-9: USE OF FUNDS:

A. Impact fees shall be used for public facility improvements that will reasonably benefit the new development; shall not be imposed to make up for deficiencies in the facilities serving existing developments; and shall not be used for maintenance or operation.

B. Impact fees may be spent for improvements, including, but not limited to, facility planning, land acquisition, site improvements, necessary off site improvements, construction, engineering, architectural, permitting, financing, grant matching funds and administrative expenses, applicable impact fees or mitigation costs, capital equipment

pertaining to public facilities, and any other expenses which can be capitalized and are consistent with the comprehensive plan.

C. Impact fees may also be used to recoup public facility improvement costs previously incurred to the extent that new growth and development will be served by the previously constructed improvements or incurred costs.

D. In the event that bonds or similar debt instruments are or have been issued for the construction of public facility or system improvements for which impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section and are used to serve the new development. Capital facilities plans using impact fees for the purpose of assisting in the provision of capital facilities or facility systems must clearly differentiate between funds used for new improvement and those funds used to correct existing deficiencies. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-6-10: ASSESSMENT AND COLLECTION:

A. Fee Determination: For all development activity subject to this chapter, the city shall determine the total impact fee at the time of application for a building permit or for installation of a mobile/manufactured home, based on the capital facilities plan element of the Orting comprehensive plan and the resulting fee schedule in effect at the time of application. (Ord. 778, 10-30-2003, eff. 11-11-2003)

B. Collection Time: Collection shall occur prior to the time of building permit issuance unless the fee payer requests a deferral as outlined below and provides the city with proof that a voluntary impact fee lien in the form provided for in subsection C of this section has been executed by all legal owners of the property upon which the development activity allowed by the building permit is to occur, and the form has been recorded in the office of the Pierce County auditor. If a voluntary impact fee lien has been recorded, then the following collection shall occur:

1. Pursuant to Revised Code Of Washington 82.02.050, applicants for single-family attached or single-family detached residential building permits may request to defer payment, for no more than eighteen (18) months from the date of building permit issuance, of required impact fees until final inspection, which request shall be granted so long as the requirements of this chapter are satisfied. If a deferral request is granted under this section, the city may withhold certification of final inspection until the impact fees have been paid in full.

a. A request for impact fee deferral shall be made in writing on a form provided by the city, and submitted contemporaneously with the associated building permit application. Any request for impact fee deferral must be accompanied by an administrative fee in an amount determined by resolution of the city council.

b. The deferral entitlements allowed under this chapter shall be limited to the first twenty (20) single-family residential construction building permits per applicant, as identified by contractor registration number or other unique identification number, per year.

2. For dwelling units other than single-family, prior to the issuance of the certificate of occupancy. The applicant must provide evidence to the county that the fee has been paid.

3. If development activity originally excluded from the scope of this chapter is converted to a residential use creating an impact on schools and/or parks, the appropriate fee shall be immediately determined and become due for payment. (Ord. 2016-991, 8-31-2016)

C. Title Notification: The owner of any property for which a school impact fee is not paid prior to issuance of a building permit shall record a voluntary impact fee lien with the Pierce County auditor in the applicable form set forth below:

VOLUNTARY IMPACT FEE LIEN

Parcel Number:

Address:

Legal Description:

Present Owner:

Notice: The site was the subject of a development proposal for building permit application number (#) filed on (date).

A (school) (park) (transportation) impact fee in the amount established in 15-6-6 is due to the City of Orting upon the earlier of: transfer of title, refinancing, or 18 months from the date of issuance of the building permit. The fees are a lien on the property. In the event the fee is not paid when due, Orting shall foreclose it in the same manner as an assessment. This lien shall earn interest at the applicable statutory rate from the date of default. The owner shall also pay the City's reasonable attorney's fees and costs incurred in the foreclosure process. Notwithstanding the foregoing, the City shall not commence foreclosure proceedings less than 30 calendar days prior to providing written notification to the then present owner of the property via certified mail with return receipt requested advising of its intent to commence foreclosure proceedings. If the present owner cures the default within the 30-day cure period, no attorney's fees and/or costs will be owed.

Signature of Owner(s)

D. Collection Of Fee Or Record Of Lien: The city shall not issue a building permit for any development activity until applicable school and parks impact fees are paid or the fee payer has provided the city with satisfactory evidence that the applicable voluntary impact fee lien has been recorded against the property for which the building permit is issued. Notwithstanding the recording of a voluntary impact fee lien, the city may collect the fee when it becomes due from either the person or entity: 1) whose development activity

creates the demand for additional public facilities which requires approval, 2) who applies for issuance of the building permit, or 3) the owner of the real property subject to the lien; provided the city shall not collect from any one or all of the above referenced persons and/or entities an amount that exceeds the fee, if any, due for the dwelling unit(s), including interest, attorney fees and costs authorized by the lien. If the fee is collected from a person or entity who is or which is not the current owner of the real property subject to the lien, the city shall assign its interest in the lien to the person or entity who or which paid the fee.

E. Record Satisfaction Of Lien: Unless the city has assigned its interest in the lien as provided for in subsection D of this section, upon payment of any voluntary impact fee lien, the city shall promptly record a satisfaction of lien. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-6-11: ADJUSTMENTS, INDEPENDENT CALCULATIONS:

A. A fee payer may request an adjustment to the impact fees set forth in this title by preparing and submitting to the city and Orting school district (for school impact fees) an independent fee calculation for the development activity for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made.

1. If the city agrees with the independent fee calculation, a written agreement shall be transmitted to the fee payer for recording.

2. If the city does not agree with the independent fee proposal, the fee payer may request a third party review. The third party reviewer will be selected by the city.

a. The fee payer shall pay the third party reviewer for services and the city for analysis of the independent fee calculation.

b. While there is a presumption that the calculations set forth in the capital facilities plan element of the comprehensive plan are valid, the third party reviewer shall consider the documentation submitted by a fee payer and the analysis prepared by the city.

c. The third party reviewer may result in the city acceptance, rejection, or revision of the independent fee calculation after consideration of documentation submitted in support of or in opposition to the independent fee calculation, the specific characteristics of the development, principles of fairness, and/or other relevant information. The fees or alternative fees and the calculations shall be set forth in writing and shall be mailed to the fee payer, and the school district (for school impact fees).

B. Determinations made pursuant to this section may be appealed to the hearing examiner subject to the procedures set forth in this title. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-6-12: CREDITS:

A. The fee payer shall be entitled to a credit against the applicable impact fee component for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by the fee payer, to facilities that are identified in the capital facilities plan and that are required by the city as a condition of approving the development activity.

B. The amount of the credit shall be the higher of either the value of the land or improvements established in the adopted comprehensive plan capital facilities element or by an appraisal conducted by an independent professional appraiser (who is a member of the Appraisal Institute) mutually agreeable to the city and the fee payer. Either the fee payer or the city may request an appraisal, in which event the cost of the appraisal shall be borne by the requesting party. Determinations made pursuant to this section may be appealed to the examiner subject to the procedures set forth in this title.

C. After the effective date of this chapter, the developer shall be entitled to a credit for the value of the land or actual costs of capital facility construction against the fee that would be chargeable under the formula provided by this chapter, whenever a development is granted approval subject to the following conditions: that the developer actually provide school sites, school facilities, or improvements to school facilities that are identified in the comprehensive plan capital facilities element, or whenever the developer has agreed, pursuant to the terms of a voluntary agreement with the school district, to provide land, provide school facilities, or make improvements to existing facilities. The land value or costs of construction shall be determined pursuant to subsection B of this section.

D. After the effective date of this chapter, the developer shall be entitled to a credit for the value of the land or actual costs of capital facility construction against the fee that would be chargeable under the formula provided by this chapter, whenever a development is granted approval subject to the following condition(s): that the developer park, open space, or linear trail park facilities that are identified in the capital facilities element, or whenever the developer has agreed, pursuant to the terms of a voluntary agreement with the city, to provide land for parks, open space, or linear trails that are identified in the capital facilities element, or make improvements to existing facilities. The land value or costs of construction shall be determined pursuant to subsection B of this section.

E. When a subdivision or other type of development is conditioned upon the dedication of land, or purchase, installation or improvement of school, park, or transportation facilities, a final plat, final PUD, or short plat shall not be recorded, nor a building permit issued until:

1. The city has determined in writing that any land to be dedicated is shown on the face of the final plat, final PUD, or short plat, or a deed conveying the land to the city or school district, as appropriate, has been recorded with the Pierce County auditor; and

2. The city has determined in writing, after consultation with the designated public owner responsible for permanent, continuing maintenance and operation of the facilities, that the developer has satisfactorily undertaken, or guaranteed to undertake in a manner acceptable to the city, any required purchase, installation or improvement of the required

school, park, or transportation facilities. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

15-6-13: REFUNDS:

A. The current owner of property on which impact fees have been paid may receive a refund of such fees if the impact fees have not been expended or encumbered within six (6) years of their receipt. In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first in, first out basis.

B. (For school impact fees) the city shall, through the interlocal agreement with the Orting School District, provide for the district to refund fees according to the requirements of this chapter.

1. The district shall notify potential claimants by first class mail deposited with the United States postal service addressed to the owner of the property as shown in the county tax records.

2. An owner's request for a refund must be submitted to the Orting School District superintendent in writing within one year of the date the right to claim the refund arises or the date that notice is given, whichever date is later.

C. Any impact fees that are not expended or encumbered within these time limitations, and for which no application for a refund has been made within this one year period, shall be retained and expended consistent with the provisions of this section.

D. Refunds of impact fees shall include any interest earned on the impact fees.

E. Should the city seek to terminate any or all impact fee requirements, all unexpended or unencumbered funds, including interest earned, shall be refunded to the current owner of the property for which an impact fee was paid. Upon the finding that any or all fee requirements are to be terminated, the city shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two (2) times and shall notify all potential claimants by first class mail addressed to the owner of the property as shown in the county tax records. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the city, but must be expended for the original purposes, consistent with the provisions of this section. The notice requirement set forth above shall not apply if there are no unexpended or unencumbered balances within the account or accounts being terminated.

F. An owner/applicant may request and shall receive a refund, including interest earned on the impact fees, when:

1. The owner/applicant does not proceed to finalize the development activity as required by statute, city code, or the uniform building code; and

2. The district or the city has not expended or encumbered the impact fees in good faith prior to the application for a refund. In the event that the district or the city has expended

or encumbered the fees in good faith, no refund shall be forthcoming. However, if within a period of three (3) years, the same or subsequent owner of the property proceeds with the same or substantially similar development activity, the owner shall be eligible for a credit. The owner must petition the city in writing and provide receipts of impact fees paid by the owner for a development of the same or substantially similar nature on the same property or some portion thereof. The city shall determine whether to grant a credit, and such determinations may be appealed by following the procedures set forth in this title.

G. The amount to be refunded shall include the interest earned by this portion of the account from the date that it was deposited into the impact fee fund. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

15-6-14: APPEALS AND PAYMENTS UNDER PROTEST:

A. An appeal of the decision of the city, the third party reviewer, or the hearing examiner with regard to the imposition of an impact fee or fee amounts may be filed by the fee payer or by the school district (for school impact fees). Any appeal shall follow the appeal process for the underlying permit and shall not be subject to a separate appeal process.

B. Any fee payer may pay the impact fees imposed by this title under protest in order to obtain a building permit. No appeal shall be permitted until the impact fees at issue have been paid.

C. Further appeals of a decision under this title shall be considered by the city according to procedures in this title.

D. The examiner is authorized to make findings of fact regarding the applicability of the impact fees to a given development activity, the availability or amount of credit, or the accuracy or applicability of an independent fee calculation. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

15-6-15: COUNCIL REVIEW:

A. Computation And Schedules: The fee schedules set forth in this chapter shall be reviewed by the city council as it deems necessary and appropriate in conjunction with the annual update of the capital facilities element of the comprehensive plan. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-6-16: ADMINISTRATIVE FEES:

The cost of administering the impact fee system for school, park, and transportation impact fees shall be a one time charge established by the city. This fee, in addition to the actual impact fees, shall be paid by the developer to the city at the time of building permit issuance. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-6-17: EXEMPTION OR REDUCTIONS:

A. Public housing agencies or private nonprofit housing developers participating in publicly sponsored or subsidized housing programs, or constructing emergency housing, may apply for exemptions or reductions from the requirements of this chapter. Private for-profit developers may apply for exemptions or reductions from the requirements of this chapter for when all or a portion of the project is designed to accommodate low income residents or special populations that will result in lower impacts on schools, parks, or transportation facilities. The determination of the amount of any requested exemptions or reductions shall be based on the procedures of section 15-6-11 of this chapter.

B. The amount of impact fees exempted or reduced for low income subsidized units shall be replaced by other public funds.

C. Dwelling units qualifying for impact fee exemptions or reductions shall be occupied by low income or special population residents for a minimum of fifteen (15) years, unless revised statute stipulates other terms.

D. An applicant constructing early learning facilities may apply for exemptions or reductions from the requirements of this chapter if a covenant is recorded to ensure that at least twenty five percent (25%) of the families using the facility qualify for state-subsidized childcare.

E. Exemptions for early learning facilities, low income housing, and emergency housing shall comply with the standards set forth in RCW 82.02.060. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

15-6-18: RELATIONSHIP TO ENVIRONMENTAL IMPACT MITIGATION:

A. As provided by Revised Code of Washington 82.02.100, development required to mitigate environmental impacts pursuant to Revised Code of Washington 43.21C.060 shall not be required to pay impact fees under this chapter for the same system improvements.

B. Nothing in this chapter shall be construed to limit the city's authority to deny development permit applications when a proposal would result in significant adverse environmental impacts identified in environmental review under SEPA where reasonable mitigation measures are insufficient to address the identified impact. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-6-19: SEVERABILITY:

If any provision of this title or its application to any person or circumstance is held invalid, the remainder of this regulation or the application of the provision to other persons or circumstances shall not be affected. (Ord. 778, 10-30-2003, eff. 11-11-2003)

ARTICLE A. TRAFFIC IMPACT FEES

SECTION:

15-6A-1: Authority And Purpose

15-6A-2: Definitions

15-6A-3: Applicability

15-6A-4: Geographic Scope

15-6A-5: Imposition Of Transportation Impact Fees

15-6A-6: Fee Schedules And Establishment Of Service Area

15-6A-7: Calculation Of Impact Fees

15-6A-8: Payment Of Fees

15-6A-9: Project List

15-6A-10: Funding Of Projects

15-6A-11: Refunds

15-6A-12: Appeals

15-6A-13: Relationship To SEPA

15-6A-14: Relationship To Concurrency

15-6A-1: AUTHORITY AND PURPOSE:

A. This article is enacted pursuant to the city's police powers, the growth management act as codified in chapter 36.70A Revised Code Of Washington, the enabling authority in chapter 82.02 Revised Code Of Washington, chapter 58.17 Revised Code Of Washington relating to platting and subdivisions, and the state environmental policy act (SEPA), chapter 42.21C Revised Code Of Washington.

