

POULSBO DISTRIBUTION SCHEDULE

ORDINANCE NO. 2020-01

SUBJECT: Zoning Amendments for High Risk Secured Facilities

CONFORM AS TO DATES & SIGNATURES

- Filed with the City Clerk: 12/31/19
- Passed by the City Council: 01/08/2020
- Signature of Mayor
- Signature of City Clerk
- Publication: 01/17/2020
- Effective: 01/22/2020
- Recorded: _____

DISTRIBUTED COPIES AS FOLLOWS:

- NK Herald: 01/09/2020
- Code Publishing
- City Attorney
- Clerk's Department: Original
- City Council
- Finance:
- Posted to Library Drive and Website
- _____

Rhiannon Fernandez
City Clerk

01/09/2020
Date

ORDINANCE NO. 2020-01

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, AMENDING SECTIONS 18.40.030 AND 18.90.030 AND ADDING A NEW SECTION 18.90.085 OF THE POULSBO MUNICIPAL CODE IN ORDER TO ADOPT PERMANENT REGULATIONS RELATED TO HIGH RISK SECURED FACILITIES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, in 1990, Washington State passed a law, Chapter 71.09 RCW, to authorize the indefinite civil commitment of individuals found by a Superior Court to be a Sexually Violent Predator (SVP); and

WHEREAS, certain individuals that are civilly committed as SVPs have fulfilled their sentence, but have been found to suffer from a mental abnormality or personality disorder that makes the individual likely to reoffend if not confined in a secure facility; and

WHEREAS, in 1991, a federal district court civil rights lawsuit was filed alleging violations of the constitutional rights of individuals that were civilly committed under Washington law; and

WHEREAS, in 1994, the Federal District Court for Western Washington entered an order and injunction requiring the state to provide constitutionally adequate mental health treatment for individuals that have been civilly committed. The court also found that the lack of a less restrictive alternative (LRA) to total confinement limited an individual's opportunity to demonstrate their reduced risk and ordered the state to explore alternatives; and

WHEREAS, in 2007, the federal district court dismissed the injunction and closed the case after the state established two Secure Community Transition Facilities (SCTF) and amended state law, RCW 71.09.070, to require an annual review to determine if an SVP is eligible for placement in an LRA; and

WHEREAS, an LRA is a facility that provides court-ordered supervision, security, and treatment to individuals that have been civilly committed and conditionally released from a total confinement facility; and

WHEREAS, Washington State does not regulate the location or land use of community based LRAs; and

WHEREAS, the City Council of the City of Poulsbo has determined that the current city regulations do not sufficiently define LRA facilities or mitigate their land use and life safety impacts to protect both the residents of potential LRA facilities within the city or the neighbors of such facilities; and

WHEREAS, the Growth Management Act (GMA), Chapter 36.70A RCW, provides that each jurisdiction's comprehensive plan and development regulations shall be subject to continuing review and evaluation; and

WHEREAS, the City Council passed Ordinance 2019-07 on April 16, 2019, establishing a six-month interim development prohibition on High-Risk Secured Facilities; and

WHEREAS, the City Council authorized and extension to the interim development prohibition on October 9, 2019 with Ordinance 2019-16; and

WHEREAS, on November 15, 2019, the Notice of Application (NOA) with Optional DNS, Notice of Planning Commission Public Hearing, and Notice of City Council Public Hearing was published in the North Kitsap Herald, emailed to the NOA, SEPA, and Development Regulations e-notice list, and posted at the Poulsbo Library, Poulsbo Post Office, City Hall and the City's website; and

WHEREAS, on December 2, 2019, the SEPA Threshold Determination was issued; and

WHEREAS, on December 10, 2019, the Planning Commission held a duly noticed public hearing; and

WHEREAS, after considering the testimony received at the public hearing, the Planning Commission voted to recommend approval of the Zoning Ordinance Amendments Regarding High Risk Secured Facilities to the Poulsbo City Council, and adopted findings of fact in support of their decision; and

