

Port of Kennewick Commission Chambers will be open to the public during Commission Meetings.
However, the Port will continue to use GoToMeeting to provide remote access,
and Commissioners and the Port team will attend remotely.

A GoToMeeting has been arranged to enable the public to listen and make public comments remotely.

To participate remotely, please call in at: 1-877-309-2073, Access Code: 553-366-533

Or, join on-line at the following link: <https://meet.goto.com/553366533>

AGENDA

Port of Kennewick

Regular Commission Business Meeting

*Port of Kennewick Commission Chambers (or via GoToMeeting)
350 Clover Island Drive, Suite 200, Kennewick Washington*

August 23, 2022

2:00 p.m.

- I. CALL TO ORDER**
- II. ANNOUNCEMENTS AND ROLL CALL**
- III. PLEDGE OF ALLEGIANCE**
- IV. APPROVAL OF AGENDA**
- V. PUBLIC COMMENT** *(Please state your name for the public record)*
- VI. CONSENT AGENDA**
 - A. Approval of Direct Deposit and ePayments Dated August 17, 2022
 - B. Approval of Warrant Register Dated August 23, 2022
 - C. Approval of Regular Commission Meeting Minutes dated August 9, 2022
- VII. PUBLIC HEARING**
 - A. Redistricting Port Commissioner Boundaries; Resolution 2022-22 (**LARRY/CAROLYN**)
- VIII. REPORTS, COMMENTS AND DISCUSSION ITEMS**
 - A. Port Commission Rules of Policy and Procedure Update; Resolution 2022-23 (**CAROLYN**)
 - B. Commission Meetings (formal and informal meetings with groups or individuals)
 - C. Non-Scheduled Items
(**LISA/BRIDGETTE/TANA/NICK/LARRY/AMBER/CAROLYN/TIM/KEN/TOM/SKIP**)
- IX. PUBLIC COMMENT** *(Please state your name for the public record)*
- X. ADJOURNMENT**

PLEASE SILENCE ALL NOISE MAKING DEVICES



PORT OF KENNEWICK REGULAR COMMISSION MEETING

DRAFT

AUGUST 9, 2022 MINUTES

Commission Meeting recordings, with agenda items linked to corresponding audio, can be found on the Port's website at: <https://www.portofkennewick.org/commission-meetings-audio/>

Commission President Skip Novakovich called the Regular Commission Meeting to order at 2:00 p.m. via GoToMeeting Teleconference.

ANNOUNCEMENTS AND ROLL CALL

The following were present:

Board Members: Skip Novakovich, President (via telephone)
Kenneth Hohenberg, Vice President (via telephone)
Thomas Moak, Secretary (via telephone)*

Staff Members: Tim Arntzen, Chief Executive Officer (via telephone)
Tana Bader Inglima, Deputy Chief Executive Officer (via telephone)
Amber Hanchette, Director of Real Estate and Operations (via telephone)
Nick Kooiker, Chief Finance Officer (via telephone)
Larry Peterson, Director of Planning and Development (via telephone)
Lisa Schumacher, Special Projects Coordinator (via telephone)
Bridgette Scott, Executive Assistant
Carolyn Lake, Port Counsel (via telephone)

PLEDGE OF ALLEGIANCE

Mr. Arntzen led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

MOTION: Commissioner Hohenberg moved to approve the Agenda as presented; Commissioner Novakovich seconded. With no further discussion, motion carried unanimously. All in favor 2:0.

PUBLIC COMMENT

No comments were made.

CONSENT AGENDA

- A. Approval of Direct Deposit and E-Payments Dated August 2, 2022**
Direct Deposit and E-Payments totaling \$87,687.99
- B. Approval of Warrant Register Dated August 3, 2022**
Expense Fund Voucher Number 104028 for a grand total of \$175,961.22
- C. Approval of Warrant Register Dated August 9, 2022**
Expense Fund Voucher Number 104029 through 104059 for a grand total of \$515,991.58
- D. Approval of Regular Commission Meeting Minutes July 26, 2022**

PORT OF KENNEWICK REGULAR COMMISSION MEETING

AUGUST 9, 2022 MINUTES

DRAFT

MOTION: *Commissioner Hohenberg moved to approve the Consent Agenda as presented; Commissioner Novakovich seconded. With no further discussion, motion carried unanimously. All in favor 2:0.*

REPORTS, COMMENTS AND DISCUSSION ITEMS

A. Vista Field

1. Vista Field Design Standards Format Update

Ms. Hanchette reported staff has been working with DPZ CoDesign to simplify the document format for the Vista Field Design Standards to make it more user friendly for the reader. Ms. Hanchette stated the content has not changed from the original document, only the format. Ms. Hanchette presented Resolution 2022-21 for Commission consideration.