B. The purpose of this article is to:

1. Maintain a transportation impact fee program consistent with the Orting comprehensive plan and the six (6) year transportation improvements necessitated in whole or in part by development in the city;

2. Ensure adequate levels of transportation and traffic service within the city consistent with the comprehensive plan;

3. Create a mechanism to charge and collect fees to ensure that all new development bears its proportionate share of the capital costs of off site transportation facilities directly necessitated by new development, in order to provide an adequate level of transportation service consistent with the comprehensive plan;

4. Ensure that the city pays its fair share of the capital costs of transportation facilities necessitated by public use of the transportation system; and

5. Ensure fair collection and administration of such impact fees.

C. The provisions of this article shall be liberally construed to effectively carry out its purpose in the interests of the public health, safety and welfare. (Ord. 808, 6-30-2005)

15-6A-2: DEFINITIONS:

The following are definitions provided for administering the transportation impact fee and supplement those definitions already set forth in chapter 2 of this title. The city shall have the authority to resolve questions of interpretation or conflicts between definitions.

ADEQUATE LEVEL OF TRANSPORTATION SERVICE: A system of transportation facilities, which has the capacity to serve development without decreasing levels of service below the city's minimum established in the city of Orting transportation plan.

ATTACHMENT A: The "attachment A - transportation impact fee methodology" included in the city of Orting 2030 transportation plan technical appendices and future amendments or modifications thereof.

CAPACITY: The maximum sustainable flow rate at which vehicles or persons can be expected to traverse a point or uniform segment of a lane or roadway during a specified time period, usually expressed as vehicles per hour, passengers per hour, or persons per hour.

CITY CLERK: The city clerk of the city of Orting or his/her designee.

CITY TREASURER: The city treasurer, or Finance Director, of the city of Orting or his/her designee.

DEVELOPER: Any person who proposes an action or seeks a permit regulated by this title or title 10, 12, or 13 of this code.

DEVELOPMENT ACTIVITY: Any construction or expansion of a building, or structure, or use, or any changes in the use of land, that creates additional demand and need for public facilities.

DIRECTOR: The City of Orting Public Works Director or his/her designee.

IMPACT FEE OR TRANSPORTATION IMPACT FEE: A payment of money imposed upon development approval to pay for public streets and roads needed to serve new growth and development, and that is reasonably related to the new development that creates

additional demand and need for public streets and roads, that is a proportionate share of the cost of the public streets and roads, and that is used for public streets and roads that reasonably benefit the new development. "Impact fee" does not include a reasonable permit or application fee otherwise established by city council resolution.

JURISDICTION: The authority of the city of Orting to regulate development within its limits.

OFF SITE TRANSPORTATION ROAD IMPROVEMENT: Improvement, except a frontage improvement, to an existing or proposed city road or street outside the boundaries of a development, which improvement is required or recommended in accordance with this title.

OWNER: The person(s) with legal right of possession or lawful title.

PROJECT IMPROVEMENTS: Site improvements and facilities that are planned and designed to provide service for a particular development project that are necessary for the use and convenience of the occupants or users of the project, and are not system improvements. No improvement or facility included in the capital facilities element or the six (6) year plan approved by the city council shall be considered a project improvement.

SERVICE AREA: A geographic area defined by ordinance or intergovernmental agreement in which a defined set of public streets and roads provides service to the development within the area.

SIX YEAR TRANSPORTATION IMPROVEMENT PROGRAM (TIP): A subset of projects contained in the city's capital improvement element. The TIP is a set of comprehensive street programs/projects which after a public hearing is annually adopted by the city council for the purpose of advancing plans for not less than six (6) years as a guide for carrying out the coordinated transportation/street construction program. The six (6) year TIP shall contain a small group of capacity projects, which will be considered reasonably funded for determining transportation concurrency and impact fees. The adoption of the six (6) year TIP will obligate the city to actively pursue funds to implement the capacity component of the transportation improvement program as best as is possible with the available resources.

SYSTEM IMPROVEMENTS: Public facilities that are included in the capital facilities plan and are designed to provide service areas within the community at large, in contrast to project improvements. (Ord. 958, 7-9-2014)

15-6A-3: APPLICABILITY:

A. The requirements for this article apply to all development activity in the city of Orting.

B. Mitigation of impacts on transportation facilities located in jurisdictions outside the city will be required when:

1. The other affected jurisdiction has reviewed the development's impact under its adopted impact fee/mitigation regulations and has recommended to the city that the city impose a requirement to mitigate the impacts; and

2. There is an interlocal agreement between the city and the affected jurisdiction specifically addressing transportation impact identification and mitigation. (Ord. 808, 6-30-2005)

15-6A-4: GEOGRAPHIC SCOPE:

The boundaries within which impact fees shall be charged and collected are coextensive with the corporate city limits, and shall include all unincorporated areas annexed to the city on and after the effective date hereof. After the adoption of interlocal agreements with other local and regional governments, geographic boundaries may be expanded consistent therewith. (Ord. 808, 6-30-2005)

15-6A-5: IMPOSITION OF TRANSPORTATION IMPACT FEES:

A. The city is hereby authorized to impose transportation impact fees on new development according to the provisions of this article.

B. Transportation impact fees:

1. Shall only be imposed for system improvements that are reasonably related to the new development;

2. Shall not exceed a proportionate share of the costs of system improvements that are reasonably related to the new development;

3. Shall be used for system improvements that will reasonably benefit the new development;

4. Shall be collected and spent only for system improvements which are addressed by the six (6) year transportation improvement program, based on the city of Orting's capital facilities element, identifying:

a. Deficiencies in public facilities serving existing development and the means to eliminate them within a reasonable period of time;

b. Additional demands placed on existing public facilities by new developments; and

c. Additional public facility improvements required to serve new development;

5. Shall not be imposed to mitigate the same off site transportation facility impacts that are mitigated pursuant to any other law;

6. Shall not be collected for improvements to state transportation facilities outside the city boundaries unless the state requests such improvements and an agreement to collect such fees has been executed between the state/county and the city;

7. Shall not be collected for improvements to transportation facilities in other jurisdictions unless the affected jurisdiction requests such improvement and an interlocal agreement has been executed between the city and the affected jurisdiction for the collection of such fees;

8. Shall be collected only once for each building permit, unless changes or modifications to the building permit are proposed which result in greater direct impacts on transportation facilities than were considered when the building permit was first approved; and

9. Shall not be collected from any new or expanded city facilities, post offices, libraries and schools. (Ord. 808, 6-30-2005)

15-6A-6: FEE SCHEDULES AND ESTABLISHMENT OF SERVICE AREA:

A. The impact fee methodology setting forth the amount of the transportation impact fees to be paid by a development is set out in attachment A as referenced in section 15-6A-2 of this article and incorporated herein by this reference.

B. The impact fee schedule of costs, as set out in attachment A as referenced in section 15-6A-2 of this article, shall be updated periodically at the discretion of the city of Orting as the project list changes or to update project costs.

C. For the purpose of this article, the entire city shall be considered one service area. (Ord. 808, 6-30-2005)

15-6A-7: CALCULATION OF IMPACT FEES:

A. The city shall calculate the transportation impact fees as set forth in attachment A as referenced in section 15-6A-2 of this article subject to the provisions of this article.

B. In determining the proportionate share, the method of calculating impact fees shall use trip generation methodology consistent with the latest edition of the Institute of Transportation Engineers Trip Generation Manual. Accessory dwelling units shall be calculated using ITE Use Number 220, apartment customer type. The calculation shall incorporate, among other things, the following:

1. The cost of public streets and roads necessitated by new development;

2. An adjustment to the cost of the public streets and roadways for past or future payments made or reasonably anticipated to be made by new development to pay for particular system improvements in the form of user fees, debt service payments, taxes, or other payments earmarked for or proratable to the particular system improvement;

3. The availability of other means of funding public street and roadway improvements;

4. The cost of existing public street and roadway improvements; and

5. The methods by which public street and roadway improvements were financed.

C. A credit, not to exceed the impact fee otherwise payable, shall be provided for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to facilities that are identified in the transportation impact fee project list and that are required by the city as a condition of approving the development permit. The determination of "value" shall be consistent with the assumptions and methodology used by the city in estimating the capital improvements costs.

D. The director may adjust the standard impact fee at the time the fee is imposed to consider unusual circumstances in specific cases to ensure that impact fees are imposed fairly.

E. The amount of fee to be imposed on a particular development may be adjusted by the director giving consideration to studies and other data available to the director or submitted by the developer demonstrating to the satisfaction of the director that an adjustment should be made in order to carry out the purposes of this chapter.

F. The impact fee shall provide for system improvement costs previously incurred by the city to the extent that new growth and development will be served by the previously constructed improvements; provided, that such fees shall not be imposed to make up for any system improvement deficiencies. (Ord. 808, 6-30-2005; amd. Ord. 2021-1073, 3-10-2021)

15-6A-8: PAYMENT OF FEES:

A. All developers shall pay an impact fee in accordance with the provisions of this article at the time that the applicable building permit is ready for issuance. The fee paid shall be the amount in effect as of the date of the building permit being deemed completed.

B. All developers shall pay an impact administrative fee at the time of issuance of a building permit as set forth in section 15-6-16 of this chapter.

C. If the development is modified or conditioned in such a way as to alter the trip generation rate for the development after building permit issuance, the impact fee will be recalculated accordingly.

D. No building permit shall be issued until the transportation impact fee is paid.

E. Impact fees may be paid under protest in order to obtain a permit or other approval of development activity. (Ord. 808, 6-30-2005)

15-6A-9: PROJECT LIST:

A. The director shall recommend annual updates to city's comprehensive plan, capital facilities element, the six (6) year TIP, and the projects in attachment A as referenced in section 15-6A-2 of this article and shall:

1. Identify proportion of each project that is growth related;

2. Forecast the total funding available from taxes and other public sources for transportation improvements necessary in the next six (6) years;

3. Calculate the amount of impact fees associated with those projects that have already been paid.

B. The director may use this information to prepare an annual draft amendment to attachment A as referenced in section 15-6A-2 of this article, which shall comprise:

1. The projects on the comprehensive plan that are growth related and that should be funded with forecast public monies and the impact fees already paid;

2. The projects already built or funded pursuant to this article whose performance capacity has not been fully utilized; and

3. An update of the estimated costs of the projects listed.

C. The council, at the same time that it adopts the annual budget and appropriates funds for capital improvement projects, shall by separate ordinance establish the annual attachment A as referenced in section 15-6A-2 of this article by adopting, with or without modification, the director's draft list.

D. Once a project is placed on attachment A as referenced in section 15-6A-2 of this article, a fee shall be imposed on every development that impacts the project until the project is removed from the list by one of the following means:

1. The council by ordinance removes the project from attachment A as referenced in section 15-6A-2 of this article, in which case the fees already collected will be refunded if necessary to ensure that impact fees remain reasonably related to the traffic impacts of development that have paid an impact fee; provided, that a refund shall not be necessary if the council transfers the fees to the budget of another project that the council determines will mitigate essentially the same traffic impacts; or

2. The impact fee share of the project has been fully funded, in which case the director shall administratively remove the project from the project list. (Ord. 808, 6-30-2005)

15-6A-10: FUNDING OF PROJECTS:

For funding of projects, see the provisions contained in this chapter. (Ord. 808, 6-30-2005)

15-6A-11: REFUNDS:

See section 15-6-13 of this chapter. (Ord. 808, 6-30-2005)

15-6A-12: APPEALS:

A developer may appeal the amount of an impact fee determined by the director as provided in section 15-6-14 of this chapter. The developer shall bear the burden of proving:

A. That the director committed material and substantial error in calculating the developer's proportionate share, as determined by an individual fee calculation or, if relevant, as set forth in the fee schedule, or in granting credit for the benefit factors; or

B. That the director's decision was based on data that was materially and substantially incorrect and which, therefore, necessarily resulted in an erroneous decision. (Ord. 808, 6-30-2005)

15-6A-13: RELATIONSHIP TO SEPA:

A. All development shall be subject to environmental review pursuant to SEPA and other applicable city ordinances and regulations, unless categorically or statutorily exempt from SEPA applicability. The need for a traffic impact analysis (TIA) and requirements for a TIA are established in the city of Orting 2030 transportation plan technical appendices "Traffic Impact Analysis Guidelines".

B. Payment of the impact fee shall constitute satisfactory mitigation of those traffic impacts related to the specific improvements identified on the project list. (See attachment A as referenced in section 15-6A-2 of this article.)

C. Further mitigation in addition to the impact fee shall be required for identified adverse impacts appropriate for mitigation pursuant to SEPA that are not mitigated by an impact fee.

D. Nothing in this article shall be construed to limit the city's authority to deny building permits when a proposal would result in significant adverse traffic impacts identified in an environmental impact statement and reasonable mitigation measures are insufficient to mitigate the identified impact. (Ord. 808, 6-30-2005)

15-6A-14: RELATIONSHIP TO CONCURRENCY:

Neither compliance with this article or the payment of any fee hereunder shall constitute a determination of concurrency under section 15-8-4 of this title. (Ord. 808, 6-30-2005)

CHAPTER 7
PUBLIC NOTICE REQUIREMENTS

SECTION:

15-7-1: Notice Of Application

15-7-2: Repealed.

15-7-3: Notice of Public Hearing

15-7-4: Notice of Appeal Hearing

15-7-5: Notice of Decision

15-7-1: NOTICE OF APPLICATION:

A. Included Information: Within fourteen (14) days of issuing a notice of completeness under chapter 5 of this title, the city shall issue a notice of application for those projects subject to notice of application as set forth in OMC 15-4-1, Table 15-4-1. Notice of Application provisions applicable to permit activity governed by the Orting Shoreline Master Program (SMP) are set forth in subsections E and F of this section. Notice of Application shall include, but not be limited to, the following:

1. The name of the applicant.
2. Date of application.
3. Date of the notice of completeness.
4. Date of notice of application.
5. The location of the project, including street address and legal description.
6. A project description.
7. The requested approvals, actions, and/or required approvals, actions or studies.
8. A statement of the public comment period which shall be not less than fourteen (14) days nor more than thirty (30) days following the date of the notice of application, except that public comment period shall be not less than twenty (20) days following the date of the notice of application for preliminary short subdivisions and preliminary subdivisions The notice shall also include a statement of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. Also, a statement that comments on the notice are due by five o'clock (5:00) P.M. on the last day of the comment period, or, on the first working day following the last day if the last day falls on a weekend or holiday. For notices issued under this section for preliminary short subdivision and preliminary subdivision applications, the

notice shall also include discussion of the opportunity for a public hearing to be requested as per RCW 58.17.095 (as amended).

