



City of Othello
Washington
Ordinance No. 1546

**AN ORDINANCE OF THE CITY OF OTHELLO
AMENDING THE FOLLOWING PORTIONS OF OMC TITLE 17 “ZONING”:
SECTION 17.05.040 TITLED “ZONE CHANGE EXTENSIONS”,
SECTION 17.30.010 TITLED “ENUMERATED”,
CHAPTER 17.44 TITLED “RECREATIONAL VEHICLE PARKS”,
CHAPTER 17.54 TITLED “PLANNED DEVELOPMENT DISTRICT OVERLAY”,
SECTION 17.65.030 TITLED “BUILDING OCCUPANCY”,
SECTION 17.59.010 TITLED “APPLICATION FOR HOME OCCUPATION USES AND
APPEALS”,
CHAPTER 17.87 TITLED “AMENDMENTS”, AND
CHAPTER 17.92 TITLED “GENERAL ADMINISTRATION AND ENFORCEMENT”.**

**THE CITY COUNCIL OF THE CITY OF OTHELLO, WASHINGTON ORDAINS AS
FOLLOWS:**

Section 1. Amendment. Othello Municipal Code Section 17.05.040 of Chapter 17.05 titled “Interpretation, Purpose, Applicability” is hereby amended as follows:

17.05.040 Zone change extension.

Any person desiring to have an existing zone classification changed shall file a petition requesting such change together with the required fees with the city clerk. Said petition shall first be considered by the ~~planning commission hearing examiner at a public hearing.~~ If denied, the reasons for the denial shall be clearly set forth in the ~~minutes of the meeting~~ notice of decision. Upon approval of such petition, it shall be referred to the city council for further consideration. ~~The council shall set a date for a public hearing on the petition and give appropriate notice of all persons who appear to be affected by the proposed change.~~ Approval of the petition and the actual change in the zone classification shall be accomplished only by the adoption of an ordinance which also amends the zoning map. (Ord. 948 § 2 (part), 1995).

Section 2. Amendment. Othello Municipal Code Section 17.13.010 of Chapter 17.13 titled “Districts, Boundaries” is hereby amended as follows:

17.13.010 Enumerated.

For the purposes of this title, the city is divided into districts as follows:

R-1 residential district

R-2 residential district

R-3 residential district

R-4 residential district

Residential-medical district

~~RMH residential district~~

S-1 suburban

C-1 commercial district

C-2 commercial district

C-3 commercial district

I-1 industrial district

I-2 industrial district

Open space recreational

Open space urban reserve

(Ord. 1142 § 1 (part), 2003; Ord. 948 § 2 (part), 1995).

Section 3. Amendment. Othello Municipal Code Chapter 17.44 titled “Recreational Vehicle Parks” is hereby amended as follows:

Chapter 17.44
RECREATIONAL VEHICLE PARKS

Sections:

- 17.44.010 Recreational vehicle (RV) park ~~(permitted by conditional use in the C-2 district).~~
- 17.44.020 Principal permitted uses.
- 17.44.030 Recreational park development standards.
- 17.44.040 Operational requirements.
- 17.44.050 RV park administration.

17.44.010 Recreational vehicle (RV) park ~~(permitted by conditional use in the C-2 district).~~

A conditional use permit is required. The ownership of the land must be under one entity (i.e., one person, partnership, firm or corporation). All streets and systems within the boundaries of the park, although served by the municipal system, are maintained by the ownership entity. Application shall be submitted to the city of Othello hearing examiner. In addition to the requirements specified, the application/development plan shall include design specifics of the park, as set forth and required in this section, including, but not limited to, the location and dimensions of each RV lot; the location of each RV stand (so that setbacks, yards and other open spaces and utility connections may be determined); the location of street lighting; the method for drainage and the location of all catchbasins and storm sewers; and the park landscaping plan. (Ord. 971 § 1 (part), 1995; Ord. 948 § 2 (part), 1995).

17.44.020 Principal permitted uses.

Principal permitted uses include:

- (1) Recreational vehicles used for temporary dwelling purposes ~~with their customary accessory uses;~~
- (2) Buildings and structures necessary for the operation and maintenance of the park, or providing customary accessory uses of parks, including laundry facilities, office and equipment storage buildings;
- (3) Community recreation facilities, for residents of the park and their guests, including swimming pools;
- (4) Residences for the use of a manager and/or caretaker responsible for maintaining or operating the park which may be either a conventional single-family dwelling or a mobile home;
- (5) Vending machines and similar products and services may be approved by the hearing examiner. (Ord. 948 § 2 (part), 1995).

17.44.030 Recreational park development standards.

- (a) Minimum Park Size. The minimum area for an RV park shall be one acre.
- (b) Public Access. Public access not less than twenty-two feet in width shall be required from the recreational vehicle park to an arterial or collector street. The hearing examiner shall determine on a case-by-case basis whether a secondary access shall be required. Secondary access, if provided, shall enter the public street system at least one hundred fifty feet from the primary access.
- (c) Minimum lot requirements:
 - (1) Lot area—minimum of one thousand five hundred square feet;
 - (2) Lot width—minimum of twenty feet;
 - (3) Lot length—minimum of seventy-five feet;
 - (4) Minimum Building Setback Requirements.
 - (A) Twenty-five feet from a public right-of-way,

