

ORDINANCE NO. 1696

AN ORDINANCE OF THE CITY OF OAK HARBOR AUTHORIZING THE ADOPTION OF A SCHEDULE OF FEES AND CHARGES BY RESOLUTION, AMENDING THE REFERENCE TO FEES AND CHARGES IDENTIFIED IN OHMC SECTIONS 1.14.070 – CHARGES FOR COPYING; 1.14.090 – PROCEDURE FOR INSPECTION OR COPYING; 3.63.020 – PAYMENT AND AMOUNT OF PARK IMPACT FEES BY SUBDIVIDER; 3.63.30 – PAYMENT AND AMOUNT OF PARK IMPACT FEES; 3.63.065 – PAYMENT AND AMOUNT OF TRANSPORTATION IMPACT FEES FOR DEVELOPMENT ACTIVITIES; 3.63.090 – APPEALS; 3.64.040 – SEPA; 3.64.100 – POLICE FEE SCHEDULE; 3.64.110 – BOOKING FEE; 3.64.400 – ARREST WARRANT FEE; 3.64.505 – FEES APPLICABLE TO ALL LAND USE DEVELOPMENT PROCESSES; 3.64.510 – STREETS – CONCURRENCY TEST FEE; 3.64.515 – STREET OPENING PERMIT FEES; 3.64.520 – UTILITY CODE PERMIT DEVELOPMENT FEES; 3.64.525 – WATER UTILITY FEES; 3.64.530 – SEWER PERMIT FEES; 3.64.535 – BUILDING CODE AND MISCELLANEOUS DEVELOPMENT PERMIT FEES; 3.64.545 – ZONING PERMIT FEES; 3.64.550 – SHORELINE MASTER PROGRAM PERMIT FEES; 3.64.555 – SITE PLAN FEES; 3.64.560 – ENVIRONMENTAL PERMIT FEES; 3.64.565 – SUBDIVISION CODE PERMIT FEES; 3.70.030 – OCCUPATION LICENSE REQUIRED; 3.95.040 – APPLICATION – ACCOUNT INITIATION FEE; 3.95.080 – DELINQUENCY; 3.95.100 – WATER CUT-OFFS – LIEN ENFORCEMENT; 3.95.120 – TURNING WATER ON – CHARGES; 3.95.170 – NSF CHECK – FEE FOR COLLECTION; 5.03.160 – CLASS 1; 5.03.170 – CLASS 2; 5.03.180 – CLASS 3; 5.04.040 – LICENSE – FEE; 5.08.020 – LICENSE FEE; 5.16.040 – GRANTING OF LICENSE – FEE; 5.20.050 – LICENSE FEES; 5.22.050 – ANNUAL LICENSE FEE; 5.30.020 – LICENSE REQUIRED; 5.30.040 – DRIVER'S LICENSE REQUIRED – PARKING STALL CHARGE; 5.32.030 – APPLICATION FORM AND REQUIREMENTS; 5.40.050 – STATEMENT OF DURATION – LICENSE FEES – SETUP AND CLEANUP TIME; 5.44.030 – LICENSE – REQUIRED – APPLICATION PROCEDURE – HEARING; 5.44.050 – LICENSE – FEE – ISSUANCE CONDITIONS – APPLICATION UPDATE; 5.50.020 – PERMITS REQUIRED; 5.50.090 – FEES FOR CITY SERVICES; 5.52.050 – LICENSE – FEE; 6.12.095 – PARK FACILITY RESERVATION SYSTEM; 6.13.090 – FEE FOR OVERNIGHT USE REQUIRED; 6.13.100 – OTHER FEES FOR CAMPING; 6.36.023 – EXTENDED GUEST MOORAGE; 6.36.025 – LIVEBOARDS; 6.36.032 – GATE CARDS; 6.36.033 – CHANGE OF MOORAGE; 6.36.034 – WAITING LIST DEPOSIT; 6.36.036 – MARINA LATE FEES AND CHARGES; 6.36.072 – FEES; 6.40.170 – EXCLUSION OF PERSONS FROM THE MARINA OR PORTIONS OF THE MARINA; 7.12.030 – FEES – SCHEDULE; 7.12.040 – WHEN PURCHASED – LATE FEE – TERM; 7.12.080 – DUPLICATE TAG – FEE – LICENSE NOT TRANSFERABLE; 7.20.030 – NOTIFICATION OF OWNER – REDEMPTION FEE; 7.32.100 – REGISTRATION OF DANGEROUS AND POTENTIALLY DANGEROUS DOG REQUIRED; 8.06.010 – FEE SCHEDULE; 11.14.055 – FEE FOR SIDEWALK USE PERMIT; 13.24.060 – FEE HYDRANT; 14.20.030 – EQUIVALENT RESIDENTIAL UNITS – SCHEDULE OF FIXTURES; 15.04.150 – SOLID WASTE COLLECTION RATES; 15.04.165 – YARD WASTE RATES AND COLLECTION PRACTICES; 15.04.170 – TEMPORARY SERVICE; 15.04.180 – RESIDENTIAL COLLECTION PROVISIONS AND SPECIAL CHARGES; 15.04.190 – NONRESIDENTIAL COLLECTION PROVISIONS AND SPECIAL CHARGES; 15.04.220 –

GENERAL APPLICABLE RATES; 15.04.230 – RECYCLING – RATES AND COLLECTION PRACTICES; 16.60.030 – INSTALLATION PERMITS; 17.05.030 – PERMIT FEES; 17.05.035 – BUILDING PERMIT – ADDITIONAL CHARGE; 17.10.070 – AMENDMENTS – ADDITIONS; 17.12.070 – AMENDMENTS – ADDITIONS; 18.20.515 – CLOSED RECORD APPEAL ON CERTAIN TYPE I REVIEW PROCESSES; 18.60.030 – UTILITY SYSTEM DEVELOPMENT CHARGES AFTER JULY 15, 2004; 19.20.580 – APPEALS TO COUNCIL; 19.20.705 – APPEALS TO COUNCIL; 19.36.130 – PERMITS AND FEES; AND 19.52.060 – NONCONFORMING USES AND REPEALING OAK HARBOR MUNICIPAL CODE SECTION 7.20.070 – DEAD ANIMAL COLLECTION AND DISPOSAL – FEE.

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

Section One. Section 1.14.070 entitled “Charges for copying” of the Oak Harbor Municipal Code, adopted by Ord. 1062 in 1996, is hereby amended to read as follows:

1.14.070 Charges for copying.

- (1) No fee shall be charged for the inspection of public records. No fee shall be charged for locating public documents and making them available for copying. A reasonable charge may be imposed for providing copies of public records and for the use by any person or equipment to copy public records, which charges shall not exceed the amount necessary to reimburse the city for actual costs directly incident to such copying. In no event may the city charge a per page cost greater than the actual per page cost as established and published by the city in the Master Fee Schedule adopted by resolution of the city council.
- (2) Confirmed copies of written records, copies of maps, photographs including slides, copies of audio tape recordings, and copies of video tape recordings shall be made and provided by the city upon request and payment of the actual cost of reproducing same. In determining the cost of reproduction, labor and mailing costs shall be includable factors.

The city administrator or his or her designee is directed to prepare and have on file as a public document a schedule of such costs of reproduction in the Master Fee Schedule adopted by resolution of the city council.

Where the request is for a certified copy, there shall be an additional charge per the Master Fee Schedule adopted by resolution of the city council to cover the additional expense and time required for certification.

The cost schedule in the Master Fee Schedule adopted by resolution of the city council shall include, but not be limited to, the following records: street maps, zoning maps, zoning books, zoning book amendment services, sign ordinances, other ordinances, public meeting minutes, resolutions, verbatims, clerk’s voters’ registration record, accident reports, fingerprints for other than official use, deeds, and other records.

- (3) When economic or other factors require a change in the established cost schedule, the person designated to maintain the schedule for public records at the direction of the city administrator may change the schedule by filing a new schedule in the Master Fee Schedule adopted by resolution of the city council.

Section Two. Section 1.14.090 entitled "Procedure for inspection or copying" of the Oak Harbor Municipal Code, adopted by Ord. 1062 in 1996, is hereby amended to read as follows:

1.14.090 Procedure for inspection or copying.

- (1) A person wishing to inspect or copy public records shall first make such request in writing to the office of the city clerk during the hours specified in OHMC 1.14.080. If the records requested are not in the custody of the city clerk, the city clerk shall direct the requestor to the appropriate department. All requests for public records shall be documented by the requester on a form furnished by the city clerk and approved by the city supervisor, which shall include:
 - (a) The name, address, and telephone number of the requester;
 - (b) Information necessary to readily identify the public record requested; and
 - (c) A certification that records requested will not be used for an illicit purpose as defined by law.
- (2) If the written request includes a request for copies, a tender of payment according to the Master Fee Schedule adopted by resolution of the city council provided for and established under this chapter shall also be made. The cost for each map, drawing or photograph shall be in the Master Fee Schedule adopted by resolution of the city council. In the event the actual cost of reproduction exceeds the amount tendered, the balance is paid upon delivery of the requested copy or copies. In the event the amount tendered exceeds the actual cost, the excess balance is refunded at the time of delivery of the copy or copies.
- (3) Within five (5) business days of receiving a completed, approved form containing a public record request, the city clerk shall respond to the request by either:
 - (a) Providing the record;
 - (b) Acknowledging that the city has received the request and providing a reasonable estimate of the time the city will require to respond to the request; or
 - (c) Denying the public record request.
- (4) Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request.

- (5) In acknowledging receipt of a public record request that is unclear, the city clerk may ask the requester to clarify what information the requester is seeking. If the requester fails to clarify the request, the city clerk need not respond to it.
- (6) All assistance necessary to help the requester locate and copy the particular record is provided promptly by city clerk or an employee of the particular department; provided, that the giving of such assistance does not unreasonably disrupt the operation of the department or the other duties of the assisting employee.
- (7) Requests for copies of public records received by mail shall be honored if reimbursable costs are tendered, otherwise they shall be returned to the requester.

Section Three. Section 3.63.020 entitled "Payment and amount of park impact fees by subdivider" of the Oak Harbor Municipal Code, adopted by Ord. 1697 in 2014, is hereby amended to read as follows:

3.63.020 Payment and amount of park impact fees by subdivider. All persons proposing any subdivision of property zoned for residential use may pay the impact fee set out hereinafter in accordance with the provisions of this chapter at the time that the plat of the subdivision receives preliminary approval. Payment for short plats may be at the time the subdivision receives administrator's approval; provided, however, that the impact fees herein assessed may be paid at or before the time of final approval of a long subdivision if such fees are bonded as an additional cost. Impact fees not paid at the time of subdivision or short plat approval shall be paid at the time of building permit issuance.

The park impact fees imposed in this section for a single-family residence lot and for a multiple-family, mobile home or modular home lot as computed in the appendix shall be in the Master Fee Schedule adopted by resolution of the city council.

Section Four. Section 3.63.030 entitled "Payment and amount of park impact fees" of the Oak Harbor Municipal Code, adopted by Ord. 1697 in 2014, is hereby amended to read as follows:

3.63.030 Payment and amount of park impact fees. Prior to the issuance of any building permit for any single-family residence, multiple-family residence, or for installation of any modular or mobile home, the park impact fees imposed herein shall be paid, less any credit for impact fees paid under this chapter at time of subdividing property.

The park impact fees imposed in this section for a single-family residence lot and for a multiple-family, mobile home or modular home lot as computed in the appendix shall be in the Master Fee Schedule adopted by resolution of the city council.

Where a building consisting of one or more dwelling units is replaced by another building of one or more dwelling units, there shall be a credit against the payment of the fees imposed herein of the amount that would have been paid for the destroyed or removed building had it been assessed hereunder, or, if it was assessed hereunder, of the amount actually paid.

Section Five. Section 3.63.065 entitled "Payment and amount of transportation impact fees for development activities" of the Oak Harbor Municipal Code, adopted by Ord. 1643 in 2013 and amended by Ord. 1695, is hereby amended to read as follows:

3.63.065 Payment and amount of transportation impact fees for development activities.

- (1) The owners of property in which development activity takes place shall pay a transportation impact fee set out hereinafter in accordance with this chapter. Such transportation impact fee shall be deposited with the city prior to written approval from the city which authorizes commencement of such development activity.
- (2) "Development activity at the time the building permit is issued according to RCW 82.02.090 (1)" means any construction or expansion of a building, structure or use, any change in use of a building or structure, or any changes in the use of land that create additional demand and need for transportation facilities. Transportation impact fees shall be collected at the time the building permit is issued.
- (3) The transportation impact fees imposed in this section per peak hour trip generated for nonresidential activities and per residential unit developed shall be in the Master Fee Schedule adopted by resolution of the city council. Peak hour trip generation shall be determined as per Chapter 11.32 OHMC.

Section Six. Section 3.63.090 entitled "Appeals" of the Oak Harbor Municipal Code, adopted by Ord. 1273 in 2001, is hereby amended to read as follows:

3.63.090 Appeals.

- (1) Any property owner may pay an impact fee imposed by this chapter under protest in order to obtain a building permit or any other approval, and after such payment may file an appeal with the city clerk with the amount of such impact fee and in accordance with this section.
- (2) The determination of the director of development services for subdivision approval or building official for permit approval regarding the applicability of the impact fee to a given development activity within the city shall be final. The city council shall have the power to hear and decide appeals where it is alleged there is error in the director of development services or building official's determination of the impact fee imposed upon a development activity under this chapter.
- (3) Appeals to the city council regarding the amount of the impact fee imposed on any development activity may only be taken by the owner of the property where such development activity will occur. No appeal shall be permitted unless and until the impact fee at issue has been paid. Such appeals shall be taken within a reasonable time, not to exceed ten (10) days from the date of decision, by filing with the city clerk a notice of appeal specifying the grounds thereof, and depositing a fee per the Master Fee Schedule

adopted by resolution of the city council. The city clerk shall forthwith transmit to the city council all papers constituting the record upon which the amount of the impact fee was determined.