MOTION: *Commissioner Hohenberg moved for approval of Resolution 2022-21, approving and adopting Vista Field Design Standards format update; and ratify and approve all action by port officers and employees in furtherance hereof; and authorize the port Chief Executive Officer to take all action necessary in furtherance hereof; Commissioner Novakovich seconded.*

PUBLIC COMMENTS

No comments were made.

With no further discussion, motion carried unanimously. All in favor, 2:0.

2. Rural County Capital Funds (RCCF)

Mr. Arntzen and Mr. Kooiker met with Adam Fyall, Benton County Sustainable Development Manager to discuss the Vista Field Hangar Reuse concept for potential RCCF funding. Mr. Fyall thought the Hangar Reuse concept would be a good project for RCCF funding.

Mr. Kooiker reported the Port has utilized the RCCF funding once, for the Columbia Gardens Loop Road which cost \$479,000.00. As of today, the Port has approximately \$3,250,000 in our RCCF budget and stated the Port is only allowed to encumber the funds we have in our account at the time of application.

** Due to unforeseen circumstances, Commissioner Moak joined the Commission Meeting at 2:13 p.m.*

3. Vista Field Hangar Reuse Concept

Mr. Peterson stated at the July 26, 2022 Commission Meeting staff presented the Vista Field Hangar Reuse concept and renderings. The budget cost estimated for this project is \$3,250,000 which includes construction, sales tax, soft costs and a 15% contingency fee. Mr. Peterson inquired if the Commission approves of the design and project concept to submit with a RCCF application and stated if the Commission would like staff to move forward, we would just need a Commission consensus.

Commissioner Moak inquired if this project would deplete the RCCF fund balance.

PORT OF KENNEWICK REGULAR COMMISSION MEETING

AUGUST 9, 2022 MINUTES

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Mr. Kooiker stated as of June 2022, the Port accrued \$3,250,000 in RCCF; however, that does not take into consideration the July balance. Mr. Kooiker stated the fund typically accrues at \$50,000 a month.

PUBLIC COMMENTS

No comments were made.

It is the Consensus of the Commission to proceed with preparation and submittal of a Rural County Capital Fund application in the amount of \$3,250,000 for the Hangar Reuse project in substantial conformance with the design concepts dated July 26, 2022.

4. Pocket Neighborhood

Mr. Arntzen recently researched the concept of pocket neighborhoods in Vista Field and purchased a book by Ross Chapin and the preface mentioned Michael Mehaffy. Mr. Arntzen stated there are several of these pocket neighborhoods in Seattle and he had the opportunity to tour Danielson Grove in Kirkland.

Mr. Peterson presented three options of these pocket neighborhoods that could be developed at Vista Field and stated that it is an opportunity for citizens to own their own home and share a common outdoor space. Mr. Peterson stated there is a pocket neighborhood in Kendall Yards, located in Spokane, as well.

Commissioner Moak suggested reaching out to Mr. Chapin or Mr. Mehaffy for a list of developers who could construct pocket neighborhoods for Vista Field.

Commissioner Hohenberg inquired if these pocket neighborhoods could be utilized in The Willows or Cable Greens.

Mr. Peterson stated the Urban Mixed-Use Zoning on Columbia Drive allows for these neighborhoods.

5. Planes from the Past

Mr. Arntzen presented photos of the types of planes that may have flown in the past at Vista Field.

Commission and staff discussion ensued regarding the possibilities of how to honor and preserve the history of the historic planes at Vista Field.