- (B) Fifteen feet from the RV lot line abutting on an interior access street,
 - (C) Fifteen feet from any park boundary (excluding public right-of-way);
- (5) Separation Requirements. No RV shall be located closer than fifteen feet from any other RV unit or permanent park building;
- (6) Occupied Area. Additional lot structures ~~shall be limited to such as storage sheds, patios and decks shall not be allowed; as long as the square footage, including the RV, does not exceed thirty percent of the lot. The owner or occupant shall secure a permit of construction from the Othello building department;~~
- (7) Interior Park Access Ways. Streets, driveways and other access ways within an RV park shall be constructed and maintained by the owner and/or developer of the park in accordance with the standards provided by the public works department. Interior park access ways shall not be dedicated as a public right-of-way unless otherwise approved or required by the city council. Interior park streets shall observe the following minimums:
- (A) No on-street parking: one-way roads, twelve feet; two-way roads, twenty-two feet,
 - (B) One side on-street parking: one-way roads, eighteen feet; two-way roads, twenty-eight feet;
- (8) Parking lanes shall be eight and one-half feet wide where provided;
- (9) Cul-de-sac streets and streets designated to have one end permanently closed (“Y” or “T”) should have a minimum turning radius of fifty feet, or an adequate right-of-way to permit ease of turning;
- (10) Parking Requirements. A minimum of one off-street parking space shall be provided adjacent to, or conveniently near, each RV lot. Parking may be in tandem;
- (11) Street Lighting. Adequate street lighting shall be provided to illuminate streets, driveways, walkways and buildings for the safe movement of pedestrians and vehicles and for the safe night time use of such facilities. Installation of all street lighting shall be in accordance with standards provided by the public works department;
- (12) Landscaping, Buffering and Screening.
- (A) RV parks shall be enclosed on all sides with permanently maintained natural or artificial barrier, such as a sight-obscuring wall or continuous buffer of trees or shrubs, not less than six feet in height, except for those sides abutting public rights-of-way. Sides which abut public rights-of-way shall be buffeted with a perimeter landscape strip not less than ten feet wide within the required setback. Such landscape strip shall be planted or installed with a permanently maintained natural or artificial barrier not less than four feet in height. If an artificial barrier is installed, the remainder of the landscape strip shall be landscaped with ground cover or other approved landscape treatment, excluding pavement. The hearing examiner may waive all or part of the perimeter landscaping requirements if, due to the nature of the existing topography or other existing conditions, it is unreasonable to require a wall, fence or screen.
 - (B) All open areas of the RV park shall be landscaped. A permanent irrigation system shall be installed and all landscaped areas shall be continually maintained.
 - (C) A specific landscaping plan for the RV park shall be submitted as part of the conditional use permit application. Landscaping material shall conform to, and be installed in accordance with the approved development plan prior to occupancy of any lot;
- (13) Utilities and Other Services.
- (A) The construction and maintenance of all water, sewer, electrical, communication and miscellaneous (television cable, etc.) service lines shall be under the supervision of the department or utility agency having jurisdiction in accordance with all applicable state and local codes, policies and

regulations. The location of all underground utility and service lines shall be indicated by an aboveground sign (or signs) identifying the proximity of the lines to the RV stand to facilitate service connection and to avoid damage to such underground services by the use of ground anchors, installation of skirting, etc. Fire protection, hydrant location, fire equipment access, etc. shall be approved by the local fire chief;

- (14) Water Supply and Distribution System. Each RV park shall be connected to the Othello municipal system, with the appropriate backflow preventative device installed, and its supply shall be used exclusively. Individual water service connection shall be provided for each lot;
- (15) Sewage Disposal. Connection shall be made to public sewer system;
- (16) Electrical Distribution System. Each RV park shall be provided with an electrical distribution system in accordance with the policies and specifications for installation and maintenance of the electrical utility having jurisdiction;
- (17) Solid Waste Disposal System. Solid waste collection stands shall be provided for all waste containers in accordance with specifications for design and location as provided by the public works department. Solid waste collection stands, whether individual or grouped, shall be screened from view with appropriate landscaping and/or screening as indicated on the approved landscaping plan;
- (18) Signs. Signs identifying the RV park shall be in conformance with applicable sign regulations. RV parks are subject to all applicable building and construction provisions of this code, which include issuance of building permits and authorized inspections of all phases of construction and development.

(d) No building permits shall be issued and no construction of any kind to create, alter or extend any RV park may be initiated until a conditional use permit has been granted by the hearing examiner in accordance with the procedure specified and subject to the applicable regulations and standards set forth in this section.

(e) All RV parks are developed pursuant to a binding site plan as provided in Chapter 16.26 of this code. (Ord. 971 § 1 (part), 1995; Ord. 948 § 2 (part), 1995).

17.44.040 Operational requirements.

(a) No RV lot may be rented or occupied until a business license for operation of the RV park has been obtained pursuant to Chapter ~~5.02~~ 4.04. A business license shall not be issued until all required building, fire and health inspections have been conducted.

(b) Construction or development of all of the improvements indicated on the approved development plan shall also be required prior to issuance of a business license; provided however, that the building official may waive this requirement if sufficient need can be shown. A performance bond or other acceptable security shall be required by the building official in order to ensure development as per the conditional use permit, for any improvements that are not completed prior to issuance of the business license. Such improvements shall be completed within a reasonable time, not to exceed six months.

(c) Prior to renewal of the business license, the building official shall inspect the RV park to check continued compliance with all conditions of the conditional use permit and shall submit to the park owner a written report stating whether or not the park is in compliance. The owner must take action to effect compliance with any conditions that are in violation before the business license shall be renewed. A violation of any of the licensing provisions of this section shall be subject to the penalties set forth in Chapter 17.92. (Ord. 948 § 2 (part), 1995).

17.44.050 RV park administration.

(a) It shall be the responsibility of the park owner and/or manager to assure that the provisions of this section, including installation of RV's ~~and construction of accessory structures on individual lots,~~ and additional conditions of the conditional use permit are observed and maintained within the RV park.

(b) The park shall be kept free of any brush, leaves and weeds and all landscaped areas shall be continually maintained.

(c) Failure to comply with any of the requirements for administering a recreational vehicle park shall be a violation subject to penalties set forth in Chapter 17.92. (Ord. 948 § 2 (part), 1995).

(d) No recreational vehicle shall be used as a permanent dwelling for indefinite periods of time. Removal of wheels of a recreational vehicle, except for temporary purposes of repair or replacement, is prohibited.

Section 4. Amendment. Othello Municipal Code Chapter 17.54 titled “Planned Development District Overlay” is hereby amended as follows:

Chapter 17.54

PLANNED DEVELOPMENT DISTRICT OVERLAY

Sections:

- 17.54.010 Purpose.
- 17.54.020 Permitted planned development district.
- 17.54.030 General planned development district application requirements.
- 17.54.040 Preliminary planned development district requirements.
- 17.54.050 Planned development district design standards.
- 17.54.060 Permit process ~~Referral to other city departments.~~
- ~~17.54.070 Planning commission public hearing.~~
- ~~17.54.080 Notice of public hearing.~~
- 17.54.090 Hearing Examiner ~~Planning commission action.~~
- 17.54.100 Preparation of the planned development district ordinance.
- 17.54.110 City council action.
- 17.54.120 Final planned development district application and map(s).
- ~~17.54.130 Planning commission action.~~
- 17.54.140 Council action.
- 17.54.150 Issuance of a building permit.
- 17.54.160 Landscape performance bond.
- 17.54.170 Street and utility improvements performance bond.
- 17.54.180 Extension of bond or security time limit.
- 17.54.190 Maintenance bond.
- ~~17.54.200 Inspection of improvements.~~
- 17.54.210 Changes and modifications.
- 17.54.220 Repeal of planned development district ordinance.