- (4) The city council shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.
- (5) In exercising the above-mentioned powers, the city council may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the determination of the amount of the impact fee appealed from only upon a determination that it is proper to do so based on principles of fairness, and may make such order, requirements, decision or determination as ought to be made, and to that end shall have the powers with respect to the determination of the impact fees as are granted the director of development services or building official by this chapter.
- (6) To decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in the application of this chapter, a simple majority of those present and constituting a quorum, as determined by the city council, shall suffice.
- (7) Any person or persons, or any board, taxpayer, department or bureau of the city aggrieved by any decision of the city council may seek review by a court of record of such decision, in the manner provided by the laws of the state.
- (8) The deposit required under subsection (3) of this section shall be used to pay the costs of the hearing unless the city council makes a determination that the applicant is the prevailing party and is not liable for the costs of the hearing.

Section Seven. Section 3.64.040 entitled "SEPA" of the Oak Harbor Municipal Code, adopted by Ord. 1273 in 2001, is hereby amended to read as follows:

3.64.040 SEPA.

- (1) SEPA (State Environmental Policy Act) Project Review.
 - (a) Written confirmation of exemption: Fee shall be in the Master Fee Schedule adopted by resolution of the city council.
 - (b) Threshold determination of an environmental checklist:
 - (i) The base fee for submittal of an environmental checklist shall be in the Master Fee Schedule adopted by resolution of the city council.
 - (ii) An additional fee per the Master Fee Schedule adopted by resolution of the city council shall be charged if a DNS is issued that requires public

notice. The additional fee shall be paid when the posting notices are picked up.

- (iii) Additional costs, if any, incurred by the city shall be billed directly to the applicant; no additional costs may be charged for existing studies or general information already in the possession of the city. See subsection (2) on SEPA review for permit reviews which require additional staff needs or special expertise as determined by the director of development services.
- (c) Environmental impact statement:
- (i) Submittal of preliminary draft EIS: fee shall be in the Master Fee Schedule adopted by resolution of the city council.
 - (ii) Additional costs, if any, incurred by the city shall be billed directly to the applicant; no additional costs may be charged for existing studies or general information already in the possession of the city. See subsection (2) on SEPA review for permit reviews which require additional staff needs or special expertise as determined by the director of development services.
 - (iii) In the event that a proposal is modified so that an EIS is no longer required, the responsible official shall refund any costs collected for costs not incurred.
- (d) Detailed environmental study review (review of additional studies) e.g., detailed soils, traffic, wetland, view/solar analysis, drainage, air or water quality studies or other detailed environmental studies required to supplement an environmental checklist: fee shall be in the Master Fee Schedule adopted by resolution of the city council in addition to environmental checklist fee.
- (e) The base fee for a threshold determination and/or an EIS shall be paid by the private applicant prior to the circulation of an EIS or environmental checklist by the city.
- (f) No fee shall be collected by the city for performing its duties as a consulted agency.
- (2) Additional Costs for SEPA Review. For SEPA reviews which require additional staff needs, unusual or expedited review, or special technical expertise by the city as determined by the director of development services, hereinafter referred to as “director,” the applicant will be required to execute an agreement with the city and pay in addition to the fees set forth in this chapter, all additional costs incurred by the city to process the SEPA review which exceed those nominally associated with the processing of a SEPA review which costs include, but are not limited to, additional staff time, materials, and

consultants' fees. The agreement shall stipulate that the city staff and consultants will be under the sole direction of the city. The agreement shall require that the applicant assume full responsibility for paying the city for said costs and will also require that the applicant waive any time limitation which may be exceeded as a result of the applicant's failure to timely pay the city the additional costs. The applicant will pay the city the estimated costs calculated by the director to cover the additional costs associated with said review. The director may require the payment of additional costs if it is determined that the initial estimated cost does not or will not adequately cover the expenses incurred by the city.

Unless otherwise indicated in the agreement, the estimated cost shall be paid to the city at the time the agreement is executed. Prior to any final action by the city's development services department related to the SEPA review, the actual charges and estimates paid shall be reconciled and all outstanding balance shall be due and payable upon demand and the city will refund any money collected for costs not incurred by the city. Failure to pay, including the required estimates, upon demand will result in the city withholding any further action on said SEPA review until the required estimate(s) or payment(s) is made. Notwithstanding any language herein, the applicant will be liable to the city for all costs incurred by the city.

Section Eight. Section 3.64.100 entitled "Police fee schedule" of the Oak Harbor Municipal Code, adopted by Ord. 1533 in 2008, is hereby amended to read as follows:

3.64.100 Police fee schedule. The fees charged by the police department are listed in the Master Fee Schedule adopted by resolution of the city council.

Section Nine. Section 3.64.110 entitled "Booking fee" of the Oak Harbor Municipal Code, adopted by Ord. 1253 in 2001, is hereby amended to read as follows:

3.64.110 Booking fee. Every person who is booked at the City Jail shall pay a fee to the police chief or his or her designee per the Master Fee Schedule adopted by resolution of the city council. The fee is payable from any money then possessed by the person being booked or any money deposited with the City Jail administration on the person's behalf. If the person has no funds at the time of booking or during the period of incarceration, the chief of police or his or her designee may notify the court in where the charges related to the booking and pending disposition and may request assessment of the fee. If the person booked or incarcerated is acquitted or all charges are dismissed the police chief or his or her designee shall return the fee to the person at the last known address listed in the booking report. This fee shall not be assessed against juveniles.

Section Ten. Section 3.64.400 entitled "Arrest warrant fee" of the Oak Harbor Municipal Code, adopted by Ord. 1156 in 1998, is hereby amended to read as follows:

3.64.400 Arrest warrant fee. The fee for issuance or ordering or both the issuance and ordering of an arrest warrant by the Oak Harbor municipal court shall be in the Master Fee Schedule adopted by resolution of the city council and payable by the defendant.

Section Eleven. Section 3.64.505 entitled "Fees applicable to all land use development processes" of the Oak Harbor Municipal Code, adopted by Ord. 1399 in 2004, is hereby amended to read as follows:

3.64.505 Fees applicable to all land use development processes. The fees for the permits and applications under OHMC Title 18 are listed in the Master Fee Schedule adopted by resolution of the city council.

Section Twelve. Section 3.64.510 entitled "Streets – Concurrency test fee" of the Oak Harbor Municipal Code, adopted by Ord. 1399 in 2004, is hereby amended to read as follows:

3.64.510 Streets – Concurrency test fee.

- (1) The fee per application for conducting a concurrency test or traffic impact analysis shall be per the Master Fee Schedule adopted by resolution of the city council and, if the director of the concurrency program refers the matter for review to an independent consultant, an amount equal to the cost of review by an independent consultant.
- (2) An amount equal to the minimum fee plus the estimated cost of review shall be paid with the application. If the cost of review is less than what is estimated, the remainder shall be returned. If the cost is greater than the sum provided, the developer shall pay the unpaid amounts prior to receiving approval or upon billing, whichever event comes first.
- (3) The fees for concurrency test or traffic impact analysis shall not be considered impact fees, but are solely to reimburse the sum of the costs of administering a mandated state program and are for the health, welfare and safety of the community. Each year, the director shall advise the council of needed changes in these fees.
- (4) Street vacation: fee shall be in the Master Fee Schedule adopted by resolution of the city council.

Section Thirteen. Section 3.64.515 entitled "Street opening permit fees" of the Oak Harbor Municipal Code, adopted by Ord. 1399 in 2004, is hereby amended to read as follows:

3.64.515 Street opening permit fees. The fees charged for street opening permits are listed in the Master Fee Schedule adopted by resolution of the city council.

Section Fourteen. Section 3.64.520 entitled "Utility code permit development fees" of the Oak Harbor Municipal Code, adopted by Ord. 1399 in 2004, is hereby amended to read as follows:

3.64.520 Utility code permit development fees. The fees charged for certain approvals applicable to all city utilities are listed in the Master Fee Schedule adopted by resolution of the city council.

Section Fifteen. Section 3.64.525 entitled "Water utility fees" of the Oak Harbor Municipal Code, adopted by Ord. 1399 in 2004, is hereby amended to read as follows:

3.64.525 Water utility fees. The fees charged for certain water system development permits under OHMC Title 13 are listed in the Master Fee Schedule adopted by resolution of the city council.

Section Sixteen. Section 3.64.530 entitled "Sewer permit fees" of the Oak Harbor Municipal Code, adopted by Ord. 1399 in 2004, is hereby amended to read as follows:

3.64.530 Sewer permit fees. The fees charged for sewer system development permits under OHMC Title 14 are listed in the Master Fee Schedule adopted by resolution of the city council.

Section Seventeen. Section 3.64.535 entitled "Building code and miscellaneous development permit fees" of the Oak Harbor Municipal Code, adopted by Ord. 1599 in 2011, is hereby amended to read as follows:

3.64.535 Building code and miscellaneous development permit fees.

- (1) Floodplain Ordinance. The fees charged for permits under Chapter 17.20 OHMC are listed in the Master Fee Schedule adopted by resolution of the city council.
- (2) Building permits and fees assessed under Chapters 17.05, 17.10 and 17.12 OHMC (which are included in the Master Fee Schedule adopted by resolution of the city council) are hereby adopted by reference under this subchapter.
- (3) Grading Permits. Grading permits under Chapter 17.05 OHMC are listed in the Master Fee Schedule adopted by resolution of the city council.

Section Eighteen. Section 3.64.545 entitled "Zoning permit fees" of the Oak Harbor Municipal Code, adopted by Ord. 1399 in 2004, is hereby amended to read as follows:

3.64.545 Zoning permit fees. The fees charged for permits and applications under OHMC Title 19 are listed in the Master Fee Schedule adopted by resolution of the city council.

Section Nineteen. Section 3.64.550 entitled "Shoreline master program permit fees" of the Oak Harbor Municipal Code, adopted by Ord. 1399 in 2004, is hereby amended to read as follows:

3.64.550 Shoreline master program permit fees. Shoreline master program permit fees are listed in the Master Fee Schedule adopted by resolution of the city council.

Section Twenty. Section 3.64.555 entitled "Site plan fees" of the Oak Harbor Municipal Code, adopted by Ord. 1399 in 2004, is hereby amended to read as follows:

3.64.555 Site plan fees. The fees charged for site plan approvals shall be listed in the Master Fee Schedule adopted by resolution of the city council.

Section Twenty-one. Section 3.64.560 entitled "Environmental permit fees" of the Oak Harbor Municipal Code, adopted by Ord. 1399 in 2004, is hereby amended to read as follows:

3.64.560 Environmental permit fees. The following fees shall be charged for permits and applications under OHMC Title 20:

- (1) SEPA (State Environmental Policy Act) Project Review. Fees shall be in the Master Fee Schedule adopted by resolution of the city council.
- (2) Additional Costs for SEPA Review. SEPA reviews requiring additional study as defined herein shall pay costs for such additional study. The director may require deposit and/or agreement before proceeding.

Unless otherwise indicated in the agreement, the estimated cost shall be paid to the city at the time the agreement is executed. Prior to any final action by the city's development services department related to the SEPA review, the actual charges and estimates paid shall be reconciled and all outstanding balance shall be due and payable upon demand and the city will refund any money collected for costs not incurred by the city. Failure to pay, including the required estimates, upon demand will result in the city withholding any further action on said SEPA review until the required estimate(s) or payment(s) is made. Notwithstanding any language herein, the applicant will be liable to the city for all costs incurred by the city.

- (3) Wetland Permits. Fees shall be in the Master Fee Schedule adopted by resolution of the city council.

Section Twenty-two. Section 3.64.565 entitled "Subdivision code permit fees" of the Oak Harbor Municipal Code, adopted by Ord. 1399 in 2004, is hereby amended to read as follows:

3.64.565 Subdivision code permit fees. The fees applicable to permits, approvals and applications under OHMC Title 21 are listed in the Master Fee Schedule adopted by resolution of the city council.

Section Twenty-three. Section 3.70.030 entitled "Occupation license required" of the Oak Harbor Municipal Code, adopted by Ord. 1163 in 1999, is hereby amended to read as follows:

3.70.030 Occupation license required.

- (1) No person shall engage in or carry on any business, occupation, pursuit or privilege for which a tax is imposed under this chapter, without having first obtained and being the holder of a valid or subsisting license so to do, to be known as an "occupation license."
- (2) Any person engaging in, or carrying on, more than one such business, occupation, pursuit or privilege shall obtain a separate occupation license for each such business and pay all license fees and taxes imposed upon each of the same.
- (3) Every person subject to taxation under this chapter shall submit an annual application to the director for an occupation license. The application shall be upon a form prescribed by the director and accompanied by an application fee that shall be in the Master Fee Schedule adopted by resolution of the city council. Said applications shall be submitted

prior to commencement of business activities subject to taxation under this chapter and by January 20th in all subsequent years, except as otherwise provided in this chapter.

- (4) In the event that a taxpayer commences taxable business activities within the city at a time other than the beginning of a tax year, the occupation license application fee shall be prorated based upon the number of months the taxpayer conducted taxable business activities within the city during said tax year.