9. Identification and location of existing environmental documents and the location where the application and any studies can be reviewed.

10. A city staff contact and phone number.

11. The date, time, and place of a public hearing if one has been scheduled.

12. Preliminary determination, if made, of SEPA threshold and/or development regulations that will be used for project impact mitigation.

13. The identification of other permits not included in the application to the extent known by the local government.

B. Posting; Publication; Mailing Notice of Application:

(1) Posting. Notice of Application shall be posted conspicuously on the subject property, and on the City's website. Notice of Application for preliminary short subdivisions and preliminary subdivisions shall be posted in at least five conspicuous places on or near the subject property designed to attract public awareness of the proposal, and on the City's website. The cost of posting the notice on the subject property shall be the responsibility of the applicant (to include materials and staff labor), as established in the adopted fee schedule of the city.

(2) Publishing. Notice of Application shall be published once in a local newspaper for general circulation. The cost of publishing the notice shall be the responsibility of the applicant, as established in the adopted fee schedule of the city.

(3) Mailing. Notice of Application shall be mailed to all property owners as shown on the records of the county assessor and to all street addresses of properties within five hundred feet (500'), not including street rights of way, of the boundaries of the property which is the subject of the notice of application. Addressed labels and prestamped envelopes shall be provided by the applicant.

C. Issuance: The notice of application shall be issued prior to required notice of a public hearing and is not a substitute for the notice of a public hearing.

D. Exceptions: A notice of application is not required for the following actions, when the referenced actions are categorically exempt from SEPA or environmental review has been completed:

1. Application for building permits;

3. Application for Type 1 permits; and

4. Application for architectural design review. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 886, 9-8-2010; Ord. 2021-1079, 6-30-2021; Ord. 2024-1136, 12-11-2024)

E. Shoreline Permits: Notice of Application for shoreline development permits, shoreline variances, shoreline conditional use permits, and any other action governed by the Orting SMP requiring a permit shall be given in accordance with RCW 90.58 (as amended) and WAC 173-27-110 (as amended). The Notice of Application shall include the following content:

(1) The date of application, the date of the notice of completion for the application, and the date of the notice of application;

(2) A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070, 36.70B.090 and WAC 173-27-180;

(3) The identification of other permits not included in the application to the extent known by the local government;

(4) The identification of existing environmental documents that evaluate the proposed project, and the location where the application and any studies can be reviewed;

(5) A statement of the public comment period, which shall be not less than thirty (30) days following the date of notice of application, and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. A local government may accept public comments at any time prior to the closing of the record of an open record predecision hearing, if any, or, if no open record predecision hearing is provided, prior to the decision on the project permit;

(6) The date, time, place, and type of hearing, if applicable and if scheduled at the date of Notice of Application;

(7) A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and of consistency, if known at the time of notice; and

(8) Any other information determined appropriate by the local government.

F. Posting; Publishing; Mailing SMP Notice of Application:

(1) Posting. Notice of Application shall be posted on the subject property, and on the City's website. The cost of posting the notice on the subject property shall be the responsibility of the applicant (to include materials and staff labor), as established in the adopted fee schedule of the city

(2) Publishing. Notice of Application shall be published once in a local newspaper for general circulation. The cost of publishing the notice shall be the responsibility of the applicant, as established in the adopted fee schedule of the city.

(3) Mailing. Notice of Application shall be mailed to all property owners as shown on the records of the county assessor and to all street addresses of properties within five hundred feet (500'), not including street rights of way, of the boundaries of the property which is the

subject of the notice of application. Addressed labels and prestamped envelopes shall be provided by the applicant.

15-7-2: Repealed.

(Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2021-1074, 3-10-2021; Ord. 2021-1079, 6-30-2021; Ord. 2024-1136, 12-11-2024)

15-7-3: NOTICE OF PUBLIC HEARING:

Notice of a public hearing for all project permit applications that require a hearing and all open record appeals shall be given as follows:

A. Time Of Notices: Except as otherwise required, public notification of meetings, hearings, and pending actions under this title and titles 12 and 13 of this code, and under the Orting Shoreline Master Program (SMP), shall be made by:

1. Publication at least ten (10) days before the date of a public meeting, hearing, or pending action in the official newspaper if one has been designated or a newspaper of general circulation in the city;

2. Mailing at least ten (10) days before the date of a public meeting, hearing, or pending action to all property owners as shown on the records of the county assessor and to all street addresses of properties within five hundred feet (500'), not including street rights of way, of the boundaries of the property which is the subject of the meeting or pending action; provided that, Type 5 applications are able to satisfy the requirements of this section by noticing compliant with OMC 15-7-3(A)(3). Addressed labels and prestamped envelopes shall be provided by the applicant; and

3. Posting at least ten (10) days before the meeting, hearing, or pending action at city hall; on the City's website; other public posting places; and at least one notice on the subject property.

B. Content Of Notice: The public notice shall include a general description of the proposed project, action to be taken, a nonlegal description of the property or a vicinity map or sketch, the time, date and place of the public hearing, and details for where further information may be obtained.

C. Continuations: If for any reason, a meeting or hearing on a pending action cannot be completed on the date set in the public notice, the meeting or hearing may be continued to a date certain and no further notice under this section is required.

(Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 887, 9-8-2010; Ord. 2021-1079, 6-30-2021; Ord. 2024-1136, 12-11-2024)

15-7-4: NOTICE OF APPEAL HEARING:

In addition to the posting and publication requirements of section 15-7-3 of this chapter, notice of appeal hearings shall be as follows:

A. Administrative Approvals: For appeals of administrative approvals, notice shall be mailed to adjacent property owners.

B. Planning Commission Appeals: For appeals of planning commission recommendations, notice shall be mailed to parties of record from the planning commission hearing. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-7-5: NOTICE OF DECISION:

A written notice for all final decisions shall be sent to the applicant and all parties of record. For permit applications requiring planning commission review and city council approval, the notice shall be the signed ordinance or resolution.

For Type 2 permits, administrative decisions shall be noticed as follows:

The administrator shall notify by mail the property owners as shown on the records of the county assessor to all street addresses of properties within five hundred feet (500') (not including street rights of way) of the boundaries of the property which is the subject of the preliminary decision of his or her intended decision at least fourteen (14) days prior to the effective date of the decision. Addressed labels and prestamped envelopes shall be provided by the applicant. Notification shall also be posted on the city's website. The notice shall include:

A. A description of the preliminary decision, including any conditions that may apply to a preliminary approval decision.

B. A place where further information may be obtained.

C. A statement that final approval will be granted unless an appeal requesting a public hearing is filed with the city clerk within fifteen (15) days of the date of the notice. (Ord. 778, 10-30-2003, eff. 11-11-2003)

CHAPTER 8
CONCURRENCY AND ADEQUACY

SECTION:

15-8-1: Intent

15-8-2: Authority

15-8-3: Exemptions

15-8-4: Concurrency Procedures

15-8-5: Check For Adequacy (Rep. by Ord. 887, 9-8-2010)

15-8-6: Approval Or Denial Of Permits

15-8-7: Concurrency Test Request Without Application

15-8-1: INTENT:

The purpose of this chapter is to ensure that public facilities and services owned, operated, or provided by the city and public facilities and services owned, operated or provided by other governments, special districts and applicable organizations within the city (these public facilities and services are recognized as "service providers") are provided simultaneous to or within a reasonable time after development occurs consistent with the capital facilities element of the comprehensive plan and Revised Code Of Washington 36.70A.070(6)(e). This chapter shall apply to all applications for development or redevelopment permit approvals that will result in:

A. More than fifteen (15) new P.M. peak hour vehicle trips; and

B. Connection to city water and sanitary sewer systems. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-8-2: AUTHORITY:

The administrator or his/her designee shall be responsible for enforcing the provisions of this chapter. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-8-3: EXEMPTIONS:

The test for concurrency shall not be required for exempted developments as specified below:

A. No Impact: Development which creates no additional impacts on public water, sanitary sewer, surface water management, streets, schools and parks are exempt from the test for concurrency. Such development includes, but is not limited to:

1. Additions, accessory structures, or interior renovations to or replacement of a residence which do not result in a change in use or increase in the number of dwelling units or residential unit equivalents;

2. Additions to or replacement of a nonresidential structure which do not result in a change in use, expansion in use, or otherwise increase demand in public facilities as defined above;

3. Temporary uses as defined in title 13, chapter 4 of this code; and

4. Demolitions.

B. Permits And Actions: The following are exempt from the test for concurrency:

1. Boundary line adjustments;

2. Temporary use permits;

3. Variances and shoreline variances;

4. Approvals pursuant to site development regulations;

5. Administrative interpretations;

6. Sign permits;

7. Street vacations;

8. Demolition permits;

9. Street use or right of way permits;

10. Clearing, grading, excavation permits;

11. Mechanical, electrical and plumbing permits;

12. Fire code permits;

13. Architectural design review approvals; and

14. Other permits as determined by the city that will not result in impacts on public services or utilities.

C. SEPA: Applications exempt from the test for concurrency are not necessarily exempt from SEPA.

D. Exemptions: The portion of any development used for any of the following purposes is exempt from the requirements of this chapter:

1. Public transportation facilities;

2. Public parks and recreational facilities; and

3. Public libraries. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-8-4: CONCURRENCY PROCEDURES:

A. Concurrency Review Procedures: Concurrency of necessary public facilities shall be determined during the processing of all nonexempt permit applications through a review process conducted by the city in consultation with the individual service providers prior to the issuance of any permit.

B. Concurrency Review; Roles:

1. The administrator shall provide the overall coordination of the test for concurrency by notifying the service providers of all applications requiring a test for concurrency.

2. Service providers as defined in section 15-8-1 of this chapter shall:

a. Be responsible for providing the city with current information describing system capacities, available services, and any factors affecting the review and approval of applications;

b. Reserve the capacity needed for each application; and

c. Charge applicable fees to recover the costs of concurrency testing and monitoring their concurrency systems.

C. Capacity: For sanitary sewer and domestic water supply, only available capacity shall be used in conducting the test for concurrency. For streets, available and planned capacity may be used in conducting the test for concurrency. The adopted level of service standards outlined in the comprehensive plan shall be the basis for determining whether adequate capacity will be available.

D. Concurrency Determination: The test for concurrency is passed when the capacity of public facilities and services is equal to or greater than the capacity required to maintain the level of service standards established by the city. Approval of permit applications shall constitute certificates of concurrency. (Ord. 887, 9-8-2010)

15-8-5: CHECK FOR ADEQUACY:

(Rep. by Ord. 887, 9-8-2010)

15-8-6: APPROVAL OR DENIAL OF PERMITS:

A. Approvals: Permits which would not result in a reduction of an adopted level of service standard for a public facility or service may be approved as long as all other provisions of this code are met.

B. Denials: Permits which would result in a reduction of an adopted level of service standard for a public facility or service are subject to denial. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-8-7: CONCURRENCY TEST REQUEST WITHOUT APPLICATION:

A test for concurrency may be requested without an accompanying permit application. Any available capacity found at the time of the test cannot be reserved and no certificate of capacity will be issued. (Ord. 778, 10-30-2003, eff. 11-11-2003)

CHAPTER 9
REVIEW AND APPROVAL PROCESS

SECTION:

15-9-1: Administrative Approvals Without Notice

15-9-2: Planning Commission Review And Recommendation

15-9-3: City Council Action

15-9-4: Procedures For Open Record Public Hearings

15-9-5: Procedures For Closed Record Appeals

15-9-6: Reconsideration

15-9-7: Remand

15-9-8: Final Decision

15-9-9: Joint Public Hearings

15-9-1: ADMINISTRATIVE APPROVALS WITHOUT NOTICE:

A. Specified: The administrator may approve, approve with conditions, or deny the following:

1. Type 1 and 2 permits as described in section 15-4-1 of this title.

2. Extension of time for approval.

3. Minor amendments or modifications to approved developments or permits. Minor amendments are those which may affect the precise dimensions or location of buildings, accessory structures and driveways, but do not affect: a) overall project character; b) increase the number of lots, dwelling units, or density; or c) decrease the quality or amount of open space.

Administrator's decisions under this section shall be final on the date issued, unless specified otherwise in the notice of decision, or unless appealed. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-9-2: PLANNING COMMISSION REVIEW AND RECOMMENDATION:

Planning commission decision and action authority is defined in chapter 4 of this title.

A. Staff Report: The administrator or his/her designee shall prepare a staff report on the proposed development or action summarizing the comments and recommendations of city departments, affected agencies and special districts, and evaluating the development's

consistency with the comprehensive plan, development code, and other adopted plans and regulations. The staff report shall include findings, conclusions and proposed recommendations for disposition of the development application. (Ord. 778, 10-30-2003, eff. 11-11-2003)

B. Hearing: The planning commission shall conduct an open public hearing on development proposals requiring type 3a approvals. The purpose of public hearings is for taking testimony, hearing evidence, considering the facts germane to the proposal, and evaluating the proposal for consistency with the city's comprehensive plan, development code, appropriate decision criteria and other adopted plans and regulations. Notice of the planning commission hearing shall be in accordance with chapter 7 of this title. (Ord. 887, 9-8-2010)

C. Required Findings: The planning commission shall not approve or recommend approval of a proposed development unless it first makes the findings and conclusions consistent with the criteria set forth in titles 11, 12 and 13 of this code for the specific permit involved.

D. Recommendation: Upon completion of its review of a development proposal, the planning commission shall prepare and adopt a resolution setting forth the planning commission's findings, conclusions and recommendations and promptly forward it to the city council for consideration. The recommendation may be for approval, approval with conditions, or denial based on the findings and conclusions of subsection C of this section. Findings and conclusions pertaining to architectural design review shall become part of the decision record for planning commission approval, approval with conditions, or denial. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-9-3: CITY COUNCIL ACTION:

A. Actions: Upon receiving a recommendation from the planning commission or notice of any other matter requiring the city council's attention, the city council shall perform the following actions as appropriate:

1. Make a decision on a planning commission recommendation.

2. At the city council's discretion, hold a closed record hearing and make a decision on the following matters:

a. Appeal of administrative interpretations.

b. Appeal of administrative approvals.

c. Appeal of determinations of significance.

d. Appeal of a planning commission recommendation.

e. Other matters not prohibited by law.