17.54.010 Purpose.

(a) The purpose of the planned development district is to allow greater flexibility in the design of residential, commercial or industrial uses or a mixture of such uses by permitting specific modifications of the bulk and use regulations and performance standards of the underlying zone(s) as applied to a particular parcel of land. A planned development district is a floating district. Each approved planned development district is superimposed on the underlying zone to the extent that the planned development district shall modify and supersede the bulk and use regulations and performance standards to the underlying zone.

(b) A planned development district shall:

- (1) Encourage flexibility in design and development that will result in a more efficient and desirable use of the land;
- (2) Permit flexibility of design, placement of buildings, use of required open spaces, circulation facilities, open spaces, off-street parking areas, and otherwise to better utilize the potentials of the site characterized by special features such as but not limited to geography, topography or shape;
- (3) Provide for maximum efficiency in the layout of streets, utilities, and other public improvements;
- (4) Produce an integrated or balanced development of mutually supportive uses that might be otherwise inharmonious or incongruous. (Ord. 948 § 2 (part), 1995).

17.54.020 Permitted planned development district.

(a) Planned development districts may be approved for any uses or combination of uses of this title as currently existing. The uses permitted in any specific planned development district shall be enumerated in the ordinance establishing the planned development district.

(b) Approved planned development districts are permitted in all commercial, residential and industrial zones.

(c) Planned development districts may be used for the following types of development:

(1) Planned unit developments: an area to be planned and developed as a single district containing one or more residential clusters or planned residential developments and one or more public, quasi-public, commercial, and/or industrial areas. A planned unit development shall only contain the uses permitted in the underlying zone group. For example, a planned unit development involving residential uses shall overlay a residential zone, a planned unit development involving residential uses and commercial uses shall overlay a commercial zone, and a planned unit development involving residential uses and/or commercial uses and industrial uses shall overlay an industrial zone. A planned unit development may be permitted by the city council to deviate from this general rule only upon a finding by the city council that such planned unit development is:

(A) Necessary,

(B) In the best interests of the citizens of the community, and

(C) The more intensive uses of the planned unit development will not adversely impact adjoining properties zoned in the same manner as the zoning group as the subject property.

Planned unit developments proposed under subsections (2), (3) and (4) of this subsection (c) shall only permit a more intensive use of the property than the underlying zoning group if there is a true mixed use within the planned unit development. In no event will one lot planned unit developments for a use more intensive than is permitted by the underlying zoning group be permitted;

(2) Planned unit residential development: an area to be planned and developed as a single district and containing one or more residential clusters; appropriate commercial, public, or quasi-public uses may be included if such uses are for the exclusive benefit of the residential development;

(3) Planned commercial developments: an area to be planned, developed, operated and maintained as a single district containing one or more structures to accommodate commercial, retail, business or office uses or a combination of such uses;

(4) Planned industrial development: an area to be planned, developed, operated, and maintained as a single entity containing one or more structures to accommodate industrial uses. (Ord. 948 § 2 (part), 1995).

17.54.030 General planned development district application requirements.

(a) Pre-Application Conference.

(1) Prior to submission of a planned development district application and map(s), the proponent shall schedule a pre-application conference with the community development ~~public works~~ director and representatives of other affected city departments. The proponent shall present a conceptual plan of the planned development district including a general outline of the proposal represented by sketch plans. The community development ~~public works~~ director will respond informally and address potential items of concern to aid the proponent in preparing the planned development district application and map(s).

(2) The community development ~~public works~~ director shall furnish the proponent with a written review of the conference regarding the relationship of the planned development district to the comprehensive plan and any applicable city zoning ordinances, design standards and policies.

(b) Study Session. Prior to the submission of the planned development district application and map(s) to the hearing examiner ~~planning commission~~ for action, the community development ~~public works~~ director shall schedule

a planning commission study session. The ~~community development public works~~ director and the planned development district proponent shall present the conceptual planned development district to the planning commission so that the planning commission may study the proposal.

(c) Planned Development District Application and Maps. The planned development district application and map(s) shall be filed with the ~~building and planning public works~~ department on forms prescribed by the ~~building and planning public works~~ department. The application shall be accompanied by eleven copies of the planned development district application and map(s). A nonrefundable fee of five hundred dollars shall accompany each and every application for a preliminary planned development district.

(d) Landscaping Plan. A landscaping plan must be submitted for approval as per Chapter ~~17.75~~ 17.74.

(e) Environmental Information. Environmental information shall be prepared and submitted in accordance with the Guidelines established under the State Environmental Policy Act of 1971, as amended and Title 13 of the Othello Municipal Code entitled "Environmental Regulations." Said information is a part of and must accompany the planned development district application and map(s).

(f) Alternate(s). Requests for alternate(s) of city design standards and community street and utility standards shall be submitted as a part of and must accompany the planned development district application and map(s). The ~~hearing examiner planning commission~~ shall recommend to the council that the requested alternative(s) be either approved, conditionally approved, or denied. The council shall either approve, conditionally approve, or deny the requested alternative(s) based upon the recommendation of the ~~hearing examiner planning commission~~ and testimony presented before the council.

Alternative(s) of city design standards and community street and utility standards shall be listed in the ordinance conditionally approving and establishing the planned development district.

(g) Comprehensive Plan. The planned development district shall be consistent with the city's comprehensive plan.

(h) Findings of Fact. Every decision or recommendation made under this chapter by the ~~hearing examiner planning commission~~ or council shall be in writing and shall include findings of fact and conclusions to support the decision or recommendation.

(i) Subdivision Approval. A planned development district for which subdivision or binding site plan approval is required may be submitted as a planned development district short plat, a planned development district major plat, or a planned development district binding site plan. Such a planned development district shall be submitted and processed in conformance with the appropriate subdivision chapter of the Othello Municipal Code and the requirements of this chapter. Redundant procedures or technical requirements shall be incorporated into the requirements and procedures of the appropriate subdivision chapter so as to not create unnecessary hardship or delay. Procedurally the preliminary and final planned development district element of a planned development district short plat, major plat or binding site plan must be approved by the council prior to the required subdivision approvals. Such approvals may be given concurrently by the appropriate approving body.

(j) Titles. Planned development districts shall be appropriately entitled, i.e., planned unit development district, planned residential development district, planned commercial development district, or planned industrial development district. (Ord. 948 § 2 (part), 1995).