Section Twenty-four. Section 3.95.040 entitled "Application – Account initiation fee" of the Oak Harbor Municipal Code, adopted by Ord. 1598 in 2011, is hereby amended to read as follows:

3.95.040 Application – Account initiation fee. Application to have utility accounts initiated shall be made during normal working hours in writing on forms directed by the finance director. An account initiation fee per the Master Fee Schedule adopted by resolution of the city council shall be paid in advance by each applicant for utility service before the utility service is provided. The account initiation fee shall be nonrefundable. The account initiation fee shall only apply to new accounts and not existing accounts or transferring accounts within the city limits of Oak Harbor.

Section Twenty-five. Section 3.95.080 entitled "Delinquency" of the Oak Harbor Municipal Code, adopted by Ord. 1598 in 2011, is hereby amended to read as follows:

3.95.080 Delinquency. If the account is not paid when due, the city shall assess a fee that shall be in the Master Fee Schedule adopted by resolution of the city council for delinquency payment and give notice that the utility account is delinquent.

In addition, the notice shall:

- (1) Set a date for water turn-off not less than seven (7) days after giving of notice; and
- (2) Specify that service will be shut off unless payment in full is made to the city within seven (7) days; and
- (3) Advise that a hearing may be requested by contacting the finance department prior to the scheduled date for water turn-off; and
- (4) Provide the address and telephone number of the finance department; and
- (5) Advise that an additional charge per the Master Fee Schedule adopted by resolution of the city council will be added to the bill if water cut-off or meter removal is implemented as a charge for cutting off the water and/or meter removal; and
- (6) Provide that service will not be shut off while a hearing is pending.

Section Twenty-six. Section 3.95.100 entitled "Water cut-offs – Lien enforcement" of the Oak Harbor Municipal Code, adopted by Ord. 1598 in 2011, is hereby amended to read as follows:

3.95.100 Water cut-offs – Lien enforcement.

- (1) Sewer and Stormwater Lien. As an alternative method to enforce the lien for nonpayment of sewer or stormwater services or both, the city may cut off water service and refuse to provide water service to premises which were furnished water after the charges have become delinquent and unpaid; provided, that unless the lien is filed with the Island County auditor, the lien shall not be for more than six (6) months' service.
- (2) Water Lien. As a means of enforcement, the lien for water services supplied by the city may cut off and refuse to supply water to the premises which were furnished with the water services after the charges have become delinquent and unpaid; provided, that the lien may not be for more than four (4) months of water services.
- (3) The fee charged for turning off water shall be per the Master Fee Schedule adopted by resolution of the city council and shall be assessed by 4:30 p.m. the day before the water is turned off.

Section Twenty-seven. Section 3.95.120 entitled "Turning water on - Charges" of the Oak Harbor Municipal Code, adopted by Ord. 1598 in 2011, is hereby amended to read as follows:

3.95.120 Turning water on - Charges. No water from the city water supply shall be turned on for service into any premises by any person except the supervisor of the water department or his/her designee. A fee per the Master Fee Schedule adopted by resolution of the city council shall be charged for turning water on for service. This charge shall not be assessed when turning water on for purposes of account initiation pursuant to OHMC 3.95.040. The charge for turning on the water after 5:00 p.m. on any work day or on weekends, except for emergency responses, shall be in the Master Fee Schedule adopted by resolution of the city council.

Section Twenty-eight. Section 3.95.170 entitled "NSF check – Fee for collection" of the Oak Harbor Municipal Code, adopted by Ord. 1598 in 2011, is hereby amended to read as follows:

3.95.170 NSF check – Fee for collection. The fee charged for a nonsufficient fund check (NSF check) shall be per the Master Fee Schedule adopted by resolution of the city council, or the amount of the NSF check, whichever is less.

Section Twenty-nine. Section 5.03.160 entitled "Class 1" of the Oak Harbor Municipal Code, adopted by Ord. 1218 in 2000, is hereby amended to read as follows:

5.03.160 Class 1. Each of the following businesses shall pay a license fee per the Master Fee Schedule adopted by reference of the city council: taverns, fraternal organizations serving food or liquor, restaurant businesses serving liquor, grocery stores/supermarkets containing over 3,000 square feet of sales area and manufacturing and other businesses employing 50 or more full- and/or part-time employees.

Section Thirty. Section 5.03.170 entitled "Class 2" of the Oak Harbor Municipal Code, adopted by Ord. 1218 in 2000, is hereby amended to read as follows:

5.03.170 Class 2. Each of the following Class 2 businesses shall pay a license fee per the Master Fee Schedule adopted by resolution of the city council: financial institutions including savings and loan businesses, credit unions, and banks; and professional businesses including law businesses, accounting businesses, dentists, doctors, optometrists, veterinarians, engineers, surveyors, architects, real estate brokers, insurance brokers, building and landscape designers, chiropractors, automobile dealerships and auto part dealers.

Section Thirty-one. Section 5.03.180 entitled "Class 3" of the Oak Harbor Municipal Code, adopted by Ord. 1218 in 2000, is hereby amended to read as follows:

5.03.180 Class 3. Each of the following Class 3 businesses shall pay an annual license fee per the Master Fee Schedule adopted by resolution of the city council: businesses located outside the corporate limits of the city engaged in sales or sales of services within the corporate limits of the city, or making retail sales or sales and deliveries within the corporate limits of the city; contractors and subcontractors providing building services, or materials or equipment within the corporate limits of the city; all other businesses not classified as either Class 1 or Class 2.

Section Thirty-two. Section 5.04.040 entitled "License - Fee" of the Oak Harbor Municipal Code, adopted by Ord. 699 in 1985, is hereby amended to read as follows:

5.04.040 License – Fee. The annual license fee shall be in the Master Fee Schedule adopted by resolution of the city council.

Section Thirty-three. Section 5.08.020 entitled "License fee" of the Oak Harbor Municipal Code, adopted by Ord. 49 in 1943, is hereby amended to read as follows:

5.08.020 License fee. The license fees for the first table and for each additional table per year, with a pro rata rate for any fraction of a year, shall be in the Master Fee Schedule adopted by resolution of the city council.

Section Thirty-four. Section 5.16.040 entitled "Granting of license - Fee" of the Oak Harbor Municipal Code, adopted by Ord. 716 in 1985, is hereby amended to read as follows:

5.16.040 Granting of license - Fee. A license may be obtained by approval of the city council only. No license shall be granted unless the applicant or applicants are of good moral character. No license shall be granted to a corporation, but may be granted to the managing head or directing head thereof. A fee per the Master Fee Schedule adopted by resolution of the city council shall be charged for a license not to exceed one (1) year in duration. The council may waive the fee for a one (1) day license.

Section Thirty-five. Section 5.20.050 entitled "License fees" of the Oak Harbor Municipal Code, adopted by Ord. 1604 in 2011, is hereby amended to read as follows:

5.20.050 License fees. The license year for adult entertainment establishment licenses, adult entertainer's licenses and adult entertainment manager's licenses required under this chapter shall be from January 1st to December 31st. All license fees shall be payable on an annual basis, which fees shall be in the Master Fee Schedule adopted by resolution of the city council.

Section Thirty-six. Section 5.22.050 entitled "Annual license fee" of the Oak Harbor Municipal Code, adopted by Ord. 1544 in 2008, is hereby amended to read as follows:

5.22.050 Annual license fee. Any person desiring to operate a nightclub shall first procure a nightclub license. The annual fee for a nightclub license plus the fee for an annual WATCH criminal background check shall be in the Master Fee Schedule adopted by resolution of the city council.

Section Thirty-seven. Section 5.30.020 entitled "License required" of the Oak Harbor Municipal Code, adopted by Ord. 708 in 1985, is hereby amended to read as follows:

5.30.020 License required. Every person, firm or corporation who shall by means of any vehicle, motor-driven or otherwise, carry passengers for hire from any point within the corporate limits of the city shall first obtain a license to do as hereinafter provided. The license fee for the first two taxicabs owned and operated by any person, firm or corporation, shall be in the Master Fee Schedule adopted by resolution of the city council and for each additional taxicab to the same owner, the fee shall be in the Master Fee Schedule adopted by resolution of the city council. All licenses expire on December 31st of each year and shall not be transferable from owner to owner or car to car. The license must be carried by the driver or be attached to the vehicle at all times that the vehicle is used as a taxi and shall be displayed to the police when requested.

Section Thirty-eight. Section 5.30.040 entitled "Driver's license required – Parking stall charge" of the Oak Harbor Municipal Code, adopted by Ord. 677 in 1984, is hereby amended to read as follows:

5.30.040 Driver's license required – Parking stall charge. No person shall operate any such vehicle unless he is the holder of a state driver's license and shall have been interviewed and approved by the chief of police. The holder of a license may petition the city council at the time of application for the license or at any time thereafter for the right to use and designate certain parking stalls as taxi parking. The council may permit or designate certain stalls as taxi parking and a charge per month per parking stall shall be made therefor at the rate in the Master Fee Schedule adopted by resolution of the city council. The charge shall be paid in advance on or before the anniversary date of the taxi license.

Section Thirty-nine. Section 5.32.030 entitled "Application form and requirements" of the Oak Harbor Municipal Code, adopted by Ord. 1301 in 2002, is hereby amended to read as follows:

5.32.030 Application form and requirements. The application shall be on a form and shall include, along with other relevant information, the following items:

- (1) Name and address of the organization or person applying;
- (2) The name, address and phone number of the person responsible for the operation of the fireworks stand;
- (3) The location for the proposed stand along with a drawing of the location and signed permission by the owner for use of the proposed area;
- (4) The place and manner of storage and amount of pyrotechnics to be stored;
- (5) A certificate of insurance evidencing coverage for comprehensive general liability insurance with a minimum coverage of \$1,000,000 each occurrence, combined single limit bodily injury and property damage of \$2,000,000. Such general liability policy shall name the city as an additional named insured and must be in full force and effect for the duration of the permit;
- (6) Application fee is listed in the Master Fee Schedule adopted by resolution of the city council.

Section Forty. Section 5.40.050 entitled "Statement of duration – License fees – Setup and cleanup time" of the Oak Harbor Municipal Code, adopted by Ord. 398 in 1974, is hereby amended to read as follows:

5.40.050 Statement of duration – License fees – Setup and cleanup time. All applicants for licenses hereunder shall furnish to the city clerk a sworn statement regarding the duration of the stay of their circus, carnival, show or exhibition and the license shall specify such duration and shall expire on the day specified on the license. License fees shall be charged per the Master Fee Schedule adopted by resolution of the city council, payable in advance. The licensees shall be allowed one day for setup and one day for cleanup, however; no act, ride or show may be operated during the days designated for setup and cleanup.

Section Forty-one. Section 5.44.030 entitled "License – Required – Application procedure - Hearing" of the Oak Harbor Municipal Code, adopted by Ord. 744 in 1986, is hereby amended to read as follows:

5.44.030 License – Required – Application procedure - Hearing. Every person, firm or corporation, before commencing to carry on, open, conduct or operate an amusement arcade within the corporate limits of the city of Oak Harbor, Washington, shall obtain a license from the city of Oak Harbor. Application for a license shall be made on a form furnished by the city clerk. Prior to its approval the chief of police and the fire chief shall inspect the proposed premises and the proposed operation of the business and make a written report to the city council. The report shall remain on file with the city clerk. Any firm, person or corporation now in business shall apply for such license as provided herein within sixty (60) days after the effective date of the ordinance codified in this chapter. An original license application shall be accompanied by a nonrefundable application fee per the Master Fee Schedule adopted by resolution of the city

council along with the deposit of an amount of money equal to the annual license fee. The form for application shall be as set out in OHMC 5.02.040. After the reports required herein are completed, the application shall be placed on the next council agenda by the city clerk. The city council may, after hearing, grant, deny or issue the license with conditions on the operation of the business or continue the hearing on the application. The standards for grant or denial or grant of license upon conditions are:

- (1) Whether it meets the standards of this chapter;
- (2) Whether the business can be conducted in a manner so as not to adversely affect adjacent businesses;
- (3) Whether the area for the arcade is easily visible from a public street;
- (4) Whether the business as proposed or conducted has or will increase loitering by young people in the area of operation, vandalism, truancy or other crime.

Section Forty-two. Section 5.44.050 entitled "License – Fee – Issuance conditions – Application update" of the Oak Harbor Municipal Code, adopted by Ord. 744 in 1986, is hereby amended to read as follows:

5.44.050 License – Fee – Issuance conditions – Application update. The annual license fee shall be per the Master Fee Schedule adopted by resolution of the city council. All licenses shall expire on December 31st of the year in which they were issued. The license fee shall not be prorated. During the year all licenses are subject to revocation for cause or for violation of the laws of the state of Washington or ordinances for the city of Oak Harbor. If a license is not renewed as set forth in OHMC 5.44.080, or if the license is revoked, the holder must apply as a new license. The license issued herein shall be issued to a person who is for the purpose of this chapter the licensee. If the license is issued to a corporation, a natural person must be designated as the licensee. The license is identified with that person rather than the business entity. When that person no longer is the licensee and in charge of and responsible for the arcade, then a new license application must be made under OHMC 5.44.030 as an original application.

If the chief of police should have cause to believe that the licensee is not actually in charge of or responsible for the arcade, he may ask the city council to schedule a hearing and require that attendance of the licensee to determine whether or not the license is in charge of or responsible for the arcade. Notice of the hearing shall be sent to the licensee as provided herein. Failure to attend such a hearing shall be grounds for revocation of the license.