B. Decisions: The city council shall make its decision by motion, resolution, or ordinance as appropriate.

1. A city council decision on a planning commission recommendation shall include one of the following actions:

a. Approve as recommended.

b. Approve with additional conditions.

c. Modify, with or without the applicant's concurrence, provided that the modifications do not:

(1) Enlarge the area or scope of the project.

(2) Increase the density or proposed building size.

(3) Significantly increase adverse environmental impacts as determined by the responsible official.

d. Deny (reapplication or resubmittal is permitted).

e. Deny with prejudice (reapplication or resubmittal is not allowed for 1 year).

f. Remand for further proceedings and/or evidentiary hearing in accordance with section 15-9-7 of this chapter. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-9-4: PROCEDURES FOR OPEN RECORD PUBLIC HEARINGS:

Open record public hearings shall be conducted in accordance with the hearing body's rules of procedure and shall serve to create or supplement an evidentiary record upon which the body will base its decision. The chair shall open the public hearing and, in general, observe the following sequence of events:

A. Staff Presentation: Staff presentation, including submittal of any administrative reports. Members of the hearing body may ask questions of the staff.

B. Applicant Presentation: Applicant presentation, including submittal of any materials. Members of the hearing body may ask questions of the applicant.

C. Public Testimony Or Comments: Testimony or comments by the public germane to the matter. Questions directed to the staff or the applicant shall be posed by the chair at its discretion.

D. Rebuttal, Response Or Clarifying Statements: Rebuttal, response or clarifying statements by the staff and the applicant.

E. Deliberation: The hearing body shall close the evidentiary portion of the public hearing and shall deliberate on the matter before it. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

15-9-5: PROCEDURES FOR CLOSED RECORD APPEALS:

Closed record appeals shall be conducted in accordance with the hearing body's rules of procedure and shall serve to provide argument and guidance for the hearing body's decision. Closed record appeals shall be conducted generally as provided for public hearings. Except as provided in section 15-9-7 of this chapter, no new evidence or testimony shall be given or received. The parties to the appeal may submit timely written statements or arguments. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-9-6: RECONSIDERATION:

A party to a public hearing or closed record appeal may seek reconsideration only of a final decision by filing a written request for reconsideration with the administrator within five (5) days of the oral or written announcement of the final decision. The request shall comply with subsection 15-10-4(B) of this title. The city council or hearing body shall consider the request at its next regularly scheduled meeting, without public comment or argument by the party filing the request. If the request is denied, the previous action shall become final. If the request is granted, the city council or hearing body may immediately revise and reissue its decision or may call for argument in accordance with the procedures for closed record appeals. Reconsideration should be granted only when an obvious legal error has occurred or a material factual issue has been overlooked that would change the previous decision. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-9-7: REMAND:

In the event the city council determines that the public hearing record or record on appeal is insufficient or otherwise flawed, the city council may, if the applicant waives the prohibition of one open public record hearing, remand the matter back to the hearing body to correct the deficiencies. The city council shall specify the items or issues to be considered and the time frame for completing the additional work. The city council may hold a public hearing on a closed record appeal only for the limited purposes identified in Revised Code of Washington 34.05.562(1). (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-9-8: FINAL DECISION:

A. Time: The final decision on a project permit application shall be issued within the following timeframes based on the permit application type assigned in OMC Table 15-4-1:

1. For Type 1 and Type 2a permit application types, the final decision shall be issued within sixty-five (65) days from the date of the determination of completeness.

2. For Type 2 permit application types, the final decision shall be issued within one hundred (100) days from the date of the determination of completeness.

3. For Type 3, Type 3a, Type 4, and Type 5 permit application types, the final decision shall be issued within one hundred seventy (170) days from the date of the determination of completeness.

B. Time Calculation and Exclusions: The number of days that an application is in review with the city shall be calculated from the day completeness is determined to the date a final decision is issued. The number of days required under paragraph A above shall be calculated by counting every calendar day and excluding the following time periods:

1. Any period between the day that the city has notified the applicant, in writing, that additional information is required to further process the project permit application and the day when responsive information is resubmitted by the applicant.

2. Any period after an applicant informs the city, in writing, that they would like to temporarily suspend review of the project permit application until the time that the applicant notifies the city, in writing, that they would like to resume the application.

3. Any period after an administrative appeal is filed until the administrative appeal is resolved and any additional time period provided by the administrative appeal has expired.

4. All time required for the preparation and review of an environmental impact statement.

5. Projects involving the siting of an essential public facility.

6. All time required for the administrative appeal of a SEPA determination of significance.

7. All time required to determine landmark designations.

8. All time required to complete street vacations.

9. All time required to approve street use permits.

10. All scheduled extensions resulting from a request by the applicant for a joint public hearing as defined under subsection 15-9-9 B of this chapter.

11. The time periods for the city to process a permit shall start over if an applicant proposes a change in use that adds or removes commercial or residential elements from the original application that would make the application fail to meet the determination of procedural completeness for the new use.

12. If, at any time, an applicant informs the city, in writing, that the applicant would like to temporarily suspend the review of the project for more than sixty (60) days, or if an applicant is not responsive for more than sixty (60) consecutive days after the city has notified the applicant, in writing, that additional information is required to further process the application, an additional thirty (30) days may be added to the time periods for the city to issue a final decision for the project permit application. Any written notice from the city

to the applicant that additional information is required to further process the application must include a notice that nonresponsiveness for sixty (60) consecutive days may result in thirty (30) days being added to the time for review.

13. Annual amendments to the comprehensive plan are not subject to the requirements of this section.

14. All time following any notice of public hearing for the subject application. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

15-9-9: JOINT PUBLIC HEARINGS:

A. Administrator's Decision To Hold A Joint Hearing: The administrator may combine any public hearing on a development proposal with any hearing that may be held by another local, state, regional, federal, or other agency as long as: 1) the hearing is held within the city limits; and 2) the requirements of subsection C of this section are met.

B. Applicant's Request For Joint Hearing: The applicant may request that the public hearing on a development proposal be combined as long as the joint hearing can be held within the time periods set forth in this title. In the alternative, the applicant may agree to a particular schedule if that additional time is needed in order to complete the hearings.

C. Prerequisites To Joint Public Hearings: A joint public hearing may be held with another local, state, regional, federal, or other agency and the city as long as:

1. The other agency is not expressly prohibited by statute from doing so;

2. Sufficient notice of the hearing is given to each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule; and

3. The agency has received the necessary information about the proposed project from the applicant in enough time to hold its hearing at the same time as the local government hearing. (Ord. 778, 10-30-2003, eff. 11-11-2003)

CHAPTER 10
APPEALS

SECTION:

15-10-1: Appeal Of Administrative Interpretations And Approvals

15-10-2: Appeal Of Planning Commission Recommendations

15-10-3: Appeal Of Hearing Examiner Decisions

15-10-4: Filing Of Appeals

15-10-5: Standing

15-10-6: Judicial Appeal

15-10-1: APPEAL OF ADMINISTRATIVE INTERPRETATIONS AND APPROVALS:

Type 1 and Type 2 administrative decisions may be appealed, by applicants or parties of record, to the hearing examiner. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-10-2: APPEAL OF PLANNING COMMISSION RECOMMENDATIONS AND DECISION:

Recommendations of the planning commission may be appealed, by applicants or parties of record who participated in the planning commission hearing, to the hearing examiner. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

15-10-3: APPEAL OF HEARING EXAMINER DECISIONS:

Decisions of the hearing examiner may be appealed to Pierce County superior court as a land use petition, by parties of record with standing to file. The appeal must be filed within twenty one (21) days after issuance of the decision, as provided for or as amended in Chapter 36.70C RCW. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

15-10-4: FILING OF APPEALS:

A. Filing: Every appeal to the city council or hearing examiner shall be filed with the administrator within ten (10) days after the date of the recommendation or decision of the matter being appealed.

B. Contents: The notice of appeal shall contain a concise statement identifying:

1. The decision being appealed.

2. The name and address of the appellant and his or her interest(s) in the matter.

3. The specific reasons why the appellant believes the decision to be wrong. The appellant shall bear the burden of proving the decision was wrong.

4. The desired outcome or requested changes to the decision.

5. The appeals fee. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

15-10-5: STANDING:

Appeals to decisions made by the administrator, hearing examiner, planning commission, and city council as set forth in this title can only be made by parties of record, including, but not limited to:

A. Applicants and property owners to which a land use decision is directed;

B. Another person aggrieved or adversely affected by the land use decision, or who would be aggrieved or adversely affected by a reversal or modification of the land use decision. A person is aggrieved or adversely affected within the meaning of this section only when all of the following conditions are present:

1. The land use decision has prejudiced or is likely to prejudice that person;

2. That person's asserted interests are among those that the local jurisdiction was required to consider when it made the land use decision;

3. A judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the land use decision; and

4. The petitioner has exhausted his or her administrative remedies to the extent required by law. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

15-10-6: JUDICIAL APPEAL:

A. Authority; Time Limit: Appeals from the final decision of the city council, hearing examiner, or other city board or body involving this title or titles 12 and 13 of this code and for which all other appeals specifically authorized have been timely exhausted, shall be made to Pierce County superior court within twenty one (21) days of the date the decision or action became final, unless another time period is established by state law or local ordinance.

B. Notice: Notice of the appeal and any other pleadings required to be filed with the court shall be served on the city clerk, administrator, and city attorney within the applicable time period. This requirement is jurisdictional.

C. Costs: The cost of transcribing and preparing all records ordered certified by the court or desired by the appellant for such appeal shall be borne by the appellant. The appellant shall post an advance fee deposit with the city clerk prior to the preparation of any records. The fee deposit amount shall be specified by the city clerk. Any overage will be promptly returned to the appellant. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

CHAPTER 11
ENFORCEMENT

SECTION:

15-11-1: Enforcing Official; Authority

15-11-2: General Penalty

15-11-3: Violations Subject To Enforcement

15-11-4: Civil Regulatory Order

15-11-5: Review Of Approved Permits

15-11-1: ENFORCING OFFICIAL; AUTHORITY:

The administrator or his/her designee shall be the code enforcement officer responsible for enforcing this title and titles 11, 12 and 13 of this code, and the Orting Shoreline Master Program, and may adopt administrative rules to meet that responsibility. The administrator may designate or appoint other department heads, the building inspector, fire chief, chief of police or other employees or agents of the city, as appropriate, as code enforcement officers authorized to enforce this title and titles 11, 12 and 13 of this code, and the Orting Shoreline Master Program. (Ord. 912, 9-14-2011; amd. Ord. 2024-1136, 12-11-2024)

15-11-2: GENERAL PENALTY:

A. Compliance Mandatory: Compliance with the requirements of this title and titles 11, 12 and 13 of this code, the Orting Shoreline Master Program, any provision of a rule or regulation adopted pursuant thereto, and any civil regulatory order, project permit or approval granted or issued under authority of this title, titles 11, 12 or 13 of this code or the Orting Shoreline Master Program, shall be mandatory.

B. Violation; Civil Violation; Civil Infraction: Any act or omission by a person responsible for compliance with any of the provisions of this title, titles 11, 12 or 13 of this code, the Orting Shoreline Master Program, any provision of a rule or regulation adopted pursuant thereto, a civil regulatory order issued pursuant to this title, titles 11, 12 or 13 of this code, the Orting Shoreline Master Program, or any provision or condition of a project permit or approval issued or granted pursuant to this title, titles 11, 12 or 13 of this code, or the Orting Shoreline Master Program shall constitute a violation and shall be subject to enforcement as a civil infraction or civil violation pursuant to title 1, chapters 13, "Code Enforcement", and 4, "Penalties", of this code. Any act or omission by a person responsible for compliance that constitutes a failure to obtain a project permit or approval required pursuant to this title, titles 11, 12 or 13 of this code, or the Orting Shoreline Master Program, shall constitute a violation and shall be subject to enforcement as a civil infraction or civil violation pursuant to title 1, chapters 13, "Code Enforcement", and 4, "Penalties", of this code.

C. Violation; Misdemeanor: It shall be unlawful to willfully fail to comply with any provision of this title, titles 11, 12 or 13 of this code, or the Orting Shoreline Master

Program, willfully fail to comply with any provision of a rule or regulation adopted pursuant thereto, willfully fail to comply with a civil regulatory order issued pursuant to this title, titles 11, 12 or 13 of this code, or the Orting Shoreline Master Program, willfully fail to obtain a project permit or approval required by this title, titles 11, 12 or 13 of this code, or the Orting Shoreline Master Program, or willfully fail to comply with a provision of a project permit or approval issued under authority of this title, titles 11, 12 or 13 of this code, or the Orting Shoreline Master Program. Such willful failure shall constitute a misdemeanor.

D. Remedies Not Exclusive: The enforcement actions authorized under this chapter shall be supplemental to those general penalties and remedies and enforcement actions that may be available at law or in equity. (Ord. 912, 9-14-2011; amd. Ord. 2024-1136, 12-11-2024)

15-11-3: VIOLATIONS SUBJECT TO ENFORCEMENT:

Violations of the development code are subject to enforcement pursuant to the provisions of title 1, chapter 13, "Code Enforcement", of this code. (Ord. 912, 9-14-2011)

15-11-4: CIVIL REGULATORY ORDER:

A. Authority: A civil regulatory order may be issued by the administrator and served upon a person responsible for compliance with the development code in accordance with title 1, chapter 13, "Code Enforcement", of this code.

B. Remedial Action: The administrator may require any lawful action reasonably calculated to avoid, abate or mitigate the violation, including, but not limited to, replacement, repair, supplementation, revegetation, rehabilitation, removal, or restoration. (Ord. 912, 9-14-2011)

15-11-5: REVIEW OF APPROVED PERMITS:

A. Review: Any activity subject to an approval or project permit granted or issued under the authority of the development code may be reviewed for compliance with the requirements of the development code, or the project permit or approval, or to determine if the action is creating a nuisance or hazard, has been abandoned, or the approval or project permit was obtained by fraud or deception.

B. Initiation Of Review: The review of activity described in subsection A of this section may be initiated by the administrator, other designated code enforcement officer, or mayor, or by petition to the administrator by three (3) owners of property located in whole or in part within the jurisdictional boundaries of the city, or three (3) residents of separate dwelling units within the jurisdictional boundaries of the city, stating their knowledge and belief as to the noncompliance, nuisance or hazard of the activity.