B. Redistricting and Scheduling of Public Hearing Update

Mr. Peterson reported that the Port went through redistricting in 2011 and the three districts were even in population at 42,000; however, based upon the 2022 Census, there is an imbalance of 7,600 between Districts 2 and 3. Mr. Peterson inquired which date the Commission would like to hold the Public Hearing to consider the redistricting maps.

PORT OF KENNEWICK REGULAR COMMISSION MEETING

AUGUST 9, 2022 MINUTES

DRAFT

Ms. Lake stated the Public Hearing needs to take place within 10 days of publishing the draft plan and inquired if the Commission finds August 23, 2022 acceptable for the Public Hearing. The deadline to approve the new redistricting map is November 15, 2022.

Mr. Peterson stated the earlier date offers time for JUB and staff to make any changes, if the map is not deemed acceptable, based on comments from the Public Hearing and Commission direction.

It is the Consensus of the Commission to hold the Public Hearing on August 23, 2022 to consider the redistricting map.

C. Art Policy

Mr. Arntzen and Mr. Kooiker have been reviewing Port policies for efficiencies and believe the Art Policy, although a good idea, is problematic. We are unable to budget for art because it is based on land sales, which are fluid. Additionally, confusion arises with potential purchasers because of the 3%. Mr. Arntzen stated the Commission may want to consider adding a line item to the budget for art. The Port would continue to work with the Kennewick Art's Commission and other local groups.

Mr. Kooiker stated the mechanics of the art policy being tied to a land sale transaction is tricky because appraisal issues arise. This is a good time to discuss this because we are working on the budget and a line item for art could be included for the 2023-2024 Budget.

The Commission discussed the Art Policy and placing it in the budget as a line item.

Commissioner Novakovich inquired if the Commission decides to rescind the Art Policy, what is necessary to move forward.

Mr. Arntzen would work with Ms. Lake and Ms. Scott and bring back an Agenda Report and Resolution rescinding the documents.

Mr. Arntzen stated that there is currently \$36,000 allocated in the art fund and we added a \$100,000 line item in the 2023-2024 Budget for Commission consideration.

D. Port Commission Rules of Policy and Procedure Update

Mr. Arntzen gave a brief history of the Commission Rules of Policy and Procedure and stated Ms. Lake is working on a comprehensive refresh to the Policies.

Ms. Lake reviewed the revisions (*Exhibit A*) made to the Commission Rules of Policy and Procedure, including incorporating recent changes in State laws.

The Commission made comments regarding the revisions to the Rules of Policy and Procedure.

Ms. Lake requested any additional Commission comments or revisions be submitted by

PORT OF KENNEWICK REGULAR COMMISSION MEETING

AUGUST 9, 2022 MINUTES

DRAFT

August 16, 2022, for review at the August 23, 2022 Commission Meeting

E. Commissioner Meetings (formal and informal meetings with groups or individuals)

Commissioners reported on their respective committee meetings.

F. Non-Scheduled Items

Ms. Bader Inglima stated the Port was recognized as the July member of the month by the Tri City Regional Chamber of Commerce.

Ms. Bader Inglima reported that the next Summer Saturday Night Market at Columbia Gardens will be August 13, 2022, from 5:00 to 9:00 p.m. The events have been well attended and we have had to put vendors on the waitlist for the September event.

Mr. Arntzen appreciates the work that Ms. Lake did on the Commission Rules of Policy and Procedure.

Mr. Arntzen offered comments regarding Vista Field and how the public is enjoying the water feature. Additionally, today's meeting concluded in under two hours, and we were able to address several items.

Commissioner Hohenberg's father recently passed away and he thanked staff and others for the cards, notes, and support. His father was 99 and a World War II Combat Veteran and he was laid to rest with full military honors.

Commissioner Novakovich presented a picture of a 75-pound roasted pig from Swampy's BBQ for Monarcha's Member of the Year Summer Luau.

PUBLIC COMMENTS

No comments were made.

COMMISSION COMMENTS

No comments were made.

ADJOURNMENT

With no further business to bring before the Board; the meeting was adjourned 3:51 p.m.