Each year the licensee shall update the application form required under OHMC 5.44.030 by providing on a new form any changes that have occurred in the business during the year. The council, after hearing, may renew or reject the application or modify the conditions of operation as specified in OHMC 5.44.030. In addition, after hearing of the application for renewal of license the council may require that the arcade license be subject to Chapter 5.02 OHMC if it finds that the arcade in question is probably having a substantial negative impact on businesses

or residences within 500 feet of said property or that within 500 feet of the arcade in question there has been an increase in crimes reported.

Section Forty-three. Section 5.50.020 entitled "Permits required" of the Oak Harbor Municipal Code, adopted by Ord. 1687 in 2014) is hereby amended to read as follows:

5.50.020 Permits required.

- (1) In order to preserve the general health, welfare and safety of all the public, a special event permit or authorization from the city is required for any event in a park, public place or on private property where it will significantly impact public sidewalks or roadways or require public services. Such special event permit shall be in addition to any street or park use, or other regular permits as may be required by ordinance.
- (2) When such an event will be an exercise of rights protected by the First and Fourteenth Amendments to the United States Constitution, the application shall be processed promptly, without charging a fee for political or religious activities or imposing terms or conditions that infringe constitutional freedoms, and in a manner that respects the liberty of applicants and the public.
- (3) Except as specified in subsection (9) of this section, a special event permit is not required for the following:
 - (a) Parades, athletic events or other special events that occur exclusively on city property and are sponsored or conducted in full by the city of Oak Harbor.
 - (b) Funeral and wedding processions.
 - (c) Groups required by law to be so assembled.
 - (d) Gatherings of 50 or fewer people in a city park, unless merchandise or services are offered for sale or trade.
 - (e) Temporary sales conducted by businesses, such as holiday sales, grand opening sales, or anniversary sales.
 - (f) Garage sales and rummage sales.
 - (g) The exhibition of films or motion pictures.
 - (h) Other similar events and activities which do not directly affect or use city services or property.
- (4) Any person desiring to sponsor a parade, athletic event or special event shall apply for a special event permit by filing an application with the Oak Harbor police department at least 60 days prior to the date on which the event is to occur.

- (5) The chief of police shall transmit copies of the application to the city administrator or her/his designated permit coordinator, director of public works, police chief, city engineer and the fire chief for review.
- (6) The city administrator or her/his designee shall approve or deny the special event permit applications subject to conditions as outlined in this chapter. Any permits involving the sale, serving or consumption of beer, wine or liquor in a city park shall be processed in accordance with OHMC 6.12.080.
- (7) Fees required to be paid under this chapter shall be in the Master Fee Schedule adopted by resolution of the city council and shall be paid to the finance department and proof of payment shall be provided to the city administrator prior to the approval of the permit. All applicants will be subject to a nonrefundable, nondismissible application fee set by the finance department. Exceptions may be made for those exercising their rights under the First and/or Fourteenth Amendments of the United States Constitution.
- (8) Waiver of Application Deadline. Upon a showing of good cause or at the discretion of the city, the city shall consider an application that is filed after the filing deadline if there is sufficient time to process and investigate the application and obtain police and other city services for the event. Good cause can be demonstrated by the applicant showing that the circumstance that gave rise to the permit application did not reasonably allow the participants to file within the time prescribed, and the event is for the purpose of exercising rights under the First and/or Fourteenth Amendments of the United States Constitution.
- (9) It is unlawful as part of or related to any special event to construct, erect, or maintain in, on, over or under any street, right-of-way, park or other public place any building, structure, sign, equipment or scaffolding, to deface any public right-of-way by painting, spraying or writing on the surface thereof, or to otherwise occupy in such a manner as to obstruct the normal public use of any public street, right-of-way, park or other public place within the city, without obtaining prior to such special event a permit under this chapter and then only if the specific identified act in this subsection has been so authorized and all other necessary permits have been obtained.

Section Forty-four. Section 5.50.090 entitled "Fees for city services" of the Oak Harbor Municipal Code, adopted by Ord. 1687 in 2014), is hereby amended to read as follows:

5.50.090 Fees for city services.

- (1) Upon approval of an application for a permit for a special event not protected under the First and Fourteenth Amendments of the U.S. Constitution, the city administrator or his/her designee should provide the applicant with a statement of the estimated cost of providing city personnel and equipment. The applicant/sponsor of the event may be required to prepay these estimated costs for city services and equipment 10 days prior to the special event. The special event application fee per the Master Fee Schedule adopted by resolution of the city council is a separate processing fee and is not applicable to the city services fees. City services and equipment may include the use of police officers and

public employees for traffic and crowd control, pickup and delivery of traffic control devices, picnic tables, extraordinary street sweeping, and any other needed, requested or required city service and the cost of operating the equipment to provide such services.

- (2) If the actual cost for city services and equipment on the date(s) of the event is less than the estimated cost, the applicant/sponsor will be refunded the difference by the city in a timely manner. If the actual cost for city services and equipment on the date(s) of the event is greater than the estimated cost, the applicant/sponsor will be billed for the difference.
- (3) Permit fees and fees for the use of city services and equipment may be waived in part or in full by the city if in review of the application it is found that the event is of sufficient public benefit to warrant the expenditure of city funds without reimbursement by the applicant/sponsor and would not result in the private financial gain of any individual or "for profit" entity.

Section Forty-five. Section 5.52.050 entitled "License - Fee" of the Oak Harbor Municipal Code, adopted by Ord. 609 in 1982, is hereby amended to read as follows:

5.52.050 License - Fee.

- (1) The fees for a peddler, canvasser or solicitor license for the first day and for each additional day as indicated in OHMC 5.52.030(1)(d) shall be in the Master Fee Schedule adopted by resolution of the city council. The city council, upon application, may waive the license fee for nonprofit organizations.
- (2) The city council, upon application, may permit the use of streets, parks, walks and other public places for the sale and/or display of wares or goods and may set dates and hours of operation and may waive the fees required in this section. The fee for all persons per calendar year shall be in the Master Fee Schedule adopted by resolution of the city council.

Section Forty-six. Section 6.12.095 entitled "Park facility reservation system" of the Oak Harbor Municipal Code, adopted by Ord. 1691 in 2014, is hereby amended to read as follows:

6.12.095 Park facility reservation system.

- (1) City park facilities (including keyed kitchens as well as keyless gazebos and shelters) may be reserved for day use by an individual or group under terms and conditions specified by the administrator.
- (2) The fee for reservation for a single day's use of a facility shall be in the Master Fee Schedule adopted by resolution of the city council. As part of the reservation, the person or group reserving the facility shall assure that the facility is left in as good a condition as it was at the time of beginning occupancy.

- (3) Reservations shall usually be first come, first served, provided an individual or group may not be first in line for a facility more than once every six (6) months to assure the widest public use of facilities.
- (4) When a keyless facility is not reserved, the facility's use is available on a first come, first served basis for use by occupants that day without payment of a fee.
- (5) The administration may refuse to reserve the facility for certain dates and for events inconsistent with the purposes of the park.
- (6) Signs shall be posted noting the reservation and who has reserved for a date certain.
- (7) The administrator for this section is the person designated by the mayor to administer this facility reservation system.
- (8) A fee per the Master Fee Schedule adopted by resolution of the city council may be assessed to individuals or groups who have reserved a keyed facility and failed to collect the key at the Utilities Office during business hours, causing an employee to be called out after hours on a work day or on a weekend to unlock the reserved facility.
- (9) Oak Harbor police may terminate the use of a facility when its use is part of a public disturbance or is causing a noise violation or there is threatened damage to persons or property.
- (10) The mayor may issue such additional regulations as are necessary to implement this system.
- (11) The privilege of using a facility shall not be construed as a lease or rental, but simply a license terminable at will by the administrator or his or her designee as he or she determines to be the city's best interests.

Section Forty-seven. Section 6.13.090 entitled "Fee for overnight use required" of the Oak Harbor Municipal Code, adopted by Ord. 1681 in 2014, is hereby amended to read as follows:

6.13.090 Fee for overnight use required.

- (1) A per night charge per the Master Fee Schedule adopted by resolution of the city council shall be paid for each recreation vehicle parked in the Staysail RV Park located at Windjammer Park.
- (2) A per night charge per the Master Fee Schedule adopted by resolution of the city council shall be paid for use of each overflow campsite, tent campsite or special event campsite.
- (3) Payment shall be made either online or at the kiosk located at Staysail RV Park within 30 minutes of arrival. Payment can also be made at City Hall during regular business hours. Campers with reservations may check in after 2:30 p.m. Campers without reservations

shall make payment at the kiosk within 30 minutes of arrival at the RV park. Check out time shall be 12:00 p.m.

- (4) A fee per the Master Fee Schedule adopted by resolution of the city council will be assessed for online reservations.
- (5) A fee per the Master Fee Schedule adopted by resolution of the city council shall be assessed for the cancellation of online reservations.

Section Forty-eight. Section 6.13.100 entitled "Other fees for camping" of the Oak Harbor Municipal Code, adopted by Ord. 1681 in 2014, is hereby amended to read as follows:

6.13.100 Other fees for camping.

- (1) Administrator may designate overflow areas for camping and provide regulation for use of such overflow area.
- (2) A charge per the Master Fee Schedule adopted by resolution of the city council shall be paid for each use of the trailer dump station at Staysail RV Park. Rate schedules shall be posted at the camping area, filed with the city clerk and available for public inspection.

Section Forty-nine. Section 6.36.023 entitled "Extended guest moorage" of the Oak Harbor Municipal Code, adopted by Ord. 963 in 1993, is hereby amended to read as follows:

6.36.023 Extended guest moorage. Extended guest moorage, prorated at the applicable monthly rate, may be assigned by the harbormaster, subject to space availability, for stays longer than one week. Stays in excess of one month will require a written contract, including deposit. The following rates shall apply:

- (1) **Seasonal Rate.** Between June 1st and September 1st of each year, the extended guest moorage rate will be per the Master Fee Schedule adopted by resolution of the city council.
- (2) **Winter Moorage.** Guest moorage slips may be assigned for winter moorage at the harbormaster's discretion, under a contract which begins no earlier than the day following Labor Day and ends not later than May 15th of the following year. Rates are the same as those given above for uncovered permanent moorage, and for electrical service.

Section Fifty. Section 6.36.025 entitled "Liveaboards" of the Oak Harbor Municipal Code, adopted by Ord. 1332 in 2002, is hereby amended to read as follows:

6.36.025 Liveaboards. The fee for living aboard a vessel in the marina applies to persons residing on their boats for periods in excess of three (3) days in any seven (7)-day period, and shall be per the Master Fee Schedule adopted by resolution of the city council, inclusive of

leasehold excise tax. This fee is in addition to all other applicable moorage charges, taxes and electricity charges.

Section Fifty-one. Section 6.36.032 entitled "Gate cards" of the Oak Harbor Municipal Code, adopted by Ord. 963 in 1993, is hereby amended to read as follows:

6.36.032 Gate cards. Electronic gate cards, which operate the marina gate and head doors, are reissued in February of each year, and the reader locks are changed on March 1st. Each marina wet moorage tenant will be provided with one gate card in conjunction with the February 1st billing. That statement will reflect a charge for this card in the Master Fee Schedule adopted by resolution of the city council. Additional cards may be purchased for the fee listed in the Master Fee Schedule adopted by resolution of the city council. Dry storage shed and boat storage yard tenants will not be issued gate cards, but may purchase them per the fee listed in the Master Fee Schedule adopted by resolution of the city council.

Section Fifty-two. Section 6.36.033 entitled "Change of moorage" of the Oak Harbor Municipal Code, adopted by Ord. 963 in 1993, is hereby amended to read as follows:

6.36.033 Change of moorage. To change moorage locations at the request of the tenant the fee shall be per the Master Fee Schedule adopted by resolution of the city council.

Section Fifty-three. Section 6.36.034 entitled "Waiting list deposit" of the Oak Harbor Municipal Code, adopted by Ord. 963 in 1993, is hereby amended to read as follows:

6.36.034 Waiting list deposit. A nonrefundable annual fee per the Master Fee Schedule adopted by resolution of the city council shall be charged for reserving and maintaining a place on the waiting list for moorage at the Oak Harbor Marina. This fee will be billed annually, on the anniversary month of sign-up. Payment of this deposit shall not be construed as a guarantee that moorage or storage space will be available in the future. Upon assignment to moorage, the cumulative amount of the waiting list deposit will be applied to the moorage account. (This fee does not apply to storage sheds, nor to dry land storage. It also does not apply to marina tenants who wish to upgrade to a larger slip, or to otherwise relocate from one slip to another.)

Section Fifty-four. Section 6.36.036 entitled "Marina late fees and charges" of the Oak Harbor Municipal Code, adopted by Ord. 963 in 1993, is hereby amended to read as follows:

6.36.036 Marina late fees and charges.

- (1) The following late charges shall be collected under the circumstances provided:
 - (a) Late charge at the rate of twelve percent (12%) per year shall be charged on all accounts in excess of thirty (30) days delinquent.
 - (b) A service charge per the Master Fee Schedule adopted by resolution of the city council shall be imposed when notice of delinquency is mailed by certified mail.