C. Administrator's Investigation: Upon receipt of information indicating the need for review, the administrator shall notify the person responsible for compliance, investigate the matter and, if there is found to be reasonable cause to take enforcement action, take one or more of the following actions:

1. Take enforcement action pursuant to title 1, chapters 13, "Code Enforcement", and 4, "Penalties", of this code; and/or

2. Refer the matter to the city attorney or city prosecutor for review and possible enforcement action. (Ord. 912, 9-14-2011; amd. Ord. 2024-1136, 12-11-2024)

CHAPTER 12
AMENDMENTS

SECTION:

15-12-1: Purpose

15-12-2: Minor Amendment Standards

15-12-3: Major Amendments

15-12-4: Development Regulations And Other Official Controls

15-12-5: Comprehensive Plan

15-12-1: PURPOSE:

The purpose of this chapter is to define types of amendments to approved permits issued under titles 11, 12, or 13 of this code, the development regulations, comprehensive plan, and other official controls and to identify procedures for those actions. Amendments to the comprehensive plan and development regulations are legislative functions separate from any permit process otherwise set forth in this chapter. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-12-2: MINOR AMENDMENT STANDARDS:

The following provisions include methods for approving minor amendments to approved permits issued under titles 11, 12, or 13 of this code:

A. Requests for minor amendments shall be in writing from the property owner or the owner's authorized agent.

B. Minor amendment applications may be circulated to any city department or agency with jurisdiction at the discretion of the administrator.

C. Minor amendments may be approved or modified with conditions of approval by the administrator, provided all of the following requirements are met and provided that any

request does not amount to the need for an administrative or general variance which shall be separately applied for, if needed per title 13 chapter 6 of this code:

1. Any proposal that results in a change of use must be permitted outright in the current zone classification.

2. A change to a condition of approval does not modify the intent of the original condition.

3. The perimeter boundaries of the original site shall not be extended by more than five percent (5%) of the original lot area.

4. The proposal does not add more than ten percent (10%) gross square footage of structures on the site.

5. The proposal does not increase the overall impervious surface on the site by more than ten percent (10%).

6. Any additions or expansions approved through minor amendments that cumulatively exceed the requirements of this section shall be reviewed as a major amendment.

D. Minor amendment decisions shall be in writing and attached to the official file.

E. Copies of the decision shall be mailed to all parties of record. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-12-3: MAJOR AMENDMENTS:

Major amendments are those amendments which exceed the thresholds established for "minor amendments" set forth in OMC 15-12-2. All major amendments resulting from proposed changes to a permitted project shall require resubmittal and be subject to review and approval procedures according to the provisions of this title. (Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1136, 12-11-2024)

15-12-4: DEVELOPMENT REGULATIONS AND OTHER OFFICIAL CONTROLS:

This section is intended to provide the method for adopting amendments to the text and official map of the city's development regulations and other official controls. Requests to change a regulatory zone affecting a parcel of land, or portion of a lot, are processed under section 15-12-5 of this chapter.

A. Initiation Of Amendment: An amendment to the zoning title or other official controls may be initiated by:

1. The city council requesting the planning commission to set the matter for hearing and recommendations.

2. The planning commission with the concurrence of the administrator.

3. One or more property owners of land within the jurisdictional boundaries of the city who is/are directly affected by a proposal through a petition to the city.

4. Citizen advisory committees or organizations through a petition to the city.

B. Application Required: Application for a change to the official map or regulatory changes specific to a parcel of land or portion of a lot shall be made in writing to the administrator. Applications shall include:

1. Property owners' and agents' names, addresses, and other contact information;

2. Parcel identification number and address of the parcel or parcels;

3. Description of the requested amendment and reason for the change;

4. An explanation of how the proposed amendment implements the comprehensive plan; and

5. Other relevant information regarding the proposal.

C. Fees: As may be established by resolution of the city council.

D. Staff Report: The administrator shall prepare a written report on each amendment pending before the planning commission. The report shall be transmitted to the planning commission and to the applicant before the public hearing. Each report shall contain:

1. Any factual findings pertaining to the amendment.

2. Any comments from city departments or other agencies with jurisdiction.

3. The environmental assessment, SEPA determination and/or final environmental impact statement.

4. The staff's recommendation. E. Public Hearing By Planning Commission: The city shall give notice and the planning commission shall hold a public hearing prior to the recommendation for adoption or amendment of any official control to the city council. See section 15-9-4 of this title for hearing procedures and rules.

F. Adoption By City Council: City Council shall consider the Planning Commission’s recommendation and the project record for all requested amendments to the development regulations or other official controls at a public hearing. The City Council may adopt, adopt with conditions, or deny a requested amendment to the development regulations or other official controls. If adopted or conditionally adopted, the requested amendment shall be adopted by the city council by ordinance after a public hearing on the planning commission's recommendation. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-12-5: COMPREHENSIVE PLAN:

This section is intended to provide the method for adopting amendments to the text and official map of the city's comprehensive plan. Comprehensive plan amendments may include, but are not limited to, policy changes; land use designation changes; level of service standard changes; addition of new analyses; addition of new elements; or other changes that are mandated by state law or determined to be in the interest of the city. Chapter 13 of this title describes the adopted comprehensive plan.

A. Initiation Of Amendment: An amendment to the comprehensive plan may be initiated by:

1. The city council requesting the planning commission to set the matter for hearing and recommendations.

2. The planning commission.

3. One or more property owners of land within the jurisdictional boundaries of the city or city residents by petition to the city.

4. Citizen advisory committees or organizations through a petition to the city.

B. Docketing Process: The comprehensive plan shall be amended no more frequently than annually, except that subarea plans may be adopted as amendments at any time and emergency comprehensive plan amendments may occur after appropriate public participation whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with the growth management hearing board or with the court. Amendment proposals shall be processed as follows:

1. The city shall provide notice of the comprehensive plan amendment docketing process, inviting the public to propose amendments during a 60-day docketing period. Notice shall be provided via posting and publication; annual docketing notice shall be posted at City Hall and notification shall be published once in a local newspaper for general circulation, and on the City's website. The notice shall specify the deadline for submitting proposals and shall state that the city council shall decide which proposed amendments will be carried forward during the current cycle. Docketing proposals shall be in the form of a letter and shall include:

a. Property owners' and agents' names, addresses, and other contact information;

b. Parcel identification number and address of the parcel or parcels that are the subject of a requested comprehensive plan amendment;

c. Description of the requested amendment and reason for the change.

2. At the close of the 60-day proposal period, the submittals shall be reviewed by staff and sent to the city council. This list will include proposals submitted by city departments, boards and commissions, and private parties.

3. The city council shall adopt a resolution directing the administrator to proceed with the selected amendments for the current cycle. Proposed amendments that are eliminated from further consideration may be resubmitted in the next cycle.

C. Fees: The fee for an application for comprehensive plan amendment is as established by resolution of the city council in the current adopted fee schedule. Payment of the application fee shall be made by an applicant before the city processes the requested application.

D. Staff Report: The administrator or his or her designee shall prepare a written report on each amendment pending before the planning commission. The report shall be transmitted to the planning commission and to the applicant before the public hearing. Each report shall contain:

1. Any factual findings pertaining to the amendment.

2. Any comments from city departments or other agencies with jurisdiction.

3. The environmental assessment, SEPA determination and/or final environmental impact statement.

4. The staff's recommendation.

E. Public Hearing By Planning Commission: The planning commission shall hold a public hearing prior to the recommendation for adoption or amendment of any comprehensive plan amendment to the city council. See chapter 9 of this title for hearing procedures and rules.

F. Adoption By City Council: City Council shall consider the Planning Commission's recommendation and the project record for all requested amendments to the comprehensive plan at a public hearing. The City Council may adopt, adopt with conditions, or deny a requested amendment to the comprehensive plan. If adopted or conditionally adopted, the requested amendment shall be adopted by the city council by ordinance after a public hearing on the planning commission's recommendation.

(Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2019-1055, 11-25-2019; Ord. 2024-1136, 12-11-2024)

CHAPTER 13
COMPREHENSIVE PLAN

SECTION:

15-13-1: Comprehensive Plan Adopted

15-13-1: COMPREHENSIVE PLAN ADOPTED:

A. Official Document: The Orting comprehensive plan as amended in its entirety, including but not limited to all appendices, figures, tables, maps, is approved as the official land use classification and development guidance document for the city.

B. Copy Available For Inspection: The adopted Orting comprehensive plan as amended, shall be avaliable on the city's website, and filed with the city clerk and shall be available for public inspection upon its effective date.

C. Filed With State: The city clerk shall transmit a copy of the comprehensive plan as adopted to the state department of commerce within ten (10) days of the effective date of its adoption, and to such other offices and agencies as may be required by law.

D. Compliance With Plan, Revisions: The planning commission shall be responsible for recommending amendments to the city development regulations to be consistent with the Orting comprehensive plan.

E. City Planning Boundary: The planning area designated in the 2024 Orting comprehensive plan as approved shall serve as the city's planning boundary until such time as it is amended by the city council. (Ord. 958, 7-9-2014; amd. Ord. 2024-1136, 12-11-2024)

CHAPTER 14
ENVIRONMENTAL REVIEW 1

SECTION:

15-14-1: Authority

15-14-2: General Requirements

15-14-2-1: Purpose Of Section 15-14-2 And Adoption By Reference

15-14-2-2: SEPA Policies

15-14-2-3: Additional Definitions

15-14-2-4: Designation Of Responsible Official

15-14-2-5: Lead Agency Determination And Responsibilities

15-14-2-6: Additional Timing Considerations

15-14-3: Categorical Exemptions And Threshold Determinations

15-14-3-1: Purpose Of Section 15-14-3 And Adoption By Reference

15-14-3-2: Flexible Threshold For Categorical Exemptions

15-14-3-3: Emergencies

15-14-3-4: Use Of Exemptions

15-14-3-5: Environmental Checklist

15-14-3-6: Mitigated DNS

15-14-3-7: Optional DNS Process

15-14-4: Environmental Impact Statement (EIS)
15-14-4-1: Purpose Of Section 15-14-4 And Adoption By Reference
15-14-4-2: Preparation Of EIS
15-14-4-3: Additional Elements
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15-14-5-1: Purpose
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15-14-5-3: Public Notice
15-14-5-4: Official To Perform Consulted Agency Responsibilities
15-14-6: Using Existing Environmental Documents
15-14-6-1: Purpose
15-14-6-2: Adoption By Reference
15-14-7: SEPA And Agency Decisions
15-14-7-1: Purpose
15-14-7-2: Adoption By Reference
15-14-7-3: Substantive Authority
15-14-7-4: Notice; Statute Of Limitations
15-14-7-5: SEPA Appeals
15-14-8: Definitions
15-14-8-1: Purpose
15-14-8-2: Adoption By Reference
15-14-9: Agency Compliance
15-14-9-1: Purpose
15-14-9-2: Adoption By Reference
15-14-9-3: Fees
15-14-10: Forms
15-14-10-1: Purpose
15-14-10-2: Adoption By Reference

15-14-11: Severability

Notes

1 1. WAC 173-806 et seq.

15-14-1: AUTHORITY:

The city adopts this chapter under the state environmental policy act (SEPA), Revised Code of Washington 43.21C.120, and the SEPA rules, WAC 197-11-904. This chapter contains the city's SEPA procedures and policies. The SEPA rules, WAC chapter 197-11, must be used in conjunction with this chapter. In addition, Chapter 43.21C RCW should be consulted for complete information regarding SEPA.

(Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1126, 4-10-2024)

15-14-2: GENERAL REQUIREMENTS:

15-14-2-1: PURPOSE OF SECTION 15-14-2 AND ADOPTION BY REFERENCE:

The purpose of this section 15-14-2 is to establish a clearly understood and effective set of policies and procedures for implementing the state environmental policy act as set forth in Revised Code of Washington 43.21C. The sections of the SEPA rules hereinafter set forth by number are adopted by reference as if fully set forth. Copies of the statute and the rules (WAC chapter 197-11) shall be kept available for public inspection at city hall. This section 15-14-2 contains the basic requirements that apply to the SEPA process. The city adopts the following sections of chapter 197-11 WAC as now existing or hereinafter amended by reference:

197-11-030	Policy.
197-11-040	Definitions.
197-11-050	Lead agency.
197-11-055	Timing of the SEPA process.
197-11-060	Content of environmental review.
197-11-	Limitations on actions during SEPA process.

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197-11-080 Incomplete or unavailable information.
197-11-090 Supporting documents.
197-11-100 Information required of applicants.
197-11-158 GMA project review-Reliance on exiting plans, laws and regulations.
197-11-164 Planned actions-Definition and criteria.
197-11-168 Ordinances or resolutions designating planned actions-procedures for adoption.
197-11-172 Planned actions-project review.
197-11-210 SEPA/GMA integration.
197-11-220 SEPA/GMA definitions.
197-11-228 Overall SEPA/GMA integration procedures.
197-11-230 Timing of an integrated GMA/SEPA process.
197-11-232 SEPA/GMA integration procedures for preliminary planning, environmental analysis, and expanded scoping.
197-11-235 SEPA/GMA integration Documents.
197-11-238 SEPA/GMA integration Monitoring.
197-11-250 SEPA/Model Toxics Control Act integration.
197-11-253 SEPA lead agency for MTCA actions.
197-11-256 Preliminary evaluation.
197-11-259 Determination of nonsignificance for MTCA remedial action.
197-11-262 Determination of significance and EIS for MTCA remedial action.
197-11- Early scoping for MTCA remedial action.

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197-11-268 MTCA interim actions.

(Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1126, 4-10-2024)

15-14-2-2: SEPA POLICIES:

The city designates the following general policies as the basis for the city's exercise of authority pursuant to this chapter:

A. The city shall use all practicable means, consistent with other essential considerations of state policy, as is set forth in WAC 463-47-110(b)..

B. The city recognizes that each person has a fundamental and inalienable right to a healthful environment, and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

C. The city incorporates by reference all policies in the cited city codes, ordinances, resolutions and plans, and all amendments to them in effect at the time of of a technically complete application of any building permit or preliminary plat, or prior to issuance of a DNS or DEIS for any other action. These documents include, but are not limited to, the following: Orting comprehensive plan and incorporated elements, development code, critical area regulations, shoreline master program, uniform building code, uniform fire code, uniform plumbing code, uniform mechanical code, uniform code for abatement of dangerous buildings, floodplain management code, six (6) year transportation improvement program, storm water comprehensive plan, water and sewer utility plans and regulations, park and recreation plan, Washington state ventilation and indoor air quality code, Washington state energy code, uniform housing code.