**PORT OF KENNEWICK
REGULAR COMMISSION MEETING**

AUGUST 9, 2022 MINUTES

DRAFT

APPROVED:

**PORT of KENNEWICK
BOARD of COMMISSIONERS**

Skip Novakovich, President

Kenneth Hohenberg, Vice President

Thomas Moak, Secretary

**Clerks Note: Commissioner Moak arrived late to the Commission Meeting due to unforeseen circumstances.*

PORT OF KENNEWICK

RESOLUTION No. 2022-21

***A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK APPROVING THE
VISTA FIELD DESIGN STANDARDS FORMAT UPDATE***

WHEREAS, the Vista Field Design Standards document has been updated by DPZ CoDesign in an effort to consolidate text, add illustrations and streamline content for the reader.


WHEREAS, as development progresses at Vista Field adjustments may be made to the Vista Field Design Standards in order to reflect changing conditions and new neighborhood areas.

NOW, THEREFORE, BE IT RESOLVED that the Port of Kennewick Board of Commissioners hereby approves and adopts the Vista Field Design Standards in its updated format as prepared and revised by DPZ CoDesign (Exhibit A).


BE IT FURTHER RESOLVED that the Port of Kennewick Board of Commissioners hereby ratify and approve all action by port officers and employees in furtherance hereof; and authorize the Port Chief Executive Officer to take all action necessary in furtherance hereof.

ADOPTED by the Board of Commissioners of Port of Kennewick on the 9th day of August, 2022.

***PORT of KENNEWICK
BOARD of COMMISSIONERS***

By: 
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SKIP NOVAKOVICH, President

By: 
89F77EAC8921416...

KENNETH HOHENBERG, Vice President

By: Absent

THOMAS MOAK, Secretary



VISTA FIELD DESIGN STANDARDS

June 27, 2022



Michael Mehaffy, Structura Naturalis
Laurence Qamar, Qamar and Associates
Doris S. Goldstein, Walkable Mixed-Use

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VISTA FIELD DESIGN STANDARDS

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VISTA FIELD DESIGN STANDARDS

SECTION 1: INTRODUCTION

1.1 GENERAL

The Vista Field Design Standards produce a visual identity that emerges from the location, climate, and history of its site. The Design Standards guide the implementation of the Vista Field Master Plan.

The goal of the Master Plan and Design Standards is to enable a walkable, connected community. Workplace, retail and entertainment, and housing for a variety of ages and incomes are all in close proximity, with appealing open spaces and gathering places. Buildings designed individually contribute to a harmonious whole and combined with the Vista Field streets create a comfortable and interesting public realm of shared spaces.

The interface between the private properties and the public realm determines the community's physical character. Perceived in the streets and squares, and in views established for public benefit, this harmony in the public realm is the aim of the urban, architecture, and landscape that follow.

Other goals include sustainability and climate resilience, in consideration of the health of natural systems and human well-being. This is reflected in a master plan and building types intended to reduce use of non-renewable resources: a compact, mixed-use pedestrian friendly plan to reduce automobile dependence for daily activities, buildings scaled to allow cross-ventilation, and construction materials and methods specified for longevity in a dry climate.

These Design Standards for the first phase of Vista Field intentionally allow room for exploration and experimentation. With the help of the Town Architect, the first buyers and their architects will design buildings and other improvements that carry out the themes established by the Design Standards. This collaboration will serve as a learning process for the community, further defining what works well with the Master Plan and environment, what creates the community's identity, and what is most beautiful. Future iterations of these Design Standards will integrate that wisdom and expand that knowledge to a larger number of building types than what is available in the first phase.

1.2 LIST OF STANDARDS

The Design Standards for Vista Field consist of four components to be used together to implement the community vision:

Section 2. Definitions: capitalized terms apply wherever used in the Design Standards.

Section 3. Regulating Plan: a map showing the lots, building types, and space in-between.

Section 4. Building Types: graphic design instructions for each building type, corresponding to the Development Regulations. For this first phase, there are a limited number of building types. The illustrations are intended to show possible configurations and to serve as inspiration, with the actual design to be developed by lot owners and their architects in cooperation with the Town Architect.

Section 5. Development Regulations: text that regulates those aspects of buildings which affect the public realm, guiding building placement, facades and elevations, attachments and landscapings, and parking and service areas. Development Regulations also specify the materials and design requirements for walls, roofs, openings, and other building elements, intended to produce visual compatibility among disparate building types, and promote a unique identity for the community. These Standards relate to the vernacular building traditions of the region, thus inheriting a suitable response to the climate.