- (c) A service charge per the Master Fee Schedule adopted by resolution of the city council shall be imposed when the vessel is chained or otherwise secured.
 - (d) A service charge per the Master Fee Schedule adopted by resolution of the city council shall be imposed when council action is requested to sell a vessel.
 - (e) A service charge per the Master Fee Schedule adopted by resolution of the city council shall be imposed when it is necessary to inventory a vessel or storage space.
- (2) In addition, the person contracting for moorage or storage, or the vessel's owner, as the case may be, shall pay all costs incurred by the city in collection including, but not limited to, costs of title and lien search, postage, publication of notice, fees and wages for auctioneer and reimbursement to the city for employee's time spent on collection at an hourly rate per the Master Fee Schedule adopted by resolution of the city council for tasks required in securing, safekeeping and selling the property and for which no fixed charge is set out in subsections (1)(a) through (1)(d) above.

Section Fifty-five. Section 6.36.072 entitled "Fees" of the Oak Harbor Municipal Code, adopted by Ord. 857 in 1990, is hereby amended to read as follows:

6.36.072 Fees.

- (1) The fees shall be charged to licensees as follows:
- (a) A license fee of five percent (5%) of the gross receipt to be earned by the person conducting the commercial activity is to be paid. This fee shall be paid prior to the time work begins on the boat in question.
 - (b) A temporary moorage fee per the Master Fee Schedule adopted by resolution of the city council per day per foot of the boat is to be paid in advance. The moorage for the whole service dock per month shall be per the Master Fee Schedule adopted by resolution of the city council.
 - (c) There shall be a charge per month in the Master Fee Schedule adopted by resolution of the city council for electrical utility service for boats not on a regular moorage contract at the marina. For major permanent commercial activities, the licensee shall provide his own electrical service at his or her own cost.
 - (d) The per move fee for assistance of city staff in moving a boat shall be in the Master Fee Schedule adopted by resolution of the city council and shall be in addition to any other charges specified in this chapter.
- (2) If fees and charges are not paid the license shall be terminated.

Section Fifty-six. Section 6.40.170 entitled "Exclusion of persons from the marina or portions of the marina" of the Oak Harbor Municipal Code, adopted by Ord. 1167 in 1999, is hereby amended to read as follows:

6.40.170 Exclusion of persons from the marina or portions of the marina.

- (1) The harbormaster or other person designated under subsection (4) of this section may order anyone to leave the premises of the marina who within the marina:
 - (a) Causes injury to another or creates a substantial risk of injury to another; or
 - (b) Causes damage to property of the city or to the marina or the property of another or creates a substantial risk of such damage; or
 - (c) Causes, while within the marina, an unlawful interference with another person's lawful use of the marina or sidewalks adjacent to the marina; or
 - (d) Engages in conduct creating a substantial risk of damage to property of the city or another or to the marina; or
 - (e) Commits any offense listed in OHMC 6.40.060, 6.40.070 or 6.40.080 under circumstances where it is likely that the conduct would have continued but for action of others acting under authority of this chapter; or
 - (f) Allows a boat to trespass at the marina as defined under OHMC 6.36.100.

Upon such an order being given, the recipient shall no longer be invited, licensed or otherwise privileged to remain in the marina area from which he or she was ordered to leave. The order may specify an area of the upland or the moorage area on the docks and adjacent waters or both. A person who has been ordered by the harbormaster to leave the marina or a portion thereof shall not re-enter the premises of that marina from which he or she was ordered to leave for a period of 24 hours after the order was given.

- (2) The harbormaster or the chief of police may forbid anyone from re-entering the premises of the marina for a period longer than 24 hours and less than a year whenever:
 - (a) The person has been ordered to leave one or more times for reasons set out in subsection (1) of this section; and
 - (b) The person who while in the marina under the incidents specified in subsection (2)(a) of this section:
 - (i) Had caused injury to another, or
 - (ii) Had engaged in conduct creating a substantial risk of injury to another within the marina, or

- (iii) Had caused damage to property, or
 - (iv) Had engaged in conduct creating a substantial risk of damage to property of the city or another or to the marina, or
 - (v) Had caused while on marina property an unlawful interference with another person's lawful use of the marina or sidewalks adjacent to the marina, or
 - (vi) Had committed two or more violations of this chapter or other misdemeanor under city code within the area of the marina within a one-year period (the violation can be either a gross misdemeanor, misdemeanor or infraction or any combination thereof), or
 - (vii) Made threats to kill or harm a marina employee, tenant or guest of the marina;
- (c) The harbormaster finds it is necessary to continue exclusion of the person in that marina to provide for safety of persons using or working in the marina or protection of marina property or prevent interference with marina functions.

An order prohibiting re-entry for a period longer than 24 hours shall be in writing by the harbormaster or the chief of police. It shall identify rights of appeal under Chapter 1.24 OHMC. Appeals shall be governed by Chapter 1.24 OHMC. Appeal from the decision shall be in writing to the city administrator or his or her designee and filed with a filing fee per the Master Fee Schedule adopted by resolution of the city council.

- (3) Any of the following persons are guilty of the crime of illegal trespass in the marina:
- (a) Anyone who fails to leave the marina or the portion of the marina from which he or she was excluded after being ordered by the harbormaster, or another authorized to act in his or her behalf under the authority of this section to leave;
 - (b) Anyone who re-enters the marina or the portion of the marina from which he or she was excluded during the time period of exclusion after leaving the premises under an order of exclusion on this section;
 - (c) Anyone who enters the marina within the period contained in a written order prohibiting entry issued by the harbormaster or chief of police under the authority of this section;
 - (d) Anyone who enters that portion of the marina from which the person was excluded within the period contained in a written order prohibiting entry issued by the harbormaster or chief of police under the authority of this section.

- (4) Any of the following persons may issue orders of exclusion for 24 hours on behalf of the harbormaster:
- (a) Any employee of the city working for the Oak Harbor Marina;
 - (b) The chief of police; or
 - (c) A police officer.

An order prohibiting re-entry for a period longer than 24 hours may only be issued by the harbormaster or the police chief or a captain or sergeant in the police department if the police chief is absent.

- (5) Every offense defined by this section or conduct made unlawful hereby shall constitute a gross misdemeanor and any person convicted of such crime may be punished by a fine in any sum not to exceed \$5,000 or by imprisonment for a term not to exceed one (1) year, or by both such fine and imprisonment.

Section Fifty-seven. Section 7.12.030 entitled "Fees - Schedule" of the Oak Harbor Municipal Code, adopted by Ord. 1410 in 2005, is hereby amended to read as follows:

7.12.030 Fees - Schedule.

- (1) Dog and cat licenses may be purchased from the city or authorized designee upon the payment of a license fee as listed in the Master Fee Schedule adopted by resolution of the city council.

Section Fifty-eight. Section 7.12.040 entitled "When purchased – Late fee - Term" of the Oak Harbor Municipal Code, adopted by Ord. 401 in 1974, is hereby amended to read as follows:

7.12.040 When purchased – Late fee - Term. All cat and dog owners shall purchase licenses from January 1st through February 28th after which date a fee per the Master Fee Schedule adopted by resolution of the city council will be assessed. The licensing period will be from January 1st through December 31st of each year.

Section Fifty-nine. Section 7.12.080 entitled "Duplicate tag – Fee – License not transferable" of the Oak Harbor Municipal Code, adopted by Ord. 1065 in 1996, is hereby amended to read as follows:

7.12.080 Duplicate tag – Fee – License not transferable. A duplicate license tag may be obtained from the finance department cashier upon payment of a replacement fee per the Master Fee Schedule adopted by resolution of the city council. No person or owner may use any license for any animal other than the animal for which it was issued.

Section Sixty. Section 7.20.030 entitled "Notification of owner – Redemption fee" of the Oak Harbor Municipal Code, adopted by Ord. 1065 in 1996, is hereby amended to read as follows:

7.20.030 Notification of owner – Redemption fee. If by a license tag, the owner of an impounded animal can be identified, the animal control officer shall attempt to notify the owner by telephone within 48 hours. It shall, however, be the entire responsibility of the animal owner to ascertain his/her animal has been impounded. An owner before reclaiming an impounded cat shall pay a fee per the Master Fee Schedule adopted by resolution of the city council, plus a board fee per the Master Fee Schedule adopted by resolution of the city council for each calendar day the animal has been impounded; and an owner before reclaiming an impounded dog shall pay a fee per the Master Fee Schedule adopted by resolution of the city council for the first offense, and a fee per the Master Fee Schedule adopted by resolution of the city council for the second and subsequent offenses. Impound fees for dogs shall cover a period of 24 hours, after said time period an additional fee per the Master Fee Schedule adopted by resolution of the city council for each calendar day shall be added. If the impounded animal is unlicensed and its owner has been a resident for over sixty (60) days, the owner shall pay a fine of \$25.00 over and above the impoundment fees. The owner shall be required to license the animal at time of reclaiming his/her animal.

Section Sixty-one. Section 7.20.070 entitled "Dead animal collection and disposal - Fee" of the Oak Harbor Municipal Code, adopted by Ord. 401 in 1974, is hereby repealed.

Section Sixty-two. Section 7.32.100 entitled "Registration of dangerous and potentially dangerous dog required" of the Oak Harbor Municipal Code, adopted by Ord. 1480 in 2006, is hereby amended to read as follows:

7.32.100 Registration of dangerous and potentially dangerous dog required. All dangerous dogs and potentially dangerous dogs residing within the city of Oak Harbor must be registered to the current owner. The fee for registration of a dangerous dog shall be per the Master Fee Schedule adopted by resolution of the city council and the fee for registration of a potentially dangerous dog shall be per the Master Fee Schedule adopted by resolution of the city council. Registration must be renewed annually.

- (1) A dangerous dog certificate of registration shall be issued by the animal control officer to the owner of a dangerous dog if the owner presents to the animal control officer sufficient evidence of:
 - (a) A proper enclosure as defined in OHMC 7.32.030(6) in which to confine the dangerous dog;
 - (b) The posting of the premises with a clearly visible warning sign that there is a dangerous dog on the property, including a conspicuously displayed sign with a warning symbol that informs children of the presence of a dangerous dog;
 - (c) A surety bond issued by a surety insurer qualified under Chapter 48.28 RCW in a form acceptable to the city in the sum of at least \$250,000, payable to any person injured by the dangerous dog; or a policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under RCW Title 48 in the

amount of at least \$250,000, insuring the owner for any personal injuries inflicted by the dangerous dog;

- (d) Proof of payment of the annual registration fee;
 - (e) Proof that the dog has been microchipped, including providing the microchip serial number or proof that the dog has been tattooed including providing the tattoo number;
 - (f) Written acknowledgement of receipt of a copy of this chapter that includes a statement that the acknowledger has read and understood what is required to keep a dangerous dog within the city.
- (2) A potentially dangerous dog certificate of registration shall be issued by the animal control officer to the owner of a potentially dangerous dog if the owner presents to the animal control officer sufficient evidence of:
- (a) A proper enclosure as defined in OHMC 7.32.030(6) in which to confine the potentially dangerous dog;
 - (b) Proof of payment of the annual registration fee;
 - (c) Proof that the dog has been microchipped, including providing the microchip serial number or proof that the dog has been tattooed, including providing the tattoo number;
 - (d) Written acknowledgement of receipt of a copy of this chapter that includes a statement that the acknowledger has read and understood what is required to keep a potentially dangerous dog within the city and what actions may lead to a dangerous dog declaration.

Section Sixty-three. Section 8.06.010 entitled "Fee schedule" of the Oak Harbor Municipal Code, adopted by Ord. 1545 in 2008, is hereby amended to read as follows:

8.06.010 Fee Schedule. Fees shall be set out in the Master Fee Schedule adopted by resolution of the city council.

Section Sixty-four. Section 11.14.055 entitled "Fee for sidewalk use permit" of the Oak Harbor Municipal Code, adopted by Ord. 1129 in 1998, is hereby amended to read as follows:

11.14.055 Fee for sidewalk use permit. There shall be a fee per the Master Fee Schedule adopted by resolution of the city council due and payable in advance for the initial issuance of any sidewalk use permit. There shall be a fee per the Master Fee Schedule adopted by resolution of the city council due and payable in advance for the renewal of any sidewalk use permit.

Section Sixty-five. Section 13.24.060 entitled "Fire hydrant" of the Oak Harbor Municipal Code, adopted by Ord. 879 in 1991, is hereby amended to read as follows:

13.24.060 Fire hydrant. The charge for connecting a fire hydrant to a city line outside city limits shall be per the Master Fee Schedule adopted by resolution of the city council.