17.54.040 Preliminary planned development district requirements.

The preliminary planned development district application and map(s) shall depict or contain the following information:

- (1) A legal description of the total site proposed for development including a statement of the present and proposed ownership and present and proposed zoning;
- (2) A statement of the planning objectives to be achieved by the planned development district through the particular approach proposed by the applicant;

- (3) An itemized list of the proposed modifications to the bulk and use regulations of the underlying zone(s);
- (4) A development schedule indicating the approximate date when construction of the planned development district of stages of the planned development district can be expected to begin and be completed;
- (5) A statement of the applicant's intention with regard to the future selling or leasing of all or portions of the planned development district;
- (6) Quantitative data for the following: number and type of structures; parcel size; proposed lot coverage by buildings and structures; approximate gross and net residential densities; and the total amount of open space;
- (7) Relationship of the property to the surrounding area including identification of adjacent land uses, zoning, and peripheral treatment of the planned development district to maximize compatibility and integration of the planned development district with adjacent uses;
- (8) Proposed land uses and approximate building locations or buildable areas;
- (9) A general landscape plan and specific buffer plans (screening);
- (10) Existing site conditions including contours at two-foot intervals and unique natural features;
- (11) A list of the names and addresses of all owners of record of real property within three hundred feet of the external boundaries of the proposed planned development district. In addition, the proponent shall submit a list of the names and addresses of all owners of record of real property within three hundred feet of real property which lies adjacent to the external boundaries of the proposed planned development district and is owned by the proponent;
- (12) The existing and proposed circulation system of arterial, collector and local streets including off-street parking areas, service areas, loading areas, storage areas, and points of ingress and egress to the planned development district;
- (13) Existing and proposed utility systems including sanitary sewers, storm sewers, water, electrical lines, TV and radio cable lines, and telephone lines;
- (14) The proposed pedestrian circulation system;
- (15) The proposed treatment of the perimeter of the planned development district, including materials and techniques used such as screens, fences and walls;
- (16) Vicinity map showing adjacent subdivision;
- (17) The method of maintaining common facilities;
- (18) Proposed lot lines;
- (19) The location and size in areas or square feet of all areas to be conveyed, dedicated or reserved as common open space, public parks, recreational areas, school sites, streets, and similar public, and semi-public uses. (Ord. 948 § 2 (part), 1995).

17.54.050 Planned development district design standards.

Planned development districts shall be in compliance with the following design standards:

- (1) Perimeters of the planned development district shall maintain all required building setbacks as specified in the applicable zone designation.
- (2) The planned development district shall be compatible with adjacent land uses and shall not adversely affect the character of the area in which it is located.

- (3) Performance standards for the uses enumerated in the planned development district shall be evaluated in light of the standards established in the Othello Municipal Code for the underlying zone.
- (4) Population density and building intensity shall be evaluated in light of the densities and intensities permitted in the underlying zone.
- (5) All dedicated rights-of-way within a planned development district shall be evaluated in accordance with city street and utility standards. The location of sidewalks may be varied as deemed appropriate when it is found that the planned development district plan provides for the separation of vehicular and pedestrian circulation patterns.
- (6) The vehicular movement and parking plan shall be consistent with the existing vehicular movement and shall not create an overburden.
 - (A) Private streets are permitted. All private streets or roadways shall have direct access onto a dedicated street. Private streets and roadways shall be constructed in compliance with city street and utility standards subject to modification with council approval. All private streets and roadways shall be designed and maintained to carry emergency vehicles.
 - (B) Off-street parking spaces and loading areas shall be provided as specified in Chapter 17.61 of this title. ~~Parking areas shall be designed and constructed according to APWA standards. Parking lots for more than twenty five vehicles shall be interspaced with landscaped areas.~~
 - (C) The planned development district shall be located with respect to existing rights-of-ways which are adequately designed to handle the generated traffic without creating additional traffic along minor streets in residential neighborhoods.
 - (D) Planned development districts shall be so located with respect to schools, parks, playgrounds, and other public facilities so as to have access in the same degree as would development in a form generally permitted in the area.
- (7) Utilities.
 - (A) All utilities including electrical lines, telephone lines, and cable TV and radio lines shall be installed underground except for access terminals in residential zones or residential areas of a planned development district and commercial zones or commercial areas of a planned development district.
 - (B) Planned development districts shall be so located in relation to sanitary sewers, water mains, storm and surface drainage systems, and other utility systems and installations that will be of adequate size to properly serve the planned development district and conform to the comprehensive water and sewer plan. (Ord. 948 § 2 (part), 1995).

17.54.060 Permit Processing Referral to other city departments.

(a) ~~Applications for a Planned Development District shall be processed as a land use permit under OMC Title 19, Development Code. Upon receipt of a complete and satisfactory preliminary planned development district application and map(s), the public works director shall distribute copies of the preliminary planned development district to each of the following offices, departments or agencies within two working days of receipt:~~

- ~~(1) Public works department;~~
- ~~(2) Fire department;~~
- ~~(3) Police department;~~
- ~~(4) Electrical utility;~~
- ~~(5) Telephone company;~~

(6) ~~Cable company;~~

(b) ~~Each department, office or agency may file written recommendations with the director within fifteen days from the date of filing of the planned development district with the public works department.~~

(c) ~~The public works director may determine that a meeting shall be held to resolve major issues identified as a result of the recommendations. The proceedings and results of such a meeting shall be documented by minutes. (Ord. 948 § 2 (part), 1995).~~

17.54.070 ~~Planning commission public hearing.~~

~~When the public works director determines that the completed planned development district application and map(s) is acceptable the director shall set a date for a public hearing on the planned development district before the planning commission not less than twenty days nor more than forty five days after the receipt of the completed planned development district application. (Ord. 948 § 2 (part), 1995).~~

17.54.080 ~~Notice of public hearing.~~

~~The public works director shall give notice of the time, location and purpose of the public hearing in the following manner:~~

(1) ~~At least one public notice shall be published not less than ten days prior to the hearing in a newspaper of general circulation within the city and the area where the real property that is proposed for the planned development district is located.~~

(2) ~~Three notices shall be posted on or adjacent to the land proposed for a planned development district at least ten days prior to the public hearing date.~~

(3) ~~One notice shall be mailed to each owner of property within three hundred feet of the property proposed for a planned development district at least ten days prior to the public hearing.~~

(4) ~~If the owner of the real property which is proposed for a planned development district owns another tract of land which lies adjacent to the real property proposed for a planned development district, one notice shall be mailed to each owner of real property located within three hundred feet of any portion of the boundaries of such adjacent located parcels of real property. (Ord. 948 § 2 (part), 1995).~~

17.54.090 ~~Hearing examiner Planning commission action.~~

(a) ~~The community development public works director shall transmit the planned development district application and map(s), respective comments and recommendations from other offices, agencies, and city departments, and community development division comments and recommendations to the hearing examiner ~~planning commission~~ prior to the hearing.~~

(b) ~~The hearing examiner ~~planning commission~~ shall review the planned development district application and map(s), municipal recommendations, testimony and exhibits submitted at the hearing and make recommendations to the council to assure conformance of the proposed planned development district with the provisions of this chapter and a determination that:~~