Together, the Design Standards address the quality and character of buildings, landscape, and public spaces of Vista Field. The relatively high degree of specificity in these Standards will ensure that investments in homes and businesses are supported by the consistent and predictable development undertaken by others. The highest quality of design and construction is desired. Poorly proportioned or executed details are unacceptable.

These standards follow Federal Plain Language guidance. Provisions are activated by terms such as "must", "is", "are", or other direct terminology or sentence structure. Provisions utilize "should" for standards that are recommended and "may" for standards that are optional.

1.3 AUTHORITY

The Design Standards, the role of the Town Architect (TA), and the requirement for design review are all established under the Declaration of Covenants, Conditions and Restrictions for Vista Field, recorded or to be recorded in the public records of Benton County, Washington (the "Declaration"), which is binding upon all purchasers of property within Vista Field. The Declaration requires review and approval of all plans to build any type of improvements within Vista Field, including choice of materials and of any modifications of those plans. The Declaration also allows for enforcement.

For the Vista Field development, the Design Standards take precedence over other typical regulations. In matters of health and safety, the City of Kennewick, State of Washington and national regulations take precedence.

The City of Kennewick, WA Code of Ordinances Mixed-Use Design Standards District that includes standards for street frontage, blocks, site design, and building design, prevails in case of a conflict.

1.4 USES

Vista Field mixes residential and commercial uses within a block and often within a building. The Design Standards anticipate that a well-designed building can have many possible uses, and that uses may evolve over time.

Building types describe in general terms the kinds of uses expected. Variations from these building types are subject to TA approval. The Vista Field Declaration of Covenants, Conditions and Restrictions for Commercial Property (the "Commercial Declaration") further regulates types and mixtures of commercial uses.

Temporary exterior commercial uses, seating, dining, and displays in shopfront setbacks, where permitted under the Commercial Declaration, are subject to approval of the TA.

1.5 ADMINISTRATION

As further described in Part VII of the Declaration, the Vista Field Town Architect (TA) administers these Standards, and all relevant approvals. Properties and improvements are required to conform to the Vista Field Design Standards unless an exception is granted in writing.

Exceptions to these Standards may be approved by the Town Architect on the basis of architectural merit, site conditions, and other extenuating or unusual circumstance, and as described in the Declaration. Where appropriate, the design intention of the Design Standards and the Regulating Plan may support an exception to these Standards. Each exception is considered unique and does not set a precedent for future exceptions. A specific description of each deviation must be clearly recorded in writing prior to the start of construction.

Design review forms and procedures are available from the Port of Kennewick.

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SECTION 2: DEFINITIONS

Alley: a vehicular way designated to be a secondary means of vehicular access to the rear or side of properties; an alley may connect to a vehicular driveway located to the rear of lots providing access to outbuildings, service areas and parking, and may contain utility easements.

Awning: a fixed or movable shading structure, cantilevered or otherwise entirely supported from a building, used to protect outdoor spaces from sun, rain, and other natural conditions. Awnings are typically used to cover outdoor seating for restaurants and cafes.

Basement: Any story that does not extend above sidewalk elevation by more than 3 ft. Basements do not count as stories when calculating building height.

Block: the aggregate of private lots, passages, and alleys, circumscribed by streets.

Build-to Line: a line on the Regulating Plan at which the building facade is required to be placed.

Building Height: the vertical extent of a building measured in feet or stories.

Building Type: the categorization of a building according to its location on the master plan and its relationship to public space such as the street it faces.

Civic: the term defining organizations dedicated primarily to community benefit through the arts, culture, education, recreation, government, transport, and municipal parking.

Civic Building: a building operated by a civic organization or other community-benefit public use.

Elevation: an exterior wall of a building not facing a frontage. See: facade.

Floor Elevation: the height of a floor level.

Encroachment: any building element that breaks the plane of a vertical or horizontal regulatory limit, extending into a setback, or into the public frontage.

Exception: a ruling that would permit a practice that is not consistent with a specific provision of this Code, but that is justified by its intent.

Facade: the exterior wall of a building facing a frontage line. See elevation.