Section Sixty-six. Section 14.20.030 entitled "Equivalent residential units – Schedule of fixtures" of the Oak Harbor Municipal Code, adopted by Ord. 923 in 1992, is hereby amended to read as follows:

14.20.030 Equivalent residential units – Schedule of fixtures.

- (1) The basic figure to be used in computing the sewer trunk line charge is an equivalent residential unit, one unit of which is hereby set in the Master Fee Schedule adopted by resolution of the city council, based on an average water usage of a single residence. No sewer trunk line charge for any property of any type shall be less than one equivalent residential unit. One equivalent residential unit shall be the charge for a single-family residence. Multiple-residential units shall have an equivalent residential unit per the amount listed in the Master Fee Schedule adopted by resolution of the city council times the number of residential units. Nonresidential properties, including all commercial and industrial properties, shall have a sewer trunk line charge based on the number of points for the improvements on, or to be constructed on, the property. Twenty points shall equal one equivalent residential unit and a fee per the Master Fee Schedule adopted by resolution of the city council shall be added to the sewer trunk line charge for each point in excess of 20 points.
- (2) The points shall be determined from a schedule of fixtures, derived from the Uniform Plumbing Code, and shall be as follows:

Schedule of Fixtures	Points
Bathtubs	2
Bidets	2
Dental units or cuspidors	1
Drinking fountains	1
Floor drains	2
Interceptors for grease, solids, etc.	3
Interceptors for sand, auto wash, etc.	6
Laundry tubs	2
Clothes washers	2
 Receptors (floor sinks), indirect waste receptors for refrigerators, coffee urns, water stations, etc.	 1

Schedule of Fixtures	Points
Receptors, indirect waste receptors for commercial sinks, dishwashers, airwashers, etc.	3
Showers, single stalls	2
Showers, gang (one unit per head)	2
Sinks, bar, residential	1
Sinks, bar, commercial	2
Sinks, commercial or industrial, schools, etc. including dishwashers, washup sinks and wash fountains	3
Sinks, flushing rim, clinic	6
Sinks, and/or dishwashers, residential	2
Sinks, service	3
Mobile home park traps (one for each trailer)	6
Urinals, pedestal, trap arm only	6
Urinals, stall	2
Urinals, wall	2
Washbasins (lavatories), single	1
Washbasins, in sets	2
Water closet, private installation, trap arm only	4
Water closet, public installation, trap arm only	6

Section Sixty-seven. Section 15.04.150 entitled "Solid waste collection rates" of the Oak Harbor Municipal Code, adopted by Ord. 1510 in 2007, is hereby amended to read as follows:

15.04.150 Solid waste collection rates.

- (1) Residential Roll Cart Service – Bimonthly Charges. The bimonthly charge for each residential roll cart service shall be as set out in the Master Fee Schedule adopted by resolution of the city council.

- (2) Nonresidential Roll Cart Service – Bimonthly Charges. The bimonthly charge for each roll cart service to commercial and other nonresidential uses shall be as set out in the Utility Rate Ordinance. The following table represents the current rates:

Nonresidential Bimonthly Charges for Roll Carts

Roll Cart Size	# of Pick-Ups per Week				
	1	2	3	4	5
20-gallon	\$29.06	–	–	–	–
35-gallon	\$39.79	–	–	–	–
65-gallon	\$66.71	\$133.42	\$200.13	\$266.85	\$400.27
95-gallon	\$88.73	\$177.47	\$266.20	\$443.66	\$621.13

- (3) Dumpster Service – Monthly Charges. The monthly charge for front-load dumpster service shall be the sum of the monthly rental charge for front-load dumpster and the monthly service charge. Both rates are set out in the Utility Rate Ordinance. The following table represents the current rates:

Monthly Charges for Front-Load Dumpsters (Residential and Nonresidential)

Container Size	Rental Charge	Plus	# of Pick-Ups per Week				
			1	2	3	4	5
1 cu yard	\$19.59	+	\$83.11	\$166.20	\$249.31	\$332.41	\$415.51
2 cu yards	\$22.65	+	\$152.56	\$305.11	\$457.67	\$610.22	\$762.78
3 cu yards	\$25.70	+	\$220.55	\$441.09	\$661.64	\$882.19	\$1,102.73
4 cu yards	\$28.76	+	\$285.48	\$570.95	\$856.44	\$1,141.92	\$1,427.39
5 cu yards	\$31.83	+	\$335.11	\$670.24	\$1,005.35	\$1,340.47	\$1,675.59
6 cu yards	\$34.88	+	\$384.67	\$769.35	\$1,154.02	\$1,538.70	\$1,923.38

- (4) Compactor Service – Monthly Charges. The monthly charge for compactor dumpster service shall be as set out in the Utility Rate Ordinance. The following table represents the current rates:

Monthly Charges for Compactors (Residential and Nonresidential)

Container Size	# of Pick-Ups per Week				
	1	2	3	4	5
1 cu yard	\$214.00	\$427.99	\$642.00	\$855.99	\$1,069.99

2 cu yards	\$415.39	\$830.78	\$1,246.17	\$1,661.56	\$2,076.96
3 cu yards	\$616.71	\$1,233.44	\$1,850.15	\$2,466.86	\$3,083.57
4 cu yards	\$818.11	\$1,636.22	\$2,454.32	\$3,272.43	\$4,090.54
5 cu yards	\$1,019.50	\$2,039.01	\$3,058.51	\$4,078.00	\$5,097.51
6 cu yards	\$1,220.90	\$2,441.79	\$3,662.68	\$4,883.58	\$6,104.48

Section Sixty-eight. Section 15.04.165 entitled "Yard waste rates and collection practices" of the Oak Harbor Municipal Code, adopted by Ord. 1497 in 2007, is hereby amended to read as follows:

15.04.165 Yard waste rates and collection practices.

- (1) The city establishes a yard waste collection program to collect and dispose of certain yard wastes. Participation is voluntary.
- (2) Any customer may apply to the city for collection of certain plant material type yard wastes.
- (3) To be accepted for collection under the yard waste program, the yard waste must be vegetative yard waste such as grass, thatch, leaves, pine needles, boughs, vines, branches, weeds, and other plant materials commonly found in urban gardens. Woody material must be no greater than three inches in diameter. Material must all fit within the container. Maximum weight for the container shall be no more than 300 pounds. Approved yard waste paper bags purchased from the city or an approved vendor may also be put out for collection.
- (4) Excluded Materials. The following materials shall not be placed in a yard waste collection program container: sod (beyond small amounts), rocks, dirt, gravel, concrete, glass, metal, plastic, kitchen waste, animal feces, paint residue, Christmas or holiday decorations, paper, flocking, dimensional lumber, stumps or roots. Loads submitted not acceptable under this subsection for the yard waste program will be left by the yard waste collection area and handled as solid waste at the rate for 95-gallon noted waste rate containers.
- (5) The collection day for the yard waste shall be on a weekly basis on the same day as the customer's regular solid waste collection. Services are provided only in 95-gallon carts supplied by the city.
- (6) Services are billed bimonthly along with other solid waste billings.
- (7) Rates shall be as follows:
 - (a) Services. From March through November, service shall be weekly and charges shall be per the Master Fee Schedule adopted by resolution of the city council.

- (b) From December through February, service shall be monthly during the first full week of the month and charges shall be per the Master Fee Schedule adopted by resolution of the city council.
- (c) There is no container delivery charge for the first container; thereafter, the delivery charge shall be per the Master Fee Schedule adopted by resolution of the city council. The customer is responsible for the cost of replacement.
- (d) Brown paper yard waste bags shall be charged at a rate set by the public works superintendent sufficient to cover costs of paper bags and services provided.
- (e) Special Pick-Up. For each additional nonscheduled pick-up requested by the customer, a trip fee per the Master Fee Schedule adopted by resolution of the city council will be assessed on the regular bill.
- (f) Timing and Fee for Change in Service. After original signup for services, any customer wishing to cancel and then later restart service of the yard waste program must wait until the beginning of their billing cycle date and shall be charged a delivery fee per the Master Fee Schedule adopted by resolution of the city council.

Section Sixty-nine. Section 15.04.170 entitled "Temporary service" of the Oak Harbor Municipal Code, adopted by Ord. 1497 in 2007, is hereby amended to read as follows:

15.04.170 Temporary service. Temporary services may be supplied by the utility. The following conditions and restrictions shall apply to such services:

- (1) **Primary Uses.** The primary uses for temporary services shall be for construction, demolition, renovation, remodeling, special cleanup, and events.
- (2) **Type of Service.** Services shall be by dumpster or front load dumpster as determined by the utility. Roll carts shall not be available for temporary service.
- (3) **No Substitute for Regular Service.** In no event shall temporary service substitute for regular services. Thus, temporary service for an occupied premises shall be in addition to and in lieu of regular service and service charges.
- (4) **Method of Establishing Use.** The rates for such service shall cover costs for such services and shall in no event be at rates below the amount for similar services when charged to regular accounts.
- (5) **Set-Up Fee.** The fee for setting up a temporary service account shall be per the Master Fee Schedule adopted by resolution of the city council.

- (6) Timing of Service. Services shall be provided at locations and times specified by the utility.
- (7) Rate for Rental of Solid Waste Collection Container. The weekly rental rate for solid waste collection container shall be thirty percent (30%) of the monthly charge for such container service.
- (8) Pick-Up Fees. The pick-up fee on temporary service accounts shall be thirty percent (30%) of the monthly charge for similar-sized containers (once a week service) plus a special trip fee per pick-up as listed in the Master Fee Schedule adopted by resolution of the city council.

Section Seventy. Section 15.04.180 entitled "Residential collection provisions and special charges" of the Oak Harbor Municipal Code, adopted by Ord. 1510 in 2007, is hereby amended to read as follows:

15.04.180 Residential collection provisions and special charges. The following charges and practices apply to residential collection for roll cart service:

- (1) Location for Roll Carts. Collection personnel shall not be required to negotiate steep ramps or stairs or remove 20-, 35-, 65- and 95-gallon containers from storage bins in the performance of their duties. Where 20-, 35-, 65- and 95-gallon residential containers are accessible on ground level in the location designed by the solid waste utility on the street or alley within three feet of the curb, street, or alley where a solid waste utility collection vehicle can stop legally for collection and loading, the rate shall be as set out in OHMC 15.04.150(1).
- (2) Special Pick-Up Request. A request for an additional pick-up for solid waste other than the normally scheduled day will apply for acceptable items that will not fit into a roll cart or a city of Oak Harbor approved extra garbage bag. For each additional nonscheduled pick-up requested by the customer, a trip fee per the Master Fee Schedule adopted by resolution of the city council plus an additional fee shall be assessed determined on the cubic yards of garbage. Garbage shall be required to be contained to prevent migration.
- (3) Time for Collection and Fee. If a residential automated collection container is not in place by 7:00 a.m. or is otherwise inaccessible the day of the regularly scheduled pick-up, and the customer requests that the collection vehicle return to the premises to collect the contents of the container, a return trip charge per the Master Fee Schedule adopted by resolution of the city council will be assessed to the customer. Such charge shall be applied on a per-trip basis without consideration of the size or number of containers collected from the customer. For each additional nonscheduled pick-up requested by the customer, a return fee per the Master Fee Schedule adopted by resolution of the city council plus an additional container fee shall be assessed.
- (4) Recycling Container Use Requirements. Recycling containers that are contaminated with garbage will be charged a fee per the Master Fee Schedule adopted by resolution of the

city council for a return trip charge to empty the container. Recycling containers may be removed at the discretion of the solid waste utility.

- (5) **Extra Garbage Bag Fee.** Extra garbage bags shall be available for a charge per the Master Fee Schedule adopted by resolution of the city council; this bag is to be used any time extra garbage needs to be discarded in lieu of regular store-bought bags.
- (6) **Service Charges and Trip Fees.** Service charges and trip fees for dumpsters, front-load dumpsters and compactor dumpsters to residential customers shall be the same as those for nonresidential customers.

Section Seventy-one. Section 15.04.190 entitled "Nonresidential collection provisions and special charges" of the Oak Harbor Municipal Code, adopted by Ord. 1497 in 2007, is hereby amended to read as follows:

15.04.190 Nonresidential collection provisions and special charges.

- (1) **Rates for Commercial Containers, Calculations.** Commercial container rates for noncompacted solid waste shall consist of a minimum monthly charge, which includes all scheduled weekly pick-ups within any given month. Additional pick-ups shall be at the request of the customer and shall be subject to the applicable service charge.
- (2) **Charges for Inconvenient Location.** If a nonresidential 20-, 35-, 65- or 95-gallon roll cart is not in place or is otherwise inaccessible at the time the collection vehicle arrives for regularly scheduled pick-up, and it is necessary for the collection vehicle to return to the premises at a later time to collect and load the contents of the container, a return trip charge per the Master Fee Schedule adopted by resolution of the city council will be assessed to the customer. Such charge shall be applied on a per-trip basis, without consideration for the size or number of containers collected from the customer. For each additional nonscheduled pick-up requested by the customer, a return fee per the Master Fee Schedule adopted by resolution of the city council plus an additional container fee shall be assessed.
- (3) **Time for Pick-Up.** It shall be the customer's responsibility to make sure that solid waste dumpsters or roll carts are available for pick-up no later than 6:00 a.m. on their scheduled pick-up day.
- (4) **Responsibility for Charges.** The party contracting for solid waste pick-up by dumpster, large solid waste collection boxes or compactor dumpsters shall be responsible for paying for all damages occurring to dumpsters, large solid waste collection boxes and compactor dumpsters.
- (5) **Responsibility for Services.** It is the responsibility of the owner of a customer-owned container to keep the container maintained and serviceable, including all doors, lids, fork pockets, wheels, bail hooks, bottom rails or any part of the container needed for dumping or hauling of the container.

- (6) Privately Owned Containers – Responsibility. The solid waste utility shall not be held liable for damage to privately owned containers. The solid waste utility is not obligated to service improperly maintained containers.
- (7) Repair of Containers, Dumpsters – Costs For. Any nonresidential customer in possession of any city-owned container/dumpster shall pay the cost of repair or replacement of any damaged dumpster, front-load dumpster or compactor dumpster that occurs on customers' property. The charge shall be the actual cost of repair or replacement as determined by the city, and shall be added to the customer's utility bill.
- (8) Any overloaded dumpster containers, as well as surrounding solid waste, will be picked up and charged by time and amount of solid waste, estimated in one-yard increments.
- (9) Any commercial customer that occupies six units or more must use dumpsters unless special circumstances prohibit them, or by permission from the solid waste utility.