(1) ~~The planned development district shall be compatible with nearby developments and uses.~~

(2) ~~Peripheral treatment insures proper transition between planned development district uses and nearby external uses and developments.~~

(3) ~~The development will be consistent with the comprehensive plan and with the purpose of a planned development district.~~

(4) ~~The planned development district can be completed within a reasonable period of time.~~

(c) ~~The hearing examiner ~~planning commission~~ shall recommend that the council approve, conditionally approve, or disapprove an ordinance providing for the establishment of a planned development district. (Ord. 948 § 2 (part), 1995).~~

17.54.100 Preparation of the planned development district ordinance.

(a) Upon ~~hearing examiner~~ ~~planning commission~~ review of a planned development district application and map(s), the city attorney shall prepare an ordinance providing for the designation of the subject property as a planned development district. That ordinance shall establish the planned development district as a floating district to be superimposed over the existing zone and provide for specific modifications of the bulk and use regulations and performance standards as provided for in the ordinance. The ordinance shall specify the specific modifications to the underlying zone's bulk regulations and performance standards. The ordinance shall provide that the applicant or the applicant's successor in interest shall be bound to the uses and modifications specified in the ordinance.

(b) The ordinance providing for the designation of the subject property as a planned development district shall conditionally approve the preliminary planned development district. The ordinance shall only confer development rights upon the applicant or the applicant's successor in interest upon the submission and approval of a final planned development district application and map(s) which shall be in substantial conformity with the preliminary planned development district application and map(s). Approval for the applicant to proceed with construction shall be contingent upon receipt and approval by the city council of a final planned development district application and map(s). (Ord. 948 § 2 (part), 1995).

17.54.110 City council action.

(a) At the next regularly scheduled meeting of the city council there shall be presented an ordinance providing for the establishment of the planned development district. ~~The council shall set a date for a second reading of the ordinance and a public hearing within thirty days of the date of the first reading.~~

(b) The council shall consider and adopt or reject the ordinance with respect to the recommendations of the ~~hearing examiner~~ ~~planning commission~~ and the requirements of this chapter. (Ord. 948 § 2 (part), 1995).

17.54.120 Final planned development district application and map(s).

Upon preliminary planned development district approval, the applicant shall prepare a final planned development district application and map(s) as needed.

The final application and map(s) shall be prepared in substantial compliance with the approved preliminary planned development district application and map(s); contain or depict all information required in the preliminary application and map(s); and shall incorporate any changes required by the council in granting preliminary planned development district approval.

~~Preliminary map(s), if suitable, may be submitted as final map(s) with the final application if they are to be unaltered or are able to be altered to satisfy the final planned development district map(s) requirements.~~

In addition, the final planned development district application and map(s) shall contain and/or depict the following information:

- (1) A title report from a title company licensed to do business in the state of Washington dated within thirty days of the date of filing of the final planned development district application and map(s) confirming that the title of the lands described and shown on the application and/or map(s) is in the name of the owners signing the planned development district application and map(s) and/or instrument or dedication.

The holder of the owner's power-of-attorney may sign the planned development district application and map(s) and/or instrument of dedication provided that the title company confirms that the person signing the documents is in fact the holder of the owner's power-of-attorney and that title to the land is in the name of the person granting power-of-attorney;

- (2) ~~Three complete sets of preliminary construction plans and specifications along with an AutoCad copy prepared by a professional engineer licensed by the state of Washington showing all All street and utility improvements required by the council in granting planned development district approval must be built and accepted by the City, or guaranteed, prior to submittal of the final planned development district application. All construction plans and specifications shall be in conformance with city design standards and the community street and utility standards. Construction plans and specifications must be approved by the public works department prior to the submission of the final planned development district to the council for approval;~~

~~(A) Preliminary construction plans and specifications shall be submitted in compliance with Chapter 16.17 of this code, entitled "Major Subdivisions," Section 16.17.120, Improvements;~~

- (3) Required dedication of all streets, rights-of-way, parks, playgrounds, easements, reservations, irrigation water rights-of-way, and any area to be dedicated to public use, together with any restrictions or limitations thereon shall be submitted for council approval and acceptance as a part of the final planned development district plan map(s) or as a separate instrument of dedication;
- (4) All covenants proposed to run with the land;
- (5) A nonrefundable fee of five hundred fifty dollars shall accompany each and every application for a final planned development district approval. (Ord. 948 § 2 (part), 1995).

17.54.130 — Planning commission action.

~~Within forty five days of filing of the complete and satisfactory final planned development district application and map(s) with the public works department, the public works director shall set a date for planning commission review of the final planned development district application and map(s). The planning commission shall review the final planned development district application and map(s) as to compliance with all terms of the preliminary approval and shall recommend to the council that said planned development district be approved or disapproved. (Ord. 948 § 2 (part), 1995).~~

17.54.140 Council action.

- (a) The council may within sixty days from the date of filing of the final planned development district application and map(s), approve or disapprove the final planned development district application and map(s) unless the subdivider consents to an extension of such time period in writing.
- (b) If the council finds that the planned development district proposed for final approval conforms to all terms of the preliminary planned development district approval, the requirements of this chapter, applicable state laws, and any other requirements that were in effect at the time of preliminary planned development district approval, it may approve the final planned development district application and map(s).
- (c) The council may approve a phased planned development district construction schedule. On-site construction and installation of all required street and utility improvements and landscaping shall be completed in compliance with the approved planned development district construction schedule for each phase of the planned development district. (Ord. 979 § 1, 1996; Ord. 948 § 2 (part), 1995).

17.54.150 Issuance of a building permit.

No building permit shall be issued until final council approval of the planned development district and/or fulfillment of the subdivision or binding site plan requirements of the Othello Municipal Code. (Ord. 948 § 2 (part), 1995).

17.54.160 Landscape performance bond.

- (a) No building permit shall be issued until the applicant has posted a performance bond or other approved security in a form satisfactory to the city attorney in such an amount to cover one hundred and fifty percent of the cost of completing all landscaping improvements as required by the council in approving the final planned development district. All landscaping improvements listed in the bond or security must be completed within two years of council approval of the final planned development district.
- (b) In the event that all landscaping improvements are not completed within the time limit specified in the performance bond or approved security, the bond may be forfeited and the city may undertake the installation and completion of all required landscape improvements. (Ord. 948 § 2 (part), 1995).

17.54.170 Street and utility improvements performance bond.

- (a) No building permit shall be issued until the applicant has posted a performance bond or other approved security in a form satisfactory to the city attorney in such an amount to cover one hundred and fifty percent of the estimated cost, as determined by the City Engineer ~~director~~ of all street and utility improvements required by the council in granting planned development district approval. All street and utility improvements must be completed within two years of council approval of the final planned development district.