Frontage: the area between a building facade and the vehicular lanes, inclusive of its built and planted components. Frontage is divided into private frontage and public frontage which are defined below.

Frontage Line: a lot line bordering a public frontage. Facades facing frontage lines define the public realm and are therefore more regulated than the elevations facing other lot lines. Lots at intersections have multiple frontage lines.

Liner Building: a building which screens parking and services areas from view from public frontages. Liner buildings are usually relatively shallow in depth and shorter than the principal building.

Lot: a parcel of land accommodating a building or buildings of unified design.

Lot Line: the boundary that legally and geometrically demarcates a lot.

Lot Width: the length of the principal frontage line of a lot.

Outbuilding: an accessory building, usually located toward the rear or the front of the same lot as a principal building; connected to or separated from the principal building.

Parking Lot or Area: A designated space for vehicle access and arrival, with or without access to a garage.

Pedestrian Passage: a way providing public pedestrian access.

Porch: An exterior roofed space attached to a building.

Principal Building: the main building on a lot, usually located to face and be entered from a street.

Private Frontage: the private lot area between the frontage line and the principal building facade.

Public: wherever used in these Design Standards, the word “public” refers to areas that are shared with others in the general community but does not mean that the areas are necessarily dedicated to the public nor does it confer any rights in the general public.

Public Frontage: the area between the street pavement and frontage lines, typically consisting of a sidewalk and planting area. In the case of shared space streets and plazas, the public frontage includes the entire space.

Regulating Plan: a map or set of maps that shows building type assignments, build-to lines, civic zones, streets, special districts if any, and special requirements if any, of areas subject to regulation by these guidelines.

Setback: the area of a lot measured from the lot line to a building facade or elevation that is maintained clear of permanent structures, with the exception of encroachments.

Shopfront: a portion of a building facade that is designed for commercial use.

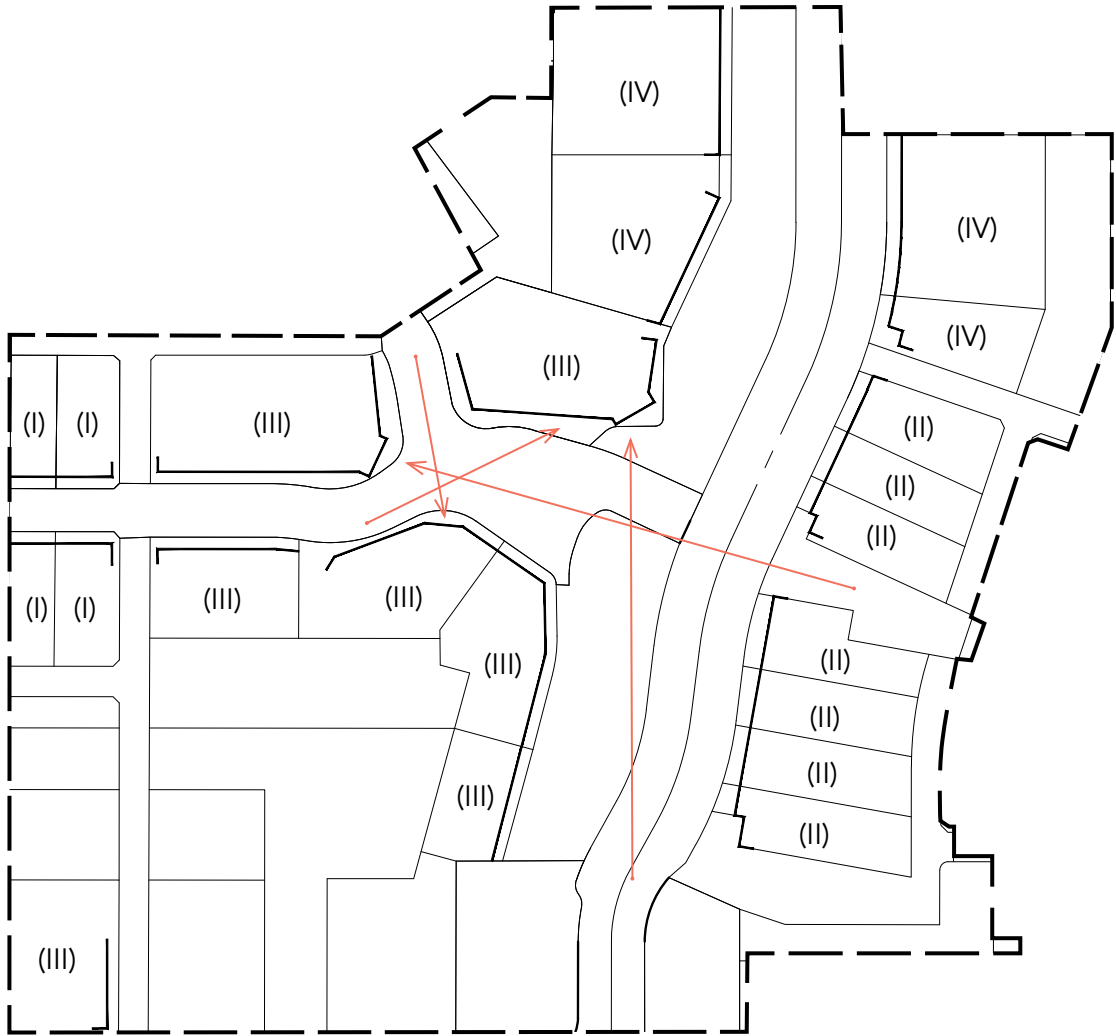
Sidewalk: the paved or graveled section of the public frontage dedicated exclusively to pedestrian activity.