Section Seventy-two. Section 15.04.220 entitled "General applicable rates" of the Oak Harbor Municipal Code, adopted by Ord. 1497 in 2007, is hereby amended to read as follows:

15.04.220 General applicable rates.

- (1) Uncontained Cleanup. The rate for uncontained cleanup of solid waste shall be per the Master Fee Schedule adopted by resolution of the city council.
- (2) Stoppage of Service. Fee for temporarily stopping service while property is vacant shall be per the Master Fee Schedule adopted by resolution of the city council. Service shall not be discontinued for less than two (2) months.
- (3) Timing and Fee for Change in Service. After original signup for services any customer wishing to change the size of their container must wait until the beginning of their billing cycle date and shall be charged a fee per the Master Fee Schedule adopted by resolution of the city council.
- (4) Responsibility During Change of Tenancy. Any premises managed by owner or representative shall be responsible for container left at residence while vacant or during change of tenant. The size of container will remain the same until new tenants sign up for services and request a different size container.
- (5) Service or Repair Not Otherwise Established. The director may set a reasonable fee or assess a reasonable charge for a service or repair not otherwise established by this chapter.

Section Seventy-three. Section 15.04.230 entitled "Recycling – Rates and collection practices" of the Oak Harbor Municipal Code, adopted by Ord. 1499 in 2007, is hereby amended to read as follows:

15.04.230 Recycling – Rates and collection practices. Unless specifically otherwise indicated, all requirements applicable to service according to OHMC 15.04.110, General collection requirements, apply to recyclable materials collection operations. The integrity and efficiency of the city’s recyclable collection program depends upon customer cooperation. Recyclables are to be clean and free of all food residues, organic or foreign substances. All recyclables are to be placed in the recycling bin. Recycling bins containing materials prepared incorrectly may result in all of the materials being left. An overload, cleanup or extra work fee may also be assessed for overloaded or improperly loaded containers.

- (1) Separation of Recyclables. The city reserves the right to, and may at its discretion, require the separation of recyclable material or food and yard waste or other component parts of solid waste, or may require the deposit thereof in separate cans or receptacles, and may prescribe the method of collection and reuse.
- (2) Promotion of Recycling. It is the intent of the city to promote and encourage the recycling of materials and to achieve and maintain a fifty percent (50%) recycling goal.
- (3) Recyclables Are Solid Waste. Recyclable material is considered to be solid waste in the city for the purposes of this chapter. It shall be unlawful for any person other than the solid waste utility, or permitted agency, to engage in the business or activity of removing, collecting, salvaging, or destroying any recyclable material, as defined elsewhere in this chapter, that has been set out for collection by the solid waste utility or has been deposited into a permitted recycling drop-off container or center, either private or public.
- (4) Diversion of Recyclables. No person may divert to personal use any recyclable material placed in a container as part of a recycling program without the consent of the generator of such recyclable material or the solid waste utility, and no person may divert to commercial use any recyclable material placed in a container as part of a recycling program without the consent of the person owning or operating such container.
- (5) Ownership. Recyclable material becomes the property of the city at the moment the material is set out at the curb for collection by the solid waste utility and deposited into solid waste recycle vehicles, or at the moment it is deposited into solid waste utility-owned recycling containers.
- (6) Types of Recyclable Materials.
 - (a) The following materials can be recycled through the city of Oak Harbor curbside recycling program. All material shall be placed inside the recycle container:
 - (i) Aluminum beverage and food cans;
 - (ii) Tin food and beverage cans;
 - (iii) No. 1 PETE plastic food and beverage containers;
 - (iv) No. 2 natural plastic bottles and jugs;
 - (v) Cardboard;

- (vi) Newspaper;
- (vii) Paper;
- (viii) Noncontaminated pizza boxes.

(b) Exceptions. Continue to place these items next to bin:

- (i) Motor oil;
- (ii) Car batteries;
- (iii) Small amounts of scrap metal.

(c) The following materials do not go in the recycling cart:

- (i) No food or other organic waste;
- (ii) No foam, packing peanuts;
- (iii) No glass;
- (iv) No food-contaminated items. This includes food-contaminated cardboard, paper or boxes (such as pizza boxes), aluminum foil, paper plates, paper towels, TV dinner trays, or used tissues;
- (v) No soiled or wet newspaper, rubber bands or string;
- (vi) No scrap metal;
- (vii) Household hazardous waste;
- (viii) No plastic bags, wide-mouth plastic tubs (such as margarine, yogurt or cottage cheese), plastic trays, plastic toys, automotive product containers, poison or pesticide bottles. No plastic lids;
- (ix) No filled or partially filled containers containing household hazardous wastes, such as motor oil, paint, poison, cleaning fluids, insecticides, solvents, acids, gasoline, pool chemicals, highly flammable liquids, radioactive materials, or toxic chemicals. Discard empty household hazardous waste containers in your regular trash;
- (x) Do not place trash, greenery, lawn and garden waste or hazardous materials in your recycling cart.

(7) **Unlawful to Recycle Under Certain Conditions.** It shall be unlawful for any person to place any material in or around a recycling container other than the recycling material intended for that container. A violation of this provision shall be a misdemeanor.

(8) **Regulations Authorized.** The director is authorized and directed to establish and promulgate reasonable regulations including, but not limited to, regulations governing the permitting of recycling activities and the establishment of standards and conditions for recycling containers and centers. The solid waste utility shall designate the manner, day, location, and time for the collection of recyclable material and yard and garden waste.

(9) **Other Recycling Operations Allowed.** Nothing in this chapter shall abridge the right of any person to give or sell their recyclable material and/or yard and garden waste to any recycling and composting program lawfully operated for profit, nonprofit or charitable purposes.

- (10) **Permit Required.** It is unlawful to collect, haul, or convey recyclables or yard and garden waste from any premises in the city, other than from one's own premises or place of business, without a valid permit or in accordance with OHMC 15.04.130. A violation of this provision shall be a misdemeanor.
- (11) **Separation of Recycling and Other Solid Waste.** It shall be the responsibility of the customer to separate and keep separated from other solid waste any yard and garden waste placed at the curb for pick-up by the solid waste utility. The solid waste utility shall not be held responsible for failure to collect the yard and garden waste if there is a violation of any part of this chapter or if circumstances are beyond the control of the solid waste utility.
- (12) **Location for Recycling Material.** All new multifamily residences and new commercial developments shall provide adequate and conveniently located space to store and dispose of recyclable materials and solid waste. These spaces must be in compliance with the building code as adopted by the city of Oak Harbor and any applicable zoning codes.
- (13) **Rates.**
 - (a) **Commercial:** One recycling roll cart will be available for commercial accounts in 65-gallon and 95-gallon sizes supplied by the city at no cost. Additional roll carts may be requested at a monthly rate per container as listed in the Master Fee Schedule adopted by resolution of the city council.
 - (b) **Residential:** One 65-gallon recycling roll cart will be available for residential accounts, supplied by the city at no cost.
- (14) **Recycling collection shall be conducted on a weekly basis on the same day as the customer's regular solid waste collection.**

Section Seventy-four. Section 16.60.030 entitled "Installation permits" of the Oak Harbor Municipal Code, adopted by Ord. 936 in 1992, is hereby amended to read as follows:

16.60.030 Installation permits. The owner or the installer of a mobile home must obtain an installation permit from the city of Oak Harbor building department before a mobile home is installed that will be used as a residence on an approved building site. A permit fee shall be charged for single wide mobile homes and for double or triple wide mobile homes per the Master Fee Schedule adopted by resolution of the city council.

Section Seventy-five. Section 17.05.030 entitled "Permit fees" of the Oak Harbor Municipal Code, adopted by Ord. 1660 in 2013, is hereby amended to read as follows:

17.05.030 Permit fees. The city of Oak Harbor hereby adopts the following fee schedule for the building code:

- (1) **Building Permit Fees Adopted.** For determining the value of a structure, the most current issue of the Building Safety Journal Magazine, which offers the square foot construction costs table as published by the International Code Council, is adopted by reference.
- (2) **Plan Review Fees Adopted.** When submittal documents are required by the International Building Code Section 107, a plan review fee shall be paid at the time of submitting the submittal documents for plan review. The said plan review fee shall be sixty-five percent (65%) of the building permit fee as determined in Table 17-1 listed in the Master Fee Schedule adopted by resolution of the city council. The plan review fees specified are separate fees from the permit fees and are in addition to the permit fees. When submittal documents are incomplete or changed so as to require additional plan review or when the project involves deferred submittals items, an additional plan review fee shall be charged at the rate shown in Table 17-2 listed in the Master Fee Schedule adopted by resolution of the city council.
- (3) **International Property Maintenance Code.** A fee for an on-site compliance inspection by the building official or his representative shall be as set forth by Table 17-2, Miscellaneous Building Inspection Fees listed in the Master Fee Schedule adopted by resolution of the city council. Upon such application and payment of the fee herein provided the building official shall notify the applicant of the date and time of the inspection.
- (4) **Uniform Swimming Pool, Spa and Hot Tub Code.** The fees for swimming pools, spas, and hot tubs shall be as set forth in Table 17-5, Plumbing Permit Fees listed in the Master Fee Schedule adopted by resolution of city council.
- (5) **International Energy Conservation Code, Residential.** A fee for an on-site compliance inspection by the building official or his representative shall be as set forth by Table 17-2, Miscellaneous Building Inspection Fees listed in the Master Fee Schedule adopted by resolution of the city council. Upon such application and payment of the fee herein provided the building official shall notify the applicant of the date and time of the inspection.
- (6) **International Energy Conservation Code, Commercial.** A fee for an on-site compliance inspection by the building official or his representative shall be as set forth by Table 17-2, Miscellaneous Building Inspection Fees listed in the Master Fee Schedule adopted by resolution of the city council. Upon such application and payment of the fee herein provided the building official shall notify the applicant of the date and time of the inspection.

Section Seventy-six. Section 17.05.035 entitled "Building permit – Additional charge" of the Oak Harbor Municipal Code, adopted by Ord. 1599 in 2011, is hereby amended to read as follows:

17.05.035 Building permit – Additional charge.

- (1) An additional charge per the Master Fee Schedule adopted by resolution of the city council shall be added to the cost of a building permit and an additional surcharge per the Master Fee Schedule adopted by resolution of the city council per residential unit on buildings with more than one unit for purposes of paying fees required by RCW 19.27.085 as now in effect or hereafter amended.
- (2) The funds collected under subsection (1) of this section shall be held by the city treasurer and transmitted to the state as required by law.

Section Seventy-seven. Section 17.10.070 entitled "Amendments - Additions" of the Oak Harbor Municipal Code, adopted by Ord. 1660 in 2013, is hereby amended to read as follows:

17.10.070 Amendments - Additions. The following sections and appendix chapters of the International Mechanical Code as adopted in OHMC 17.10.020 are amended to read as follows:

- (1) Section 106.4.3 is hereby amended to read as follows:

106.4.3 Expiration. Every permit issued by the building official under the provisions of this code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within one hundred eighty (180) days from the date of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred eighty (180) days. Before such work recommences, a new permit shall be first obtained and the fee, therefore, shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original construction documents for such work, and provided further that suspension or abandonment has not exceeded one year. In order to renew action on a permit after expiration, the permittee shall pay a new full permit fee.

- (2) Section 106.5.2 is hereby amended to read as follows:

106.5.2 Fee Schedule. The fees for mechanical work shall be as indicated in Table 17-6 Mechanical Permit Fees listed in the Master Fee Schedule adopted by resolution of the city council.

- (3) Table 17-6 Mechanical Permit Fees. Fees are listed in the Master Fee Schedule adopted by resolution of the city council.

- (4) Section 106.5.3 is hereby amended to read as follows:

106.5.3 Fee Refunds. The building official shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder which was erroneously paid or collected.
2. Not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.
3. Not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done.

The building official shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than 180 days after the date of fee payment.

- (5) Section 108.1 is hereby amended to read as follows:

108.1 Unlawful Acts. It shall be unlawful for a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish or utilize a mechanical system, or cause the same to be done, in conflict with or in violation of any of the provisions of this code. Each separate day or any portion thereof, during which any violation of this code occurs or continues, shall be deemed to constitute a separate offense.

- (6) Section 202 is hereby amended to read as follows:

SUBSTANTIALLY REMODELED. Substantially Remodeled is any alteration or restoration of a building exceeding 60 percent of the assessed valuation of such building within a twelve-month period.

- (7) Section 901.5 is hereby added to read as follows:

901.5 Solid Fuel Burning Devices. No used fuel-burning device shall be installed in new or existing buildings unless such device is United States Environmental Protection Agency certified or a pellet stove either certified or exempt from certification by the United States Environmental Protection Agency. **EXCEPTION:** antique wood cook stoves and heaters manufactured prior to 1940.

Section Seventy-eight. Section 17.12.070 entitled "Amendments - Additions" of the Oak Harbor Municipal Code, adopted by Ord. 1599 in 2011, is hereby amended to read as follows:

17.12.070 Amendments - Additions. The following sections of the Uniform Plumbing Code in effect are amended to read as follows:

- (1) Section 103.4.1 is hereby amended to read as follows:

103.4.1 Permit Fees. Fees shall be assessed in accordance with the provisions of this section and as set forth in Table 17-5 listed in the Master Fee Schedule adopted by resolution of the city council. The fees are determined and adopted by the city of Oak Harbor.

- (2) Section 103.4.5 is hereby amended to read as follows:

103.4.5 Fee Refunds.

103.4.5.1 The building official may authorize the refunding of any fee paid hereunder which was erroneously paid or collected.

103.4.5.2 The building official may authorize refunding of 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.

103.4.5.3 The building official shall not authorize the refunding of any fee paid except on written application filed by the original permittee not later than 180 days after the date of fee payment.