WHEREAS, the City Planning Staff issued a City Council public hearing staff report on December 11, 2019; and

WHEREAS, the Poulsbo City Council held a duly noticed public hearing on the Zoning Ordinance Amendments Regarding High Risk Secured Facilities on December 18, 2019; and

WHEREAS, the City Council desires to enact permanent regulations to protect public health and safety in a way that mitigates land use and life safety impacts without precluding the state-mandated

placement of housing for persons that are civilly committed and conditionally released to a less restrictive alternative to total confinement;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF POULSBO, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings and Conclusions. In support of the actions taken by this ordinance, the Poulsbo City Council hereby adopts the following as findings and conclusions:

- A. The recitals set forth above;
- B. The findings, conclusions, and analysis contained in the Planning Commission Findings of Fact and Recommendation; and
- C. The findings, conclusions and analysis contained in the City Council Public Hearing Staff Report, dated December 11, 2019.

Section 2. Zoning Ordinance Amendments Regarding High Risk Secured Facilities. Poulsbo Municipal Code section 18.40.030 and 18.90 is hereby amended as set forth in Attachment A to this ordinance.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 4. Effective Date. This ordinance shall take effect five (5) days after publication of the attached summary, which is hereby approved.

APPROVED:

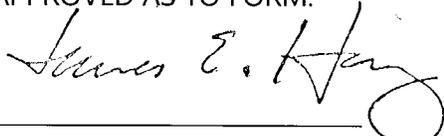

MAYOR REBECCA ERICKSON

ATTEST/AUTHENTICATED:



CITY CLERK RHIANNON FERNANDEZ

APPROVED AS TO FORM:



CITY ATTORNEY JAMES E. HANEY

FILED WITH THE CITY CLERK: 12/31/2019
PASSED BY THE CITY COUNCIL: 01/08/2020
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SUMMARY OF ORDINANCE NO. 2020-01

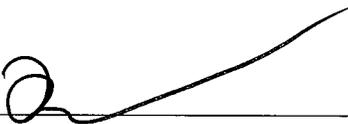
of the City of Poulsbo, Washington

On the 8th day of January, 2020, the City Council of the City of Poulsbo, passed Ordinance No. 2020-01. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, AMENDING SECTIONS 18.40.030 AND 18.90.030 AND ADDING A NEW SECTION 18.90.085 OF THE POULSBO MUNICIPAL CODE IN ORDER TO ADOPT PERMANENT REGULATIONS RELATED TO HIGH RISK SECURED FACILITIES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

The full text of this Ordinance will be mailed upon request.

DATED this 8th day of January, 2020.



CITY CLERK RHIANNON FERNANDEZ

ATTACHMENT A TO ORDINANCE 2020-01

18.40.030 Definitions.

H Definitions.

“High-Risk Secured Facility” means a facility that provides court-ordered housing, supervision, 24-hour security, and coordinates treatment services for persons who are found by the court to be a “Sexually Violent Predator” or pose a likelihood of serious harm to others as defined in RCW 71.05.020 and are civilly-committed to a less restrictive alternative as defined in state law. Such facilities accommodate two or more persons placed by the court plus treatment and support stat. A High-Risk Secured Facility does not include:

- A. Secure community transition facilities proposed under the authority of, and consistent with the provisions of Chapter 71.09 RCW; or
- B. Nursing homes, assisted living, or adult family homes that become licensed as enhanced services facilities as defined in RCW 70.97.060(4).