D. Through the project review process:

1. If the applicable regulations require studies that adequately analyze all of the project's specific probable adverse environmental impacts, additional studies under this chapter will not be necessary on those impacts;

2. If the applicable regulations require measures that adequately address such environmental impacts, additional measures would likewise not be required under this chapter; and

3. If the applicable regulations do not adequately analyze or address a proposal's specific probable adverse environmental impacts, this chapter provides the authority and procedures for additional review. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-14-2-3: ADDITIONAL DEFINITIONS:

In addition to those definitions contained within WAC 197-11-700 through 197-11-799, when used in this chapter, the following terms shall have the following meanings, unless the context indicates otherwise:

CLOSED RECORD APPROVAL HEARING: An administrative hearing to approve or deny a project permit that is on the record to the city council following an open record predecision hearing (as defined by WAC 197-11-775 and this section 15-14-2) before the planning commission or hearing examiner.

EARLY NOTICE: The city's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal.

OPEN RECORD HEARING: An open record hearing (as defined by WAC 197-11-775) which is held before the planning commission or hearing examiner prior to the closed record approval hearing before the city council.

ORDINANCE: The ordinance, resolution or other procedure used by the city to adopt regulatory requirements.

SEPA RULES: Chapter 197-11 WAC adopted by the department of ecology.

(Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1126, 4-10-2024)

15-14-2-4: DESIGNATION OF RESPONSIBLE OFFICIAL:

A. For those proposals for which the city is the lead agency, the responsible official shall be the administrator or his/her authorized designee.

B. For all proposals for which the city is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other functions assigned to the lead agency or responsible official by those sections of the SEPA rules that were adopted by reference in section 15-14-2-1.

C. The city shall retain all documents required by the SEPA rules (chapter 197-11 WAC) and make them available in accordance with chapter 42.56 Revised Code of Washington.

(Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1126, 4-10-2024)

15-14-2-5: LEAD AGENCY DETERMINATION AND RESPONSIBILITIES:

A. The city shall be the lead agency for any nonexempt action under WAC 197-11-050, 197-11-253, and 197-11-922 through 197-11-940, unless the lead agency has been

previously determined or the city is aware that another agency is in the process of determining the lead agency.

B. When the city is the lead agency for a proposal, the administrator shall determine the responsible official designee who shall supervise compliance with the threshold determination requirements, and if an environmental impact statement (EIS) is necessary, shall supervise preparation of the EIS.

C. When the city is not the lead agency for a proposal, all departments of the city shall use and consider, as appropriate, either the determination of nonsignificance (DNS) or the final EIS of the lead agency in making decisions on the proposal. No city department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the city may conduct supplemental environmental review under WAC 197-11-600.

D. If the city receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-253 or 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination and resolved within fifteen (15) days of receipt of the determination, or the city must petition the department of ecology for a lead agency determination under WAC 197-11-946 within the fifteen (15) day time period.

E. When the city is lead agency for a model toxic control act (MTCA) remedial action, the department of ecology shall be provided an opportunity under WAC 197-11-253(5) to review the environmental documents prior to public notice being provided. If the SEPA and MTCA documents are issued together with one public comment period under WAC 197-11-253(6), the city shall decide jointly with ecology who receives the comment letters and how copies of the comment letters will be distributed to the other agency.

(Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1126, 4-10-2024)

15-14-2-6: ADDITIONAL TIMING CONSIDERATIONS:

A. For nonexempt proposals, the DNS or final EIS for the proposal shall accompany the city's staff recommendation to the appropriate advisory body, if any.

B. If the city's only action on a proposal is a decision on a permit application that requires detailed project plans and specifications, the applicant may request in writing that the city conduct environmental review prior to submission of the detailed plans and specifications. Sufficient information shall be required from the applicant to enable the responsible official to adequately fulfill his responsibility under SEPA and this chapter consistent with the provisions of WAC 197-11-100 and 197-11-335, which sections are adopted by reference in this chapter. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-14-3: CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATIONS:

15-14-3-1: PURPOSE OF SECTION 15-14-3 AND ADOPTION BY REFERENCE:

This section 15-14-3 contains the rules for deciding whether a proposal has a probable significant, adverse environmental impact requiring an environmental impact statement (EIS) to be prepared. This section 15-14-3 also contains rules for evaluating the impacts of proposals not requiring an EIS. The city adopts the following sections of chapter 197-11 WAC by reference, as supplemented in this section 15-14-3, noting increased flexible threshold for categorical exemptions set forth in WAC 197-11-800 are adopted as set forth in OMC 15-4-3-2:

197-11-300 Purpose of this part.
197-11-305 Categorical exemptions.
197-11-310 Threshold determination required.
197-11-315 Environmental checklist.
197-11-330 Threshold determination process.
197-11-335 Additional information.
197-11-340 Determination of nonsignificance (DNS).
197-11-350 Mitigated DNS.
197-11-355 Optional DNS process.
197-11-360 Determination of significance (DS) initiation of scoping.
197-11-390 Effect of threshold determination.
197-11-800 Categorical exemptions.
197-11-880 Emergencies.
197-11-890 Petitioning DOE to change exemptions.

(Ord. 778, 10-30-2003, eff. 11-11-2003)

15-14-3-2: FLEXIBLE THRESHOLDS FOR CATEGORICAL EXEMPTIONS:

A. The city establishes the following exempt levels for minor new construction under WAC 197-11-800(1)(c) based on local conditions:

1. For single-family residential dwelling units in WAC 197-11-800(1)(b)(i): Up to nine (9) single-family residential dwelling units, cumulative.

2. For agricultural structures in WAC 197-11-800(1)(b)(iii): Up to ten thousand (10,000) square feet, cumulative.

3. For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800(1)(b)(iv): Up to twelve thousand (12,000) square feet and up to forty (40) parking spaces, cumulative.

Repealed. 5. For landfills and excavations in WAC 197-11-800(1)(b)(v): Up to five hundred (500) cumulative cubic yards.

B. Whenever the city establishes new exempt levels under this section, it shall send them to the department of ecology, headquarters office, Olympia, WA 98504, under WAC 197-11-800(1)(c).

(Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1126, 4-10-2024)

15-14-3-3: EMERGENCIES:

Actions which must be undertaken immediately, or within a time frame too short to allow full compliance with this chapter, to avoid an immediate threat to public health and safety, to prevent an immediate danger to public or private property, or to prevent an imminent threat of serious environmental degradation, shall be exempt from the procedural requirements of this chapter (WAC 197-11-800). The responsible official shall determine on a case by case basis emergency actions which satisfy the general requirements of this section 15-14-3.

(Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1126, 4-10-2024)

15-14-3-4: USE OF EXEMPTIONS:

A. Each department within the city that receives an application for a permit, or, in the case of governmental proposals, the department initiating the proposal, shall determine whether the action requested in the permit application and/or the proposal is exempt. The department's determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this chapter apply to the proposal. The City shall not require completion of an environmental checklist for an exempt proposal. In addition, the city is not required to document that a proposal is categorically exempt. The city may note on an application that a proposal is categorically exempt or place such a determination in the agency's files.

B. In determining whether or not a proposal is exempt, the responsible official shall make certain the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-060). If a proposal includes exempt and nonexempt actions, the city shall determine the lead agency even if the license application that triggers the city's consideration is exempt.

C. If a proposal includes both exempt and nonexempt actions the city may authorize exempt actions prior to compliance with the procedural requirements of this chapter, except that:

1. The city shall not give authorization for:

a. Any nonexempt action;

b. Any action that would have an adverse environmental impact; or

c. Any action that would limit the choice of reasonable alternatives as the term is defined in WAC 197-11-786 and as the term applies;

2. The city may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and

3. The city may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved.

(Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1126, 4-10-2024)

15-14-3-5: ENVIRONMENTAL CHECKLIST:

A. A completed environmental checklist in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license certificate, or other approval not specifically exempted in this chapter; except, a checklist is not needed if the city and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The city shall use the environmental checklist to determine the lead agency and, if the city is the lead agency, for determining the responsible official and for making the threshold determination.

B. For private proposals, the city will require the applicant to complete the environmental checklist, providing assistance as necessary. For city proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.

C. The city may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, at the applicant's costs under the current fee schedule, if either of the following occurs:

1. The city has technical information on a question or questions that is unavailable to the private applicant; or

2. The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

D. For projects submitted as planned actions under WAC 197-11-164, the city shall use its existing environmental checklist form or may modify the environmental checklist form as provided in WAC 197-11-315. The modified environmental checklist form may be prepared and adopted along with or as part of a planned action ordinance; or developed after the ordinance is adopted. In either case, a proposed modified environmental checklist

form must be sent to the department of ecology to allow at least a thirty (30) day review prior to use.

E. During the review of the environmental checklist, the City may make such changes or additions to the environmental checklist as are necessary to make it an accurate statement. Alternatively, the City may return the checklist to the applicant for revisions and/or additional information.

(Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1126, 4-10-2024)

15-14-3-6: MITIGATED DNS:

A. As provided in this section and in WAC 197-11-350, the responsible official may issue a DNS based on conditions or mitigation measures attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.

B. An applicant may request in writing early notice of whether a determination of significance (DS) is likely under WAC 197-11-360. The request must:

1. Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and

2. Precede the city's actual threshold determination for the proposal.

C. The responsible official should respond to the request for early notice within fifteen (15) calendar days unless otherwise agreed to. The response shall:

1. Be written; and

2. State whether the city currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that is/are leading the city to consider a DS; and

3. State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.

D. As much as possible, the city should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.

E. When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the city shall base its threshold determination on the changed or clarified proposal and should make the determination within fifteen (15) days of receiving the changed or clarified proposal:

1. If the city indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the city shall issue and circulate a DNS under WAC 197-11-340(2);

2. If the city indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the city shall make the threshold determination, issuing a DNS or DS as appropriate;

3. The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent storm water runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct 200-foot stormwater retention pond at Y location" are adequate; and

4. Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.

F. Any mitigated DNS issued under WAC 197-11-340(2) shall require a fourteen (14) day comment period and public notice, or WAC 197-11-355, which may require no additional comment period beyond the comment period on the notice of application.

G. Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the city.

H. If the City's tentative decision on the permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the City should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).

I. The city's written response under subsection C of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications of changes to a proposal, as opposed to a written request for early notice, shall not bind the city to consider the clarifications or changes in its threshold determination.

(Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1126, 4-10-2024)

15-14-3-7: OPTIONAL DNS PROCESS:

A. If the responsible official has a reasonable basis for determining that significant adverse environmental impacts are unlikely, or that mitigation measures have been identified that will reduce impacts to a nonsignificant level, the responsible official may elect to use the single integrated comment period set forth in this section. If this process is used, a second comment period will typically not be required when the DNS is issued.

B. If the optional process set forth in this section is used, the responsible official shall adhere to all requirements set forth in WAC 197-11-355, which is hereby adopted by reference.

(Ord. 2024-1126, 4-10-2024)

15-14-4: ENVIRONMENTAL IMPACT STATEMENT (EIS):

15-14-4-1: PURPOSE OF SECTION 15-14-4 AND ADOPTION BY REFERENCE:

This section 15-14-4 contains the rules for preparing environmental impact statements. The city adopts the following sections of chapter 197-11 WAC by reference as supplemented by this section 15-14-4:

197-11-400 Purpose of EIS.
197-11-402 General requirements.
197-11-405 EIS types.
197-11-406 EIS timing.
197-11-408 Scoping.
197-11-410 Expanded scoping (optional).
197-11-420 EIS preparation.
197-11-425 Style and size.
197-11-430 Format.
197-11-435 Cover letter or memo.
197-11-440 EIS contents.
197-11-442 Contents of EIS on nonproject proposals.
197-11-443 EIS contents when prior nonproject EIS.
197-11-444 Elements of the environment.
197-11-448 Relationship of EIS to other considerations.
197-11-450 Cost-benefit analysis.
197-11-455 Issuance of DEIS.
197-11-460 Issuance of FEIS.

(Ord. 778, 10-30-2003, eff. 11-11-2003)

15-14-4-2: PREPARATION OF EIS:

A. Preparation of draft and final EISs (DEIS and FEIS) and draft and final supplemental EISs (SEIS) is the responsibility of the responsible official. Before the city issues an EIS, the responsible official shall be satisfied that it complies with this chapter and chapter 197-11 WAC.

B. The DEIS and FEIS or draft and final SEIS shall be prepared by city staff, the applicant, or by a consultant selected by the city or the applicant, at the discretion of the responsible

official. If the responsible official requires an EIS for a proposal and determines that someone other than the city will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the city's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.

C. The city may require an applicant to provide information the city does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this chapter or that is being requested from another agency. (This does not apply to information the city may request under another ordinance or statute.)

D. Fees shall be paid in accordance with section 15-14-9-3.

(Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1126, 4-10-2024)

15-14-4-3: ADDITIONAL ELEMENTS:

The following additional elements are not part of the environment for the purpose of EIS content, and should be weighed and considered only when analyzing alternatives and making final decisions.

A. Economy;

B. Cost benefit analysis;

C. Social policy analysis. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-14-5: COMMENTING:

15-14-5-1: PURPOSE:

This section 15-14-5 contains rules for consulting, commenting, and responding on all environmental documents under SEPA, including rules for public notice and hearings.

15-14-5-2: ADOPTION BY REFERENCE:

The city adopts the following sections of WAC 197-11 by reference:

197-11-500 Purpose of this part.
197-11-502 Inviting comment.
197-11-504 Availability and cost of environmental documents.
197-11-508 SEPA register.

197-11-510 Public notice.

197-11-535 Public hearings and meetings.

197-11-545 Effect of no comment.

197-11-550 Specificity of comments.

197-11-560 FEIS response to comments.

197-11-570 Consulted agency costs to assist lead agency.

(Ord. 778, 10-30-2003, eff. 11-11-2003)

15-14-5-3: PUBLIC NOTICE:

A. Whenever possible, the city shall integrate the public notice required under this section with existing notice procedures for the city's nonexempt permit(s) or approval(s) required for the proposal.

B. Whenever the city issues a DNS under WAC 197-11-340(2), a mitigated DNS under WAC 197-11-350, or a DS under WAC 197-11-360, the city shall give public notice as follows:

1. If an environmental document and/or threshold determination is issued concurrently with the notice of application using the options DNS process, the public notice requirements for the notice of application in Revised Code of Washington 36.70B.110(4) will suffice to meet the SEPA public notice requirements in WAC 197-11-510(1).