103.4.5.4 The building official may authorize refunding of not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review has been paid is withdrawn or canceled before any plan reviewing is done.

Section Seventy-nine. Section 18.20.515 entitled "Closed record appeal on certain Type I review processes" of the Oak Harbor Municipal Code, adopted by Ord. 1376 in 2004, is hereby amended to read as follows:

18.20.515 Closed record appeal on certain Type I review processes.

- (1) The following Type I and Type II review processes shall be subject to closed record appeal to the city council by an aggrieved party or the city:
- (a) Transportation concurrency;
 - (b) Transportation impact fees;
 - (c) Park impact fees;
 - (d) Dedication in lieu of park impact fees;

- (e) Other permits or variances under OHMC Title 13.
- (2) Appeals for closed record review shall be filed within ten (10) days of the date of the decision with the city clerk's office with a fee for appeal per the Master Fee Schedule adopted by resolution of the city council.
- (3) If other permits are to be issued prior to determination of the closed record appeal, the person, if appellant, is required to pay the fees or complete other actions and shall post a bond, cash or other assurances acceptable to the city sufficient to cover the fee or assessments or complete the requirements appealed; provided further, that the city shall not be required to post fees, cash or other assurances. If the city appeals, issuance of permits will be conditional upon payment of fees or completing conditions if the city should win.
- (4) A closed record appeal shall be considered solely on the record and decision of the hearing examiner.
- (5) Issues of law shall be reviewed de novo.
- (6) Issues of fact shall be reviewed on the basis that the determinations of the hearing examiner shall stand unless there is found to be no substantial evidence supporting the same.
- (7) The city council may adopt such other procedures to effect closed record appeals as are needed by motion or resolution.
- (8) Decision of city council is final, subject to appeal to the superior court of Island County under Chapter 36.70C RCW.

Section Eighty. Section 18.60.030 entitled "Utility system development charges after July 15, 2004" of the Oak Harbor Municipal Code, adopted by Ord. 1386 in 2004, is hereby amended to read as follows:

18.60.030 Utility system development charges after July 15, 2004.

- (1) A utility system development charge is imposed upon all lands in the city, all lands owned by the city but outside the boundary of the city, and all lands outside the boundary of the city which utilize either water facilities or sewer facilities or both of the city, except those lands exempted under this chapter, at the rates listed in the Master Fee Schedule adopted by resolution of the city council.
- (2) The system development charge for new construction will be based on the required meter size for domestic service and not include any oversizing for the purpose of fire protection.

Section Eighty-one. Section 19.20.580 entitled "Appeals to council" of the Oak Harbor Municipal Code, adopted by Ord. 1573 in 2010, is hereby amended to read as follows:

19.20.580 Appeals to council.

- (1) Within ten (10) days after the date of decision by the planning commission on an application of approval of a preliminary or final master plan in accordance with OHMC 19.20.545 or 19.20.565 such approval may be appealed to the city council by the applicant, the permit holder or any other interested party. Such appeal shall be made on a form prescribed by the commission and shall be filed within the prescribed time with the office of the city clerk and must be accompanied by a filing fee per the Master Fee Schedule adopted by resolution of the city council. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the commission or wherein its decision is not supported by the evidence in the record or where ample consideration of good planning principles have not been made.
- (2) Upon receipt of such appeal, together with the filing fee, the city council shall set the time for consideration thereof. The city clerk shall notify the chairman of the planning commission of the receipt of said appeal and of the time set for consideration thereof and the city clerk shall, not less than five (5) days prior to the date set for the hearing on the appeal, give written notice to the appellant and to any known adverse parties or to their representatives of the time and place of the hearing.
- (3) In considering the appeal, the city council shall determine whether the proposal conforms to the applicable criteria and standards of the preliminary approval based on the criteria set forth in OHMC 19.20.545 and may refer the matter back to the planning commission for further information or reconsideration or approve or disapprove the proposed development or require such changes therein or impose such reasonable conditions of approval as are, in its judgment, necessary to ensure conformity to said preliminary approval. The decision of the city council shall be final.

Section Eighty-two. Section 19.20.705 entitled "Appeals to council" of the Oak Harbor Municipal Code, adopted by Ord. 1573 in 2010, is hereby amended to read as follows:

19.20.705 Appeals to council.

- (1) Within ten (10) days after the date of decision by the planning commission on an application of approval of a site plan in accordance with OHMC 19.20.695, such approval or revocation shall be taken to the city council by the applicant, the permit holder or any other interested party. Such appeal shall be made on a form prescribed by the commission and shall be filed within the prescribed time with the office of the city clerk and must be accompanied by a filing fee per the Master Fee Schedule adopted by resolution of the city council. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the commission or wherein its decision is not supported by the evidence in the record or where ample consideration of good planning principles have not been made.

- (2) Upon receipt of such appeal, together with the filing fee, the city council shall set the time for consideration thereof. The city clerk shall notify the chairman of the planning commission of the receipt of said appeal and of the time set for consideration thereof and the city clerk shall, not less than five (5) days prior to the date set for the hearing on the appeal, give written notice to the appellant and to any known adverse parties or to their representatives of the time and place of the hearing.
- (3) In considering the appeal, the city council shall determine whether the proposal conforms to the applicable criteria and standards of approval based on the criteria set forth in OHMC 19.20.695 and may refer the matter back to the planning commission for further information or reconsideration or approve or disapprove the proposed development or require such changes therein or impose such reasonable conditions of approval as are, in its judgment, necessary to ensure conformity to said preliminary approval. The decision of the city council shall be final.

Section Eighty-three. Section 19.36.130 entitled "Permits and fees" of the Oak Harbor Municipal Code, adopted by Ord. 1553 in 2009, is hereby amended to read as follows:

19.36.130 Permits and fees.

- (1) **Permit Requirements.** All signs more than six square feet in surface area as governed by this code and all lighted signs must have a permit issued by the city, excluding nonlighted window signs in C-1 zones.
- (2) **Permit Applications.** Applications for permits shall contain the name and address of the owner and user of the sign, the name and address of the owner of the property on which the sign is to be located, the location of the sign structure, drawings or photographs showing the design and dimensions of the sign and details of its proposed placement, and such other pertinent information as the administrator of this code may require to ensure compliance with this code and other applicable ordinances. Permit applications shall be available for inspection by the public upon request.
- (3) **Expiration of Permits.** A sign permit shall become null and void if the work for which the permit was issued has not been completed within one (1) year of its issuance. Permits for temporary or special signs (OHMC 19.36.080) shall expire a maximum of twelve (12) months from the date of the sign installation. Such permits are not subject to renewal.
- (4) **Permit Exceptions.** No new permit shall be required:
 - (a) For repainting, cleaning or 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 or content is not modified in any way;
 - (b) For the changing of the advertising copy or message on an approved reader board or theater marquee, during the period of amortization.

- (5) Notice of Permit Denial – Reasons. When a sign permit is denied by the administrator, he shall give written notice of the denial to the applicant, together with a brief written statement of the reasons for the denial.
- (6) Sign Permit Appeals.
 - (a) Appeal from Denial of Permit. Appeals from the administrator’s denial of a sign permit shall be taken to the hearing examiner as per OHMC 19.36.160.
 - (b) Appeal from Failure of Administrator to Act on Permit Application within Thirty (30) Days. The administrator’s failure to either formally grant or deny a sign application within thirty (30) days of the date an application meeting the requirements of subsection (2) of this section is filed shall be grounds for appeal to the hearing examiner under terms of OHMC 19.36.160.
- (7) Fees. The applicant shall submit the applicable fees at the time of application which are listed in the Master Fee Schedule adopted by resolution of the city council.
- (8) Permit Fee. Sign permit fees shall be determined by value of the sign and a fee shall be charged as set forth in OHMC 17.05.030, Table 17.

Section Eighty-four. Section 19.52.060 entitled "Nonconforming uses" of the Oak Harbor Municipal Code, adopted by Ord. 1601 in 2011, is hereby amended to read as follows:

19.52.060 Nonconforming uses. For purposes of this title, a “nonconforming adult entertainment facility” constitutes an adult entertainment facility which lawfully exists as an adult entertainment facility which receives nonconforming status by virtue of an order from a court of competent jurisdiction, or which lawfully existed as an adult entertainment facility prior to a change in the zoning which change does not permit an adult entertainment facility in its existing location and is maintained as an adult entertainment facility although it does not comply with the adult entertainment facility zoning requirements set forth in this chapter, or is an adult entertainment facility which lawfully existed prior to annexation by the city and is maintained after the effective date of annexation and does not comply with the adult entertainment facility zoning requirements set forth in this chapter.

- (1) The location of a newly established public park, permanent religious institution, or school within 750 feet or the establishment of a residential district within 750 feet of an existing adult entertainment facility shall not cause the existing adult entertainment business to be deemed a nonconforming use unless the city council makes a determination that the newly established park, religious institution or school requires separation from adult entertainment facilities, and further provided that the exclusion of any such areas from adult entertainment facility zoning overlay shall require a review of available lands to ensure sufficient alternative avenues of communication for adult entertainment uses are available.
- (2) Adult entertainment facilities which are nonconforming uses in the zone in which they are located and which are located within the city limits shall be discontinued within one

year of the date of becoming a nonconforming adult use business or upon the expiration of the leasehold period in existence as of the date of becoming a nonconforming adult entertainment facility, or upon the sale of the nonconforming adult entertainment facility, whichever occurs first. Adult entertainment facilities which are nonconforming as a result of annexation to the city shall be discontinued within one (1) year of the date of annexation. Such nonconforming adult entertainment facility shall not be extended, expanded, enlarged or increased in intensity. Such prohibited activities (extend, expand, enlarge, increase in intensity) shall include:

- (a) Extension of a nonconforming adult entertainment facility to any building or other structure or land area other than one occupied by such use as of the date of becoming a nonconforming adult entertainment facility.
 - (b) Extension of any specific type of nonconforming adult entertainment facility, as separately defined in OHMC 19.52.030(2), within a building or other structure to any portion of the floor area that was not occupied by that same type of adult entertainment facility as of the date of becoming a nonconforming adult entertainment facility.
 - (c) Operation of a nonconforming use in such manner as to conflict with, or to further conflict with if already conflicting as of the date of becoming a nonconforming adult entertainment facility.
- (3) Any change in a nonconforming adult entertainment facility shall be to a use which is legally permitted within the zone in which it is located. In the event a nonconforming adult entertainment facility, or portion thereof, is changed to a use which is legally permitted within the zone in which it is located, then the structure or portion thereof which contained the adult entertainment facility cannot thereafter be used or reused for any type of adult entertainment facility. In the event a nonconforming adult entertainment facility building or structure is vacated, closed or abandoned for a period in excess of six months, the structure shall not thereafter be used except in conformance with a use which is legally permitted within the zone in which it is located. A vacated, closed or abandoned nonconforming adult entertainment facility building or structure shall also be subject to the discontinuation provisions of subsection (2) of this section.
- (4) Repairs and alterations to a nonconforming adult entertainment facility building or structure shall be limited to nonstructural repairs and incidental alterations for normal maintenance and shall only be permitted to the extent necessitated by normal wear and tear. No structural alterations shall be allowed.
- (5) A building or structure containing a nonconforming adult entertainment facility which is damaged or destroyed by fire, wind, earthquake or other natural disaster can be restored and the same use or occupancy continued or resumed provided the total cost of such restoration does not exceed fifty percent (50%) of the real valuation of the building or structure exclusive of foundations at the time of such damage; provided, that such restoration shall not extend the one (1) year discontinuation period established in

subsection (2) of this section. Restoration of a structure or building housing a nonconforming adult entertainment facility or moneys used therefor shall not be used as factors by the examiner when considering any request of a time extension made pursuant to subsection (6) of this section.

- (6) In the event the owner of a nonconforming adult entertainment facility determines that the period set forth in subsection (2) of this section does not provide the adult entertainment facility with a reasonable period of amortization, then no later than one hundred eighty (180) days prior to the expiration of the period, the owner of a nonconforming adult entertainment facility shall make application to the city land use hearing examiner for an extension of time. Accompanying the application shall be a fee in the amount per the Master Fee Schedule adopted by resolution of the city council and detailed information addressing the below-listed factors to be considered by the hearing examiner. In determining whether or not to grant the extension, the hearing examiner shall determine whether or not the harm or hardship to the nonconforming adult entertainment facility outweighs the benefit to be gained from the public from termination of the use. Factors to be considered by the hearing examiner include the location of the business in relation to sensitive land uses such as schools, parks, churches, residential zone(s), etc., initial capital investment, investment realization to date, life expectancy of the investment, the existence or nonexistence of a lease obligation, as well as a contingency clause permitting termination of the lease, or whether a reasonable alternate use of the property exists. The action of the hearing examiner shall be in accordance with the review process as described in Chapter 18.40 OHMC for a Review Process III.
- (7) Within thirty (30) calendar days of becoming a nonconforming adult entertainment facility, the nonconforming adult entertainment facility shall provide the city's development services director with copies of its current leasehold document(s) which sets forth their existing leasehold time period or, in the case of a non-leasehold interest, the city's development services director shall be provided other documents which show record of ownership.

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

Section Eighty-six. Effective Date. This Ordinance shall be in full force and effect five days after publication.

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PASSED by the City Council this 16th day of December, 2014.

Veto ()
Approve (✓)

THE CITY OF OAK HARBOR

[Signature]
Mayor

12/17/14
Date

Attest:

Approved as to Form:

[Signature]
Anna Thompson, City Clerk

[Signature]
Nikki Esparza, City Attorney

Published: 12/20/14