18.90.030 Uses.

Table 18.90.030 Business and Employment District Uses			
USE	OCI	BP	LI
Office and Professional Services			
All forms of corporate, professional, public, brokerage, administrative, financial, building trade, and research offices	P	P	X
Corporate headquarters and regional offices	P	P	X
Office-oriented service providers, such as communications services, photocopying, courier and messenger services, graphic design, printing, promotional products, and the like	P	P	X
Office equipment sales and services	P	P	X
Technology service and support, copy and connectivity centers, telework centers	P	P	X
Business/Technology Research and Development			
Biotechnology/medical laboratories	AC	AC	AC
Computer technology	P	P	P
Electronic components and board systems engineering and development	P	P	P
Research and research industry-oriented service providers	P	P	P
Software engineering	P	P	X
Commercial Services and Retail			
Auto and boat service and repair (but not sales)	X	X	P
Auto fuel service station <i>(An associated retail convenience structure may be allowed; however, size is limited to no more than 1,500 square feet.)</i>	AC	AC	X unless associated in support of a permitted vehicle fleet use
Building materials retail sales <i>(not including regional retailers which are not allowed)</i>	AC	AC	X
Commercial convenience, personal services, and restaurant establishments <i>(In existing or new structures 5,000 square feet or larger, commercial convenience, personal service uses, and restaurant eating/drinking establishments are allowed but are to be subordinate to the building's</i>	P	P	X

Table 18.90.030 Business and Employment District Uses

USE	OCI	BP	LI
<i>primary uses. All commercial uses located in the structure shall be limited to 25% of the building's gross square footage. No drive-through facilities are allowed.)</i>			
Commercial retail in conjunction with a primary use <i>(Retail sales of products assembled, manufactured, etc., in the OCI/BP/LI zoning districts are allowed but are to be subordinate to the building's primary use. Retail sales use is limited to 25% of the building's gross square footage.)</i>	P	P	P
Food service contractor	P	P	P
Food and drink where manufactured and sold on premises <i>(on-premises tasting room, restaurant, and/or retail sales limited to 25% of gross square footage)</i>	AC	AC	AC
Nursery/landscaping materials retail sales	AC	P	X
Wholesale product showrooms	P	P	AC
Light Industrial			
Equipment rental	AC	AC	P
Industrial laundry and upholstery services	X	AC	P
Resource recycling and recovery (not including recycling dropoff facilities)	X	X	P
Manufacturing			
Beverage products	AC	P	P
Cabinet shop or carpenter shop	AC	AC	P
Electrical and electronic equipment manufacture	AC	P	P
Electrical component assembly, including assembly of computer products, office equipment, and related components	P	P	P
Metal, wood and other materials fabrication and assembly in an enclosed building	AC	AC	P
Food and kindred products, manufacture, processing and packaging <i>(excluding animal slaughtering and processing)</i>	AC	P	P
Furniture and fixtures manufacture and assembly	AC	P	P
Handcrafted products, crafts or other art-related items	P	P	P
Large-scale and mass produced lumber and wood products <i>(excluding sawmills)</i>	X	AC	P
Measuring, analyzing and control instruments	P	P	P
Medical equipment and supplies	P	P	P
Miscellaneous light fabrication and assembly not otherwise named	AC	AC	P
Perfumes, cosmetics and similar preparations	AC	AC	P
Photographic, medical, audio and optical equipment	AC	P	P
Printing, publishing and allied products	AC	P	P
Products made from light stone, clay and glass	AC	P	P
Signs	P	P	P
Textiles, apparel and leather goods	P	P	P
Warehousing, Distribution and Storage			