(b) In the event that all street and utility improvements are not completed within the time limit specified in the performance bond or approved security, the bond or security may be forfeited and the city may undertake the installation and completion of all required street and utility improvements. (Ord. 948 § 2 (part), 1995).

17.54.180 Extension of bond or security time limit.

(a) The council may grant one extension of any performance bond or approved security required by this chapter not to exceed one year provided that the request for an extension is filed with the community development public-works director at least sixty days prior to the expiration date of the bond or security.

(b) In the event that a time extension is granted, a new performance bond or other approved security shall be submitted in an amount sufficient to cover one hundred and fifty percent of the cost of completing utility and street improvements or landscaping improvements. The bond will be updated with new estimates of cost on all uncompleted improvements and all increased costs shall be passed onto the bond.

(c) Departments issuing recommendations for new performance bonds or approved security shall not modify the terms and requirements of the bond or security other than to pass on all increased cost estimates ~~as determined by the public works director~~ to the bond or security to cover the cost of completing utility and street improvements and/or landscaping improvements ~~without the written consent of the applicant~~. (Ord. 948 § 2 (part), 1995).

17.54.190 Maintenance bond.

Upon completion of the required public improvements and prior to acceptance by the council, the subdivider/developer must submit a maintenance bond or alternative security approved by the city attorney as specified in the Public Works Design Standards in an amount determined by the city engineer and approved by the public works director. ~~The maintenance bond amount shall be one hundred percent of the actual cost of construction. An alternative security shall be in an amount not less than ten percent nor more than one hundred percent of the actual cost of construction. The amount shall be determined on a case by case basis based upon the city engineer's estimated cost of repair or maintenance should repair or maintenance be required. The subdivider/developer shall submit documentation of the cost of construction to the city engineer for his review and approval and use in determining the required bond for alternative security amount.~~ (Ord. 948 § 2 (part), 1995).

17.54.200 Inspection of improvements.

~~The public works department or a licensed professional engineer or engineering firm hired by the city shall be responsible for the inspection of all public or dedicated planned development district street and utility improvements to insure conformance with the approved plans and specifications. (Ord. 948 § 2 (part), 1995).~~

17.54.210 Changes and modifications.

(a) Major changes in the approved final planned development district shall be considered as a new application for preliminary planned development district approval. Major changes include, but are not limited to, the following:

- (1) Change in use;
- (2) Major change in vehicular circulation system;
- (3) Increase in density or relocation of density pattern;
- (4) Change in exterior boundaries except survey adjustments;
- (5) Increase in building height.

(b) The community development public-works director may approve changes in the final planned development district which are minor and of a technical nature and which are consistent with the approved plan. (Ord. 948 § 2 (part), 1995).

17.54.220 Repeal of planned development district ordinance.

(a) The community development public-works director shall prepare and submit to the council an ordinance providing for the repeal of the ordinance establishing the planned development district upon the occurrence of the following:

- (1) A final planned development district application and map(s) has not been submitted within three years of adoption of the ordinance conditionally approving and establishing the planned development district unless an application for an extension has been approved by the council.
 - (2) Construction has not commenced within two years of final planned development district approval or in compliance with the final approved planned development district construction schedule unless an application for an extension has been approved by the council.
- (b) Application for Time Extension.
- (1) Sixty days prior to the consideration of an ordinance to repeal the ordinance establishing the planned development district, the responsible party of record representing the planned development district shall be notified by certified letter via U.S. mail of the pending action and shall be afforded the opportunity to submit an application or an extension of the planned development district ordinance.
 - (2) The council may grant one extension not to exceed one year of the ordinance establishing the planned development district.
 - (3) Application for an extension shall be made to the city council ~~planning commission~~ at least thirty calendar days prior to the scheduled date of ~~a first reading of~~ the repeal ordinance.
 - (4) The application shall include a statement of mitigating and/or hardship circumstances necessitating the request for an extension.
 - (5) ~~The planning commission shall review the application for an extension and recommend to the council that the application be approved or rejected.~~
 - (6) At the time of the consideration of the ordinance the council may grant the requested extension based upon the recommendation of staff ~~the planning commission~~ and testimony given at that time.
 - (6) (7) If the extension is approved, the repealing ordinance shall be docketed for consideration at the termination of the one-year extension period. In the event that a final planned development district application and map(s) has not been submitted within the one-year extension period or in the event that construction has not commenced within the one-year extension, there shall be adoption of the ordinance repealing the planned development districts. (Ord. 948 § 2 (part), 1995).

Section 5. Amendment. Othello Municipal Code Section 17.56.030 of Chapter 17.56 titled “General Provisions” is hereby amended as follows:

17.56.030 Building occupancy.

No structure or structures shall be occupied until they have met all the minimum occupancy requirements as stated in the State Uniform Building Code. (Ord. 973 § 1, 1995; Ord. 948 § 2 (part), 1995).

Section 6. Amendment. Othello Municipal Code Section 17.59.015 of Chapter 17.59 titled “Home Occupations” is hereby amended as follows:

17.59.015 Application for home occupation uses and appeals.

An application for a home occupation use shall be submitted to the clerk’s department for consideration. Such uses may be permitted by the individual(s) designated to review the applications subject to the provisions of this chapter. Any party aggrieved by a decision rendered by the individual(s) reviewing the application may appeal the decision to the hearing examiner, subject to the provisions of Chapter 19.11, Appeals ~~17.83 of this title~~. (Ord. 1066 § 1, 2000; Ord. 948 § 2 (part), 1995).

Section 7. Amendment. Othello Municipal Code Chapter 17.87 titled “Amendments” is hereby amended as follows:

Chapter 17.87

AMENDMENTS

Sections:

- 17.87.010 Procedure.
- 17.87.020 Amendments and area-wide zoning change procedures.
- 17.87.030 Site-specific rezone procedures.

17.87.010 Procedure.

This title, or any part of it, may be amended, supplemented, repealed or modified by subsequent ordinances of the city adopted as provided by law. (Ord. 948 § 2 (part), 1995).

17.87.020 Amendments and area-wide zoning change procedures.

The regulations, classifications or area-wide zone boundary lines may be amended by ordinance in the following manner:

- (1) The planning commission, upon receipt of an amendment or area-wide zone change request, or after a motion of its own, shall investigate the merits of the request and may set a public hearing date at which time the request can be considered.
- (2) Following the hearing, the planning commission shall forward its findings, conclusions and recommendation to the city council.
- (3) After receiving a recommendation from the planning commission and after a public hearing has been held before the council, the council may consider the request. If the council finds the amendments are in the public interest, benefit the public welfare of the community, and are consistent with the city’s zoning scheme, it shall so amend this title by ordinance. (Ord. 948 § 2 (part), 1995).