2. If no public notice is otherwise required for the permit or approval, the city shall give notice of the DNS or DS by:

a. Posting the property, and posting in the city hall; and

b. Publishing notice in the city's newspaper of record.

3. Whenever the city issues a DS under WAC 197-11-360(3), the city shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.

4. Any notice must be sent to the Department of Ecology for inclusion on the department's SEPA register website.

5. If public notice is required for a nonexempt license, the notice shall state whether a DS or DNS has been issued and when comments are due.

Repealed. D. Whenever the city issues a draft EIS (DEIS) under WAC 197-11-455 or a supplemental EIS under WAC 197-11-620, notice of the availability of those documents shall be given by:

1. Indicating the availability of the DEIS in any public notice required for a nonexempt license; and

2. Posting the property, for site specific proposals; or posting in city hall, for site unspecific proposals; and

3. Publishing notice in the city's newspaper of record.

E. Public notice for projects that qualify as planned actions shall be tied to the underlying permit as specified in WAC 197-11-172(3).

F. The city may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense. In the event that the city completes all public notice requirements for the applicant's proposal, the cost of all public noticing shall be borne by the applicant.

(Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1126, 4-10-2024)

15-14-5-4: OFFICIAL TO PERFORM CONSULTED AGENCY RESPONSIBILITIES:

A. The responsible official shall be responsible for preparation of written comments for the city in response to a consultation request prior to a threshold determination, participation in scoping, and reviewing a DEIS.

B. The responsible official shall be responsible for the city's compliance with WAC 197-11-550 whenever the city is a consulted agency and is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the city. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-14-6: USING EXISTING ENVIRONMENTAL DOCUMENTS:

15-14-6-1: PURPOSE:

This section 15-14-6 contains rules for using and supplementing existing environmental documents prepared under SEPA or national environmental policy act (NEPA) for the city's own environmental compliance. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-14-6-2: ADOPTION BY REFERENCE:

The city adopts the following sections of WAC 197-11 by reference:

197-11-164	Planned actions--Definition and criteria.
197-11-168	Ordinances or resolutions designating planned actions--Procedures for adoption.
197-11-172	Planned actions--Project review.
197-11-600	When to use existing environmental documents.
197-11-610	Use of NEPA documents.
197-11-620	Supplemental environmental impact statement--Procedures.
197-11-625	Addenda--Procedures.
197-11-630	Adoption--Procedures.
197-11-635	Incorporation by reference--Procedures.
197-11-640	Combining documents.

(Ord. 778, 10-30-2003, eff. 11-11-2003)

15-14-7: SEPA AND AGENCY DECISIONS:

15-14-7-1: PURPOSE:

This section 15-14-7 contains rules and policies for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This section 15-14-7 also contains procedures for appealing SEPA determinations to agencies or the courts. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-14-7-2: ADOPTION BY REFERENCE:

The city adopts the following sections of WAC 197-11 by reference:

197-11-650 Purpose of this part.
197-11-655 Implementation.
197-11-660 Substantive authority and mitigation.
197-11-680 Appeals.
197-11-721 Closed record appeal.
197-11-722 Consolidated appeal.

(Ord. 778, 10-30-2003, eff. 11-11-2003)

15-14-7-3: SUBSTANTIVE AUTHORITY:

A. The policies and goals set forth in this chapter are supplementary to those in the existing authorization of the city of Orting.

B. The city may attach conditions to a permit or approval for a proposal so long as:

1. Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared with regard to the license or permit and pursuant to this chapter; and

2. Such conditions are in writing; and

3. The mitigation measures included in such conditions are reasonable and capable of being accomplished; and

4. The city has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and

5. Such conditions are based on one or more policies in subsection D of this section and cited in the license or other decision document.

C. The city may deny a permit or approval for a proposal on the basis of SEPA so long as:

1. A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this chapter; and

2. A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and

3. The denial is based on one or more policies identified in subsection D of this section and identified in writing in the decision document.

D. The city shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

1. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

2. Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

3. Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

4. Preserve important historic, cultural, and natural aspects of our national heritage;

5. Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

6. Achieve balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

7. Enhance the quality of a renewable resource and approach the maximum attainable recycling of depletable resources.

E. The city recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

F. The city designates and adopts by reference all policies in the cited city codes, ordinances, resolutions and plans, and all amendments to them in effect prior to the date of a technically complete application of any building permit or preliminary plat, or prior to issuance of a DNS or DEIS for any other action.

(Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1126, 4-10-2024)

15-14-7-4: NOTICE; STATUTE OF LIMITATIONS:

A. The city, applicant for, or proponent of an action may publish a notice of action pursuant to Revised Code of Washington 43.21C.080 for any action.

B. The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published pursuant to Revised Code of Washington 43.21C.080. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-14-7-5: SEPA APPEALS:

A. Purpose: It is the purpose of this chapter to combine environmental considerations with public decisions, and for this reason, any appeal brought under this chapter shall be

linked to a specific governmental action. Appeals under this chapter are not intended to create a cause of action unrelated to a specific governmental action.

B. Procedures: The appellate procedures provided for by Revised Code of Washington 43.21C.060, which provides for an appeal to a local legislative body of any decision by a nonelected official conditioning or denying a proposal under authority of SEPA, are formally eliminated. The administrative appeal procedures provided by this section 15-14-7 shall be construed consistently with Revised Code of Washington 43.21.075, chapter 36.70B, and WAC 197-11-680(3).

C. Limited Actions: Appeals under the provisions of this section 15-4-7 shall be limited solely to those actions and/or determinations listed below. No administrative appeals shall be allowed for other actions and/or determinations taken or made pursuant to this chapter (such as lead agency determination, scoping, draft EIS adequacy, etc.).

1. "Procedural appeals" which shall consist of an appeal of the responsible official's compliance with the provisions of SEPA, the SEPA rules, and this chapter with respect to the following:

a. Determination of nonsignificance;

b. Determination of significance;

c. Adoption or issuance of a final environmental impact statement.

2. "Substantive appeals" which shall consist of an appeal of an action or omission with respect to the conditioning or denying of a proposal under the substantive authority set forth in section 15-14-7-3 of this chapter.

D. Consolidation: Except as provided in subsection E of this section, an appeal under this section shall consolidate any SEPA appeal with a hearing or appeal on the underlying governmental action in a single simultaneous hearing before the hearing examiner or body. The hearing or appeal shall be one at which the hearing examiner or body will consider either the agency's decision or a recommendation on the proposed underlying governmental action. If no hearing or appeal on the underlying governmental action is otherwise provided, then no SEPA appeal is allowed under this section, except as allowed under subsection E of this section.

E. Exceptions To Consolidation: The following appeals of SEPA procedural or substantive determinations need not be consolidated with a hearing or appeal on the underlying governmental action:

1. An appeal of a determination of significance;

2. An appeal of a procedural determination made by the city when the city is a project proponent, or is funding a project, and chooses to conduct its review under this chapter, including any appeals of its procedural determinations, prior to submitting an application for a project permit;

3. An appeal of a procedural determination made by the city on a nonproject action.

F. Written Notice: All procedural and substantive SEPA appeals provided under this section shall be initiated by filing a written notice of SEPA administrative appeal with the responsible official, accompanied with the applicable appeal fee. No additional appellate fee shall be charged in conjunction with a hearing on the underlying permit or approval.

1. The notice of appeal required by this section shall include, at a minimum:

a. The name and address of the party or agency filing the appeal;

b. An identification of the specific proposal and specific SEPA actions, omissions, conditions or determinations for which appeal is sought;

c. A statement of the particular grounds or reasons for the appeal.

2. The responsible official shall arrange to conduct the SEPA appeal in conjunction with a hearing or appeal on the underlying permit or approval, where required to consolidate the SEPA appeal with a hearing on the underlying governmental action. Where consolidation is not required, the responsible official shall schedule the hearing to be conducted within ninety (90) days of the date of filing the notice of appeal, and payment of fee.

G. SEPA Procedural Appeals: SEPA procedural appeals shall be initiated and conducted in the manner set forth below:

1. An appeal to the issuance of a determination of nonsignificance (DNS), mitigated determination of nonsignificance (MDNS), may be filed by any agency or aggrieved person as follows:

a. For proposals which may be approved by an administrative official without public hearing, an appeal shall be filed within ten (10) calendar days following the last day of the comment period. Such SEPA appeal shall be heard in conjunction with the appeal of the underlying permit or approval, where such appeal is allowed. Provided that, if no administrative appeal of the underlying permit or approval is otherwise provided for, and consolidation is not required by subsection D of this section, an appeal of the DNS/FEIS shall be heard and decided in an open record hearing by the hearings examiner. The decision of the hearing examiner on the SEPA procedural appeal shall be final and not subject to further administrative appeal.

b. For proposals which may only be approved by open record hearing or open record predecision hearing (recommendation) before the hearing examiner, an appeal shall be filed within ten (10) calendar days following the last day of the comment period, or where no comment period is required, then within ten (10) days following the date of issuance or adoption of the DNS/FEIS, and shall be heard and decided in open record hearing by the hearing examiner or planning commission in conjunction with the decision or recommendation on the underlying proposal. The decision of the hearing examiner or planning commission on the SEPA procedural appeal shall be final and not subject to further administrative appeal.

2. An appeal to a determination of significance (DS) may be filed by the applicant within ten (10) days of the issuance of the DS/scoping notice. The appeal shall be heard in open record hearing and decided by a hearing examiner, whose decision shall be final and not subject to further administrative appeal.

3. An appeal must be filed within ten (10) days of issuance of the final environmental impact statement (FEIS).

4. The SEPA procedural determination of the responsible official shall be entitled to substantial weight, and the appellant shall bear the burden to establish a violation of SEPA, the SEPA rules, or the provisions of this chapter.

5. A SEPA procedural determination shall be deemed to be conclusively in compliance with SEPA, the SEPA rules, and the provisions of this chapter, unless a SEPA procedural appeal is filed in accordance with this section 15-14-7.

H. SEPA Substantive Appeals: SEPA substantive appeals shall be initiated and conducted in the manner set forth below:

1. For proposals subject to final administrative action, approval, or recommendation by a nonelected administrative official or tribunal for which no administrative appeal is otherwise provided, and for which consolidation is not required by subsection D of this section, any agency or aggrieved person may file a substantive SEPA appeal within ten (10) days of the issuance of the administrative decision approving, conditioning, or denying the proposal on the basis of substantive SEPA authority. Such substantive SEPA appeal shall be heard and decided by the hearing examiner in an open record hearing, unless the proposal is a project permit which has been subject to a previous open record hearing, in which case the SEPA appeal hearing shall be a closed record hearing. The substantive SEPA appeal shall be heard in conjunction with any procedural SEPA appeal. The decision of the hearing examiner on the SEPA substantive appeal shall be final and not be subject to further administrative appeal.

2. For all proposals subject to final administrative action, approval, or recommendation, by a nonelected administrative official, for which an administrative appeal or further approval hearing is otherwise provided or required, any agency or aggrieved person may file a substantive SEPA appeal within ten (10) days of the issuance of the administrative decision approving, conditioning, or denying the proposal on the basis of substantive SEPA authority. Provided that, if the proposal is a project permit, a substantive SEPA appeal shall be filed within ten (10) days after issuance of the notice of decision. Any substantive SEPA appeal shall be conducted in the same manner and with the same process as otherwise provided for the appeal or approval hearing of the underlying administrative action.

3. The SEPA substantive determination to condition or deny a proposal shall be deemed to be conclusively in compliance with SEPA, the SEPA rules, and the provisions of this chapter, unless a SEPA substantive appeal is filed in accordance with this section 15-14-7.

I. How To Appeal: The appeal must be in the form of a written notice of appeal, and must contain a brief and concise statement of the matter being appealed, the specific components or aspects that are being appealed, the appellant's basic rationale or contentions on appeal, and a statement demonstrating standing to appeal. The appeal may also contain whatever supplemental information the appellant wishes to include. The appeal shall also contain the following:

1. The name and mailing address of the appellant and the name and address of his/her representative, if any;

2. The appellant's legal residence or principal place of business;

3. A copy of the decision which is appealed;

4. The grounds upon which the appellant relies;

5. A concise statement of the factual and legal reasons for the appeal;

6. The specific nature and intent of the relief sought;

7. A statement that the appellant has read the appeal and believes the contents to be true, followed by his/her signature and the signature of his/her representative, if any. If the appealing party is unavailable to sign the appeal, it may be signed by his/her representative.

J. Fees: The person filing the appeal shall include with the letter of appeal the fee as established by resolution.

K. Procedures For Appeal Hearing:

1. Notice Of The Appeal Hearing.

a. Content: The responsible official shall prepare a notice of the appeal containing the following:

(1) The file number and a brief written description of the matter being appealed.

(2) A statement of the scope of the appeal including a summary of the specific factual findings and conclusions disputed in the letter of appeal.

(3) The time and place of the public hearing on the appeal.

(4) A statement of who may participate in the appeal.

(5) A statement of how to participate in the appeal.

b. Distribution: At least fifteen (15) calendar days before the hearing on the appeal, the responsible official shall send a copy of this notice to each person who received a copy of the threshold determination and any person who submitted written comments on, or an appeal of, the threshold determination.

c. Notice Of Appeal: The notice of appeal may be combined with the hearing notice for the underlying project permit, if applicable.

L. Participation In The Appeal: Only those persons with legal standing are entitled to appeal the threshold determination and may participate in the appeal. Participation includes the following:

1. By submitting written testimony to the responsible official the time line established.

2. By appearing in person, or through a representative, at the hearing and submitting oral or written testimony directly to the hearing body. The hearing body may reasonably limit the extent of the oral testimony to facilitate the orderly and timely conduct of the hearing.

M. Staff Report On The Appeal:

1. Content: The responsible official shall prepare a staff report containing the following:

a. The SEPA threshold determination.

b. All written comments submitted to the responsible official.

c. The letter of appeal.

d. All written comments on the appeal received by the responsible official from persons entitled to participate in the appeal and within the scope of the appeal.

e. An analysis of the specific factual findings and conclusions disputed in the letter of appeal.

2. Combining Of Reports: This report may be combined with the staff report on the underlying project permit, if applicable.

3. Distribution: Distribution will take place at least seven (7) calendar days before the hearing, the responsible official shall distribute copies of the staff report as follows:

a. A copy will be sent to the hearing body hearing the appeal as specified.

b. A copy will be sent to the applicant.

c. A copy will be sent to the person who filed the appeal.