Table 18.90.030 Business and Employment District Uses			
USE	OCI	BP	LI
Equipment/materials outdoor storage as a primary use (including building trade and landscaping)			
a. Storage yards occupying less than 10,000 square feet	AC	AC	P
b. Storage yards occupying more than 10,000 square feet	X	AC	AC
Commercial fuel distributors	X	C	AC
Mail order or direct selling and distribution	P	P	P
Packing, crating and convention and trade show services	P	P	P
Processing and/or packaging previously prepared materials	P	P	P
Self-serve mini-storage	X	AC	P
Truck and freight transportation services	X	C	AC
Warehousing, product distribution, and wholesale trade	X	AC	P
Residential			
Dwelling units above nonresidential uses (mixed use structures) <i>(Nonresidential uses must be located on ground level or first floor if ground level is parking)</i>	P	P	AC
Employee/security units in conjunction with manufacturing, distribution or storage uses	P	P	P
Existing residential use without increase in density <i>(subject to the provisions of Section 18.160.060)</i>	P	P	P
Live/work units	P	X	X
Public and Quasi-Public			
Essential public facilities, state and regional	P	P	P
Essential public facilities, local	C	C	C
Government maintenance shops and fleet vehicle storage	AC	AC	P
Public administration office and services	P	P	P
Public parks	P	P	P
Solid waste transfer facilities	X	C	C
Recycling dropoff facilities	X	AC	P
Utility facilities and utility system	P	P	P
Transit facilities, including park and ride lots and transfer centers	C	C	C
Wireless communication facilities (exceeding 21' in height)	C	C	C
Co-location on existing facility or structure	AC	AC	AC
Wireless communication facilities (20' or less)	P	P	P
Other			
Adult entertainment businesses	X	X	P
Ambulatory and outpatient care services (physicians, outpatient clinics, dentists)	P	P	X
Child care centers	AC	AC	X
College, universities, technical, trade and other specialty schools	C	C	X

Table 18.90.030 Business and Employment District Uses			
USE	OCI	BP	LI
Existing legal nonconforming uses (<i>provided that the legal nonconforming use continues and does not cease to be in use for 12 months or longer. See Chapter 18.160</i>)	P	P	P
Grade schools (K–12)	C	C	X
High-Risk Secured Facilities	X	X	C
Hospital	C	C	X
Museums, historic and cultural exhibits	P	P	X
Privately owned amusement, sports or recreation establishments (<i>retail sales limited to 25% of use's total square footage</i>)	P	P	X
Churches, new freestanding structures and existing building(s) 5,000 square feet or larger	C	C	X
Churches, under 5,000 square feet and within an existing building(s)	AC	AC	X
Sports arena or stadium	C	C	X
Veterinary clinics and hospitals (not including kennels)	P	P	X

18.90.085 High-Risk Secured Facility.

A High-Risk Secured Facility shall comply with the following conditions;

- A. A High Risk Secured Facility shall be allowed within the zoning districts set forth in Table 18.90.030 and through a conditional use permit. Siting within any other zoning districts is prohibited.
- B. A neighborhood meeting is required pursuant to PMC 19.60.
- C. A High Risk Secured Facility shall not be located adjacent to, immediately across the street or parking lot from, or within the line of sight of a risk potential activity or facility in existence at the time a facility is established.
 - 1. "Within line of sight" means that it is possible to reasonably visually distinguish and recognize individuals.
 - 2. "Risk potential activities and facilities" means an activity or facility that provides a higher incidence of risk to the public from persons conditionally released from the special commitment center. Risk potential activities and facilities include: Public and private school, school bus stops, licensed day care and licensed preschool facilities, domestic violence shelters, public parks, publicly dedicated trails, sports fields, playgrounds, recreational and community centers, churches, synagogues, temples, mosques, public libraries, public and private youth camps, and others identified during a public hearing. For the purpose of this section "school bus stops" does not include bus stops established primarily for public transit.
 - 3. A High-Risk Secured Facility shall not be located in a community protection zone as defined in RCW 9.94A.030(6).
 - a. Distance shall be measured from all property lines of a High-Risk Secured Facility from all property lines of the facilities and grounds of a public or private school.
- D. A High-Risk Secured Facility shall meet the applicable health district standards for water and sewage disposal to account for staff and residents.
- E. Principal access to the site shall be from a City maintained right-of-way.
- F. A High-Risk Secured Facility shall be equipped with a mechanism that is interlocked with the fire protection system to automatically release security locks and allow safe egress from the structure in the event of fire or other emergency.
- G. A High-Risk Secured Facility shall be equipped with a backup power system and an automatic transfer switch sufficient to energize and maintain the function of safety, security, and surveillance systems in the event of a power outage.