17.87.030 Site-specific rezone procedures.

Rezones which are not of general applicability shall be processed as follows:

- (1) A public hearing before the Hearing Examiner shall be scheduled and held, following the standards of Title 19.
- (2) Following the hearing, the Hearing Examiner shall forward findings, conclusions, and recommendations to the City Council.
- (3) The Council will consider the Hearing Examiner’s recommendations. If the council finds the rezone is in the public interest, benefits the welfare of the community, and is consistent with the Comprehensive Land Use Plan and the city’s zoning scheme, it shall adopt the rezone ordinance.

Section 8. Amendment. Othello Municipal Code Chapter 17.92 titled “General Administration and Enforcement” is hereby amended as follows:

Chapter 17.92

GENERAL ADMINISTRATION AND ENFORCEMENT

Sections:

- 17.92.010 Purpose.
- 17.92.020 Duties of officials.
- ~~17.92.030 Interpretations of this title.~~
- 17.92.040 Building permits.
- 17.92.050 Certificate of occupancy.
- ~~17.92.060 Fees.~~
- 17.92.070 Right of entry.
- 17.92.080 Violations.
- 17.92.090 Enforcement and penalties.

17.92.010 Purpose.

The purpose of this chapter is to establish provisions pertaining to the administration and enforcement of this title. It is the intent that all questions of interpretation and enforcement shall first be presented to the planner for resolution prior to seeking enforcement through litigation. (Ord. 1307 § 1 (part), 2009).

17.92.020 Duties of officials.

(a) City Planner. The city planner is responsible for the administration, and interpretation, ~~and enforcement~~ of all parts of this title.

(b) The Mayor’s Designee. The mayor’s designee, or the person designated to perform the duties of the mayor’s designee, is responsible for providing engineering review, in consultation with the city engineer, of permit applications when such a review is needed, and for such other duties as set forth in this title.

(c) Building Official. The building official is responsible for assuring that all building permits and certificates of occupancy are referred to the city planner, as required by Sections ~~17.92.030 and~~ 17.92.040.

(d) Code Enforcement Officer. The code enforcement officer is responsible for the enforcement of all parts of this title.

(e) Enforcement. All departments, officials, and public employees of the city which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this title and shall issue no such permit or license for any use, building, or purpose if the same would be in conflict with the provisions of this title, and should any such permit or license be issued in error it shall be null and void from its issuance and the city shall not be required to seek an appeal or review of the issuance of that permit or license to be able to declare the same as null and void from the date of its wrongful issuance.

~~(e)~~ (f) General Duty. None of the provisions of this title are intended to create a cause of action or provide the basis for a claim against the city, its officials, or employees for the performance or failure to perform a duty or obligation running to a specific individual or specific individuals. Any duty or obligation created herein is intended to be a general duty or obligation running in favor of the general public. (Ord. 1307 § 1 (part), 2009).

~~17.92.030 Interpretations of this title.~~

~~The city planner may, acting on his or her own initiative or in response to an inquiry, issue interpretations of any provision of this title for which the mayor’s designee shall be responsible. The city planner shall base his or her interpretations on the following:~~

~~(a) The defined or common meaning of the words of the provision;~~

~~(b) The general purpose of the provision; and~~

~~(c) The meaning of the provision in relation to the comprehensive plan. (Ord. 1307 § 1 (part), 2009).~~

17.92.040 Building permits.

Building permits are required by Chapter 17.65.

(a) The building official shall refer to the city planner all applications for building permits for new construction and for additions which increase the square footage of usable space.

(b) Upon receiving an application for a building permit, the city planner shall review it and make any necessary field inspections to determine whether the proposed construction or addition complies with this title. (Ord. 1307 § 1 (part), 2009).

17.92.050 Certificate of occupancy.

(a) No building hereafter erected, moved, enlarged, or changed in use shall be occupied until a certificate of occupancy has been issued by the building official.

(b) Certificates of Occupancy for Conforming Uses, Buildings, and Structures.

(1) A certificate of occupancy shall be issued only after such building, enlargement, or relocation has been completed in conformity with the provisions of this title and any applicable permits and plans.

(2) Any use legally occupying an existing building at the time this zoning code becomes effective may be continued but shall not be changed unless a certificate of occupancy for the new use shall have been issued by the building official after finding that the new use conforms to any required conditions of any applicable permits and plans, and the city planner finds that the new use conforms to this title.

(3) Any transfer of ownership of the building or structure which does not involve a change of use shall automatically effect a transfer of the certificate of occupancy to the new owner.

(c) Certificates of Occupancy for Nonconforming Uses, Buildings and Structures.

(1) The owner or authorized agent of any legal nonconforming use, building or structure may, at any time, apply for a certificate of occupancy to continue as a nonconformity under the provisions of Chapter 17.79.

(2) No certificate of occupancy for a nonconforming use, building or structure shall be issued until the applicant demonstrates that the nonconformity existed on the effective date of this title, or on the date when preceding versions of the city's zoning regulations became effective as to such building, structure, land or use, or that the building, structure, land, or use was rendered nonconforming by an amendment to this title subsequent to its effective date.

(3) A certificate of occupancy for a nonconformity shall state the manner in which the property is nonconforming and the date when the property became nonconforming.

(4) Any transfer of ownership of the building or structure which does not involve a change of use shall effect a transfer of the certificate of occupancy to the new owner. (Ord. 1307 § 1 (part), 2009).

~~**17.92.060 Fees.**~~

~~All applications for permits, certificates of occupancy, rezones, variances, site plan approvals, and appeals shall be accompanied by the fees established for such applications by action of the council. (Ord. 1307 § 1 (part), 2009).~~

17.92.070 Right of entry.

(a) Application Constitutes Permission for Entry. Application for any permit, certificate of occupancy, rezone, variance, site plan approval, or appeal constitutes permission for representatives of the city to enter on the property involved in order to make inspections necessary to permit review. A refusal to permit entry is considered to be an abandonment of the application and forfeiture of all fees charged and/or paid.

(b) Investigation of Potential Violations. The code enforcement officer ~~city planner~~ may enter upon private property to investigate potential violations of this title if he or she has a good faith belief that a violation exists on the property. Before entering upon private property, the code enforcement officer ~~city planner~~ shall present credentials to the owner or person in possession or charge of the property and request entry. If entry is refused, the code enforcement officer ~~city planner~~ may use any lawful means to obtain entry. (Ord. 1307 § 1 (part), 2009).