N. Continuation Of The Hearing: The hearing body may continue the hearing if, for any reason, it is unable to hear all of the public comments on the appeal or if it determines that it needs more information within the scope of the appeal. If, during the hearing, the hearing body announces the time and place of the next hearing on the matter, no further notice of that hearing need be given, beyond that required by the open public meeting act.

O. Decision On The Appeal:

1. General: The hearing body shall consider all information and material within the scope of the appeal submitted by persons entitled to participate in the appeal. The hearing

body shall either affirm or change the findings and conclusions of the responsible official that were appealed. Based on the hearing body's findings and conclusions, it shall either:

a. Affirm the decision being appealed; or

b. Reverse the decision being appealed; or

c. Modify the decision being appealed.

2. Issuance Of Written Decision: Within ten (10) working days after the public hearing, the hearing body shall issue a written decision on the appeal. Within four (4) calendar days after the decision is issued, the hearing body shall distribute the decision as follows:

a. A copy will be mailed to the applicant.

b. A copy will be mailed to the person who filed the appeal.

c. A copy will be mailed to all other persons of record or agencies who participated in the appeal.

P. Additional Appeal Procedures:

1. The matters to be considered and decided upon in the appeal are limited to the matters raised in the notice of appeal.

2. The decision of the responsible official shall be accorded substantial weight.

3. All testimony will be taken under oath.

4. The decision of the hearing body hearing the appeal shall be the final decision on any appeal of a threshold determination including a mitigated determination of nonsignificance.

Q. Dismissal Of Appeal: The hearing examiner may summarily dismiss an appeal without hearing when such an appeal is determined by the hearing examiner to be without merit on its face, frivolous, or brought merely to secure a delay, or that the appellant lacks legal standing to appeal.

R. Effect Of Appeal: The filing of an appeal of a threshold determination or adequacy of a final environmental impact statement (FEIS) shall stay the effect of such determination or adequacy of the FEIS and no major action in regard to a proposal may be taken during the pendency of an appeal and until the appeal is finally disposed of by the hearing examiner or other hearing body. A decision to reverse the determination of the responsible official and uphold the appeal shall further stay any decision, proceedings, or actions in regard to approval.

S. Withdrawal Of Appeal: An appeal may be withdrawn, only by the appellant, by written request filed with the responsible official who shall inform the hearing examiner or other hearing body of the withdrawal request. If the withdrawal is requested before the response of the responsible official, or before serving notice of the appeal, such request shall be

permitted and the appeal shall be dismissed without prejudice by the hearing examiner or other hearing body, and the filing fee shall be refunded.

T. Standard Of Review: The hearing examiner or other hearing body may affirm the decision of the responsible official or the adequacy of the environmental impact statement, or remand the case for further information; or the hearing examiner or other hearing body may reverse the decision if the administrative findings, inferences, conclusions, or decisions are:

1. In violation of constitutional provisions as applied; or

2. The decision is outside the statutory authority or jurisdiction of the city; or

3. The responsible official has engaged in unlawful procedure or decision making process, or has failed to follow a prescribed procedure; or

4. In regard to challenges to the appropriateness of the issuance of a DNS clearly erroneous in view of the public policy of the act (SEPA); or

5. In regard to challenges to the adequacy of an EIS shown to be inadequate employing the "rule of reason".

U. Evidence; Burden Of Proof: In each particular proceeding, the appellant shall have the burden of proof, and the determination of the responsible official shall be presumed prima facie correct and shall be afforded substantial weight. Appeals shall be limited to the records of the responsible official.

V. Judicial Appeal:

1. Any available administrative appeal provided under this section must be utilized by an agency or aggrieved person prior to initiating judicial review of any SEPA action, omission, or determination made or taken under this chapter.

2. A judicial appeal of any SEPA action, omission, or determination made or taken under this chapter must be filed within the time limitations established by any statute or ordinance for appeal of the underlying governmental action.

3. The city shall give official notice of the date and place for commencing a judicial appeal, in accordance with WAC 197-11-680(5), where there is a statute or ordinance establishing a time limit for commencing judicial appeal. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-14-8: DEFINITIONS:

15-14-8-1: PURPOSE:

This section 15-14-8 contains uniform usage and definitions of terms under SEPA. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-14-8-2: ADOPTION BY REFERENCE:

The city adopts the following sections of chapter 197-11 of the Washington administrative code by reference:

197-11-700 Definitions.
197-11-702 Act.
197-11-704 Action.
197-11-706 Addendum.
197-11-708 Adoption.
197-11-710 Affected tribe.
197-11-712 Affecting.
197-11-714 Agency.
197-11-716 Applicant.
197-11-718 Built environment.
197-11-720 Categorical exemption.
197-11-721 Closed record appeal.
197-11-722 Consolidated appeal.
197-11-724 Consulted agency.
197-11-726 Cost-benefit analysis.
197-11-728 County/city.
197-11-730 Decision maker.
197-11-732 Department.
197-11-734 Determination of nonsignificance (DNS).
197-11-736 Determination of significance (DS).
197-11-738 EIS.
197-11-740 Environment.
197-11-742 Environmental checklist.
197-11-744 Environmental document.
197-11-746 Environmental review.
197-11-750 Expanded scoping.
197-11-752 Impacts.
197-11-754 Incorporation by reference.
197-11-756 Lands covered by water.

197-11-758 Lead agency.
197-11-760 License.
197-11-762 Local agency.
197-11-764 Major action.
197-11-766 Mitigated DNS.
197-11-768 Mitigation.
197-11-770 Natural environment.
197-11-772 NEPA.
197-11-774 Nonproject.
197-11-775 Open record hearing.
197-11-776 Phased review.
197-11-778 Preparation.
197-11-780 Private project.
197-11-782 Probable.
197-11-784 Proposal.
197-11-786 Reasonable alternative.
197-11-788 Responsible Official.
197-11-790 SEPA.
197-11-792 Scope.
197-11-793 Scoping.
197-11-794 Significant.
197-11-796 State agency.
197-11-797 Threshold determination.
197-11-799 Underlying governmental action.

(Ord. 778, 10-30-2003, eff. 11-11-2003)

15-14-9: AGENCY COMPLIANCE:

15-14-9-1: PURPOSE:

This section 15-14-9 contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process, designating categorical exemptions that do not apply within critical areas, listing agencies with environmental expertise, selecting the lead

agency, and applying these rules to current agency activities. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-14-9-2: ADOPTION BY REFERENCE:

The city adopts the following sections of WAC 197-11 by reference:

197-11-900	Purpose of this part.
197-11-902	Agency SEPA policies.
197-11-904	Agency SEPA procedures.
197-11-906	Content and consistency of agency procedures.
197-11-908	Critical Areas.
197-11-910	Designation of responsible official.
197-11-912	Procedures of consulted agencies.
197-11-916	Application to ongoing actions.
197-11-920	Agencies with environmental expertise.
197-11-922	Lead agency rules.
197-11-924	Determining the lead agency.
197-11-926	Lead agency for governmental proposals.
197-11-928	Lead agency for public and private proposals.
197-11-930	Lead agency for private projects with one agency with jurisdiction.
197-11-932	Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a County/city.
197-11-934	Lead agency for private projects requiring licenses from a local agency, not a County/city, and one or more state agencies.
197-11-936	Lead agency for private projects requiring licenses from more than one state agency.

197-11-938	Lead agencies for specific proposals.
197-11-940	Transfer of lead agency status to a state agency.
197-11-942	Agreements on lead agency status.
197-11-944	Agreements on division of lead agency duties.
197-11-946	DOE resolution of lead agency disputes.
197-11-948	Assumption of lead agency status.

(Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1126, 4-10-2024)

15-14-9-3: FEES:

For the purpose of reimbursing the city for necessary costs and expenses relating to its compliance with the SEPA rules and this chapter, the following schedule of fees is established (in addition to the fees in the city's master fee schedule):

A. Threshold Determination: For every environmental checklist the city will review when it is lead agency, the city shall collect a fee as required by the city fee schedule from the proponent of the proposal prior to undertaking the threshold determination. In addition, for a threshold determination which requires information in addition to that contained in or accompanying the environmental checklist, the city shall collect a fee from the proponent in an amount equal to the actual costs and expenses incurred by the city in conducting any studies or investigations necessary to provide such information. The time periods provided by this chapter for making a threshold determination shall not begin to run until payment of the fees required by this subsection.

B. Environmental Impact Statement:

1. For all projects requiring an EIS for which the city is the lead agency and for which the responsible official determines that the EIS shall be prepared by the employees of the city, or that the city will contract directly with a consultant or consultants for the preparation of an EIS, the city shall collect from the proponent a fee in an amount equal to the actual costs and expenses incurred by the city in preparing the EIS. Such fee shall also apply when the city determines that the applicant may prepare the EIS, and the responsible official determines that substantial revisions or reassessing of impacts must be performed

by employees of the city or city consultants to ensure compliance with the provisions of the SEPA guidelines and this chapter.

2. If the responsible official determines that an EIS is required, and that the EIS shall be prepared by employees of the city or by a consultant or consultants retained by the city, or that the applicant-prepared EIS shall be substantially rewritten by employees of the city, the applicant shall be advised by the responsible official of the estimated costs and expenses of preparing or rewriting the EIS prior to actual preparation or rewriting, and the applicant shall post a bond or otherwise insure payment of such costs and expenses. A consultant or consultants may be recommended by the applicant. The final decision to hire a consultant or consultants shall be made by the city council.

3. All fees owed to the city under this section shall be paid in full by the applicant prior to final action by the city on the project. Any fee owed to the city under this subsection B shall be paid by the applicant prior to the initiation of actual preparation of an EIS (if required) or actual rewriting of an applicant-prepared EIS by the city or its consultant(s). For all EISs involving multiple applicants, the cost of preparation shall be divided among the applicants according to the nature, amount, and type of work to be performed. The city shall ask the EIS consultant to estimate the costs related to the portion of the EIS associated with each application. The city shall make the final decision on the costs to be billed to each applicant, regardless of whether the EIS is prepared by a consultant or the city. If an applicant disputes the amount of the fee, the fee may be paid under protest and without prejudice to the applicant's right to file a claim and bring an action to recover the fee.

4. If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under this subsection B which remain after incurred costs are paid.

C. Cost Of Notice: The city shall collect from the applicant the cost of meeting the public notice requirements of this chapter relating to the applicant's proposal.

D. Performance Fee: The city shall not collect a fee for performing its duties as a consulted agency.

E. Copies: The city may charge any person for copies of any document prepared under this chapter, and for mailing the document, in a manner provided by chapter 42.56 Revised Code of Washington.

(Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2024-1126, 4-10-2024)

15-14-10: FORMS:

15-14-10-1: PURPOSE:

The purpose of this section 15-14-10 is to provide for uniform submittal of information on standardized forms and applications. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-14-10-2: ADOPTION BY REFERENCE:

The city adopts the following forms and sections of the Washington administrative code by reference:

197-11-960 Environmental checklist.
197-11-965 Adoption notice.
197-11-970 Determination of nonsignificance (DNS).
197-11-980 Determination of significance and scoping notice (DS).
197-11-985 Notice of assumption of lead agency status.
197-11-990 Notice of action.

(Ord. 778, 10-30-2003, eff. 11-11-2003)

15-14-11: SEVERABILITY:

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances shall not be affected. (Ord. 778, 10-30-2003, eff. 11-11-2003)

CHAPTER 15
DEVELOPMENT AGREEMENTS

SECTION:

15-15-1: Authority And General Provisions

15-15-2: General Provisions

15-15-3: Enforceability; Vesting

15-15-4: Approval Procedure

15-15-5: Form Of Agreement, Council Approval, Recording

15-15-1: AUTHORITY AND GENERAL PROVISIONS:

In addition to the provisions of title 9, chapter 4 of this code the following provisions may be used to set forth binding agreements between the city and project proponents to bind them to specific project requirements:

A. The city may consider, and enter into, a development agreement related to a project permit application with a person having ownership or control of real property within the city limits. The city may consider a development agreement for real property outside of the city limits but within the urban growth area (UGA) as part of a proposed annexation or a service agreement. Notably, the city has no UGA as of the date of this ordinance adoption.

B. A development agreement must set forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement. A development agreement shall be consistent with the applicable policies and goals of the Orting comprehensive plan and applicable development regulations. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-15-2: GENERAL PROVISIONS:

A. As applicable, the development agreement shall specify the following:

1. Project components which define and detail the permitted uses, residential densities, nonresidential densities and intensities or building sizes;

2. The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications;

3. Mitigation measures, development conditions and other requirements of chapter 43.21C RCW;

4. Design standards such as architectural treatment, maximum heights, setbacks, landscaping, drainage, water quality requirements, LID BMPs, and other development features;

5. Provisions for affordable housing, if applicable;

6. Parks and common open space dedication and/or preservation;

7. Phasing;

8. A build out or vesting period for applicable standards; and

9. Any other appropriate development requirement or procedure which is based upon a city policy, rule, regulation or standard.

B. As provided in RCW 36.70B.170, the development agreement shall reserve authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

(Ord. 778, 10-30-2003, eff. 11-11-2003; amd. Ord. 2019-1057, 1-8-2020)

15-15-3: ENFORCEABILITY; VESTING:

Unless amended or terminated, a development agreement is enforceable during its term by a party to the agreement. A development agreement and the development standards in the agreement govern during the term of the agreement, or for all or that part of the build out period specified in the agreement. The agreement may not be subject to an amendment to a zoning ordinance or development standard or a new zoning ordinance or development standard or regulation adopted after the effective date of the agreement. The permit approval issued by the city after the execution of the agreement must be consistent with the development agreement. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-15-4: APPROVAL PROCEDURE:

A development agreement is a type 5 project permit application and shall be processed in accordance with the procedures established in this title. A decision on a development agreement shall be issued by resolution or ordinance of the city council after a public hearing, and after having considered the planning commission's recommendation and the application record. (Ord. 778, 10-30-2003, eff. 11-11-2003)

15-15-5: FORM OF AGREEMENT, COUNCIL APPROVAL, RECORDING:

A. Form: All development agreements shall be in a form provided by the city attorney's office. The city attorney shall approve all development agreements for form prior to consideration by the planning commission.

B. Term: Development agreements may be approved for a maximum period of five (5) years.

C. Recording: A development agreement shall be recorded against the real property records of the Pierce County assessor's office. During the term of the development agreement, the agreement is binding on the parties and their successors, including any area that is annexed to the city. (Ord. 778, 10-30-2003, eff. 11-11-2003)