17.92.080 Violations.

(a) It is unlawful for any person to do or cause any act to be done contrary to or in violation of this title, and for any property owner to permit any act to be done contrary to or in violation of this title. All violations of this title which are enforced by means of this administrative process are determined to be public nuisances and subject to abatement in the manner provided for herein as well as by any and all means provided by state law for the abatement of public nuisances.

(b) It is also unlawful for any applicant or permittee to fail to perform any activity or obligation required by this title.

(c) Any violation of any provision of this title is a C-1 civil infraction subject to a penalty as provided in Chapter 1.10.

(d) Any violation of any provision of this title may be enforced per Chapter 1.20 et seq. or Section 17.92.090. (Ord. 1465 § 7, 2016; Ord. 1307 § 1 (part), 2009).

17.92.090 Enforcement and penalties.

When the code enforcement officer ~~city planner~~ determines that a violation of this title exists, he or she may proceed against that violation using the procedures provided in this section.

(a) Initiation of Review. A review under this subsection may be initiated by:

- (1) The code enforcement officer ~~city planner~~;
- (2) A motion of the city council;
- (3) Any aggrieved person believing that a violation or violations of this title is occurring by making a written complaint to the code enforcement officer ~~city planner~~.

(b) Review Procedure.

- (1) The code enforcement officer ~~city planner~~ shall within sixty days after the receipt of such written allegations or motion of the city council complete an investigation of the alleged violation(s) to determine the merits thereof.
- (2) Within fourteen days after the code enforcement officer ~~city planner~~ has completed the investigation, he or she shall take the following action:
 - (A) If the code enforcement officer ~~city planner~~ determines that no violation as alleged or otherwise is occurring, then notification of that decision shall be given to the complaining person or a spokesperson for the complaining person, or in a written report to the city council.
 - (B) If the code enforcement officer ~~city planner~~ determines that a violation is occurring or has occurred as alleged, a notice of violation and order to correct or cease activity shall be sent as specified in subsection (c) of this section.
- (3) If the code enforcement officer ~~city planner~~ determines that the way to correct a violation is for the property owner or violator to cease the activity, or for the city to impose new or changed conditions on a permit or plan that has been issued or approved, the code enforcement officer ~~city planner~~ shall refer the matter to the hearing examiner or staff for review depending upon which entity made the final decision on the matter under review.

- (A) The hearing examiner shall hold a public meeting to review the permit or approval, using criteria required for the original.
- (B) If the hearing examiner finds that a violation exists, and that it can be reasonably resolved by imposing new or changed conditions on the permit or plan, the conditions may be changed. The action of the hearing examiner shall be final as provided under Chapter 19.09.
- (C) If the hearing examiner determines that the way to correct the violation is for the permittee to cease the violation, and the permittee fails or refuses to cease the violation, the hearing examiner may revoke the permit or approved plan and may order the activity allowed by the permit or plan to cease.
- (D) If the violation is of a condition which was imposed by staff and staff finds that the violation can be reasonably resolved by imposing new or changed conditions on the permit or plan, conditions may be changed by staff.
- (E) If the staff determines that the way to correct a violation is for the permittee to cease the violation and the permittee fails or refuses to cease the violation, the staff may revoke the permit or plan and may order activity allowed by the permit or plan to cease.
- (c) Notice of Violation and Order to Correct or Cease Activity.
- (1) General. If the ~~code enforcement officer~~ ~~city planner~~ determines that any activity, condition, structure, or use exists that does not conform to this title, he or she may issue a notice of violation and order to correct or cease activity. This notice will specifically indicate the following:
- (A) The name and address of the person(s) charged with the violation;
- (B) What provision of this title is being violated;
- (C) The street address and a brief legal description of the site on which the violation has been determined to exist;
- (D) What is necessary to correct the violation;
- (E) The time by which the violation is to be corrected or activity ceased; and
- (F) A statement that the civil penalties established in subsection (e) of this section shall be assessed against the person(s) cited if the violation is not corrected within the specified time period.
- (2) Notice to Occupant and Owner. The ~~code enforcement officer~~ ~~city planner~~ shall deliver or cause to be delivered the notice of violation and order to correct or cease activity by U.S. postal mail, or certified mail return receipt requested, or personal service to: the occupant or person in charge of the property if the occupant or person in charge of the property is the violator; or the owner of the property if the owner of the property is the violator, or both if appropriate.
- A copy of the notice of violation and order to correct or cease activity shall be sent to the complaining person or a spokesperson for complaining person.
- (d) Appeals.
- (1) Any notice of violation and order to correct or cease activity issued by the ~~code enforcement officer~~ ~~city planner~~ shall be appealable to the hearing examiner under Chapter 2.16.
- (2) Any dispute as to whether or not a violation for which a notice of violation and order to correct or cease activity has been issued has been resolved so as to comply with the underlying city standard shall be appealable to the hearing examiner under Chapter 2.16 so long as such appeal is filed before the penalty sum has reached five thousand dollars.
- (e) Penalties.

(1) Any violation for which a notice of violation and order to correct or cease activity has been issued but which has not been corrected within the time specified shall incur a civil penalty of two hundred fifty dollars per day up to a sum of five thousand dollars, beginning on the day the correction was to be completed. The cumulative penalty provided for in this subsection shall not accrue while an appeal is pending, nor shall the penalty preclude the initiation of appropriate legal action to correct the violation.

(2) If a penalty has been assessed pursuant to subsection (e)(1) of this section, a court shall assess that penalty and any additional penalty the court considers appropriate plus court costs and attorney's fees.

(f) If the ~~code enforcement officer~~ ~~city planner~~ determines that the property owner or violator could reasonably correct the violation, but fails to do so within the time specified in the notice of violation and order to correct or cease activity, the ~~code enforcement officer~~ ~~city planner~~ may refer the matter to the city attorney for civil enforcement by injunction or other appropriate action.

(g) Compromise, Settlement, and Disposition of Disputes or Litigation. The ~~code enforcement officer~~ ~~city planner~~ and the city attorney may negotiate a settlement or compromise or otherwise dispose of a dispute or litigation when to do so would be in the best interests of the city. (Ord. 1307 § 1 (part), 2009)

Section 9. Effective date. This ordinance shall be in full force and effect five days after its passage and publication of its summary as provided by law.

PASSED by the City Council of Othello, Washington this ____ day of _____, 2020.

By: _____
Shawn Logan, Mayor

ATTEST:

By: _____
Tania D. Morelos, City Clerk

APPROVED AS TO FORM:

By: _____
Kelly E. Konkright, City Attorney

PASSED the ____ day of _____, 2020
APPROVED the ____ day of _____, 2020
PUBLISHED the ____ day of _____, 2020