Story: a habitable level within a building, excluding an attic or raised basement.

Streetscreen: a freestanding wall built along the build-to line or coplanar with building facades intended to shield vehicular and service areas from view along sidewalks.

Terminated Vista: a location visible at the end of a street or other public space. Terminated Vistas are often focal points in a community, serving as landmarks or points of interest.

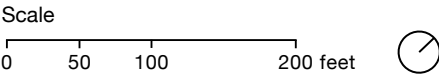
SECTION 3: REGULATING PLAN



Regulating Plan

Vista Field Phase 1

- Phase 1 Boundary
- Build-To-Line
- ← Terminated Vistas
- (I) Type I: Residential
- (II) Type II: Live Work
- (III) Type III: Mixed Use
- (IV) Type IV: Main Street



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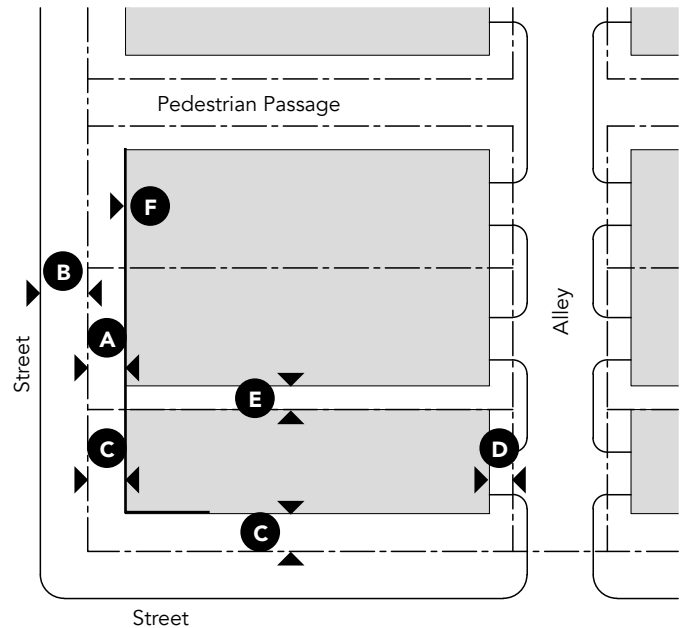
SECTION 4: BUILDING TYPES

Type I. Residential: two stories, single-family houses. Townhouses, cottage courts, and small apartment houses may be included in later phases.

Type II. Live Work: two to three stories, with individual identity, business space at ground level, and residential use behind and above.

- A. Private Frontage
- B. Public Frontage
- C. Front Setback
- D. Rear Setback
- E. Interior Side Setback
- F. Build-To Line

Figure 4.A: Building Types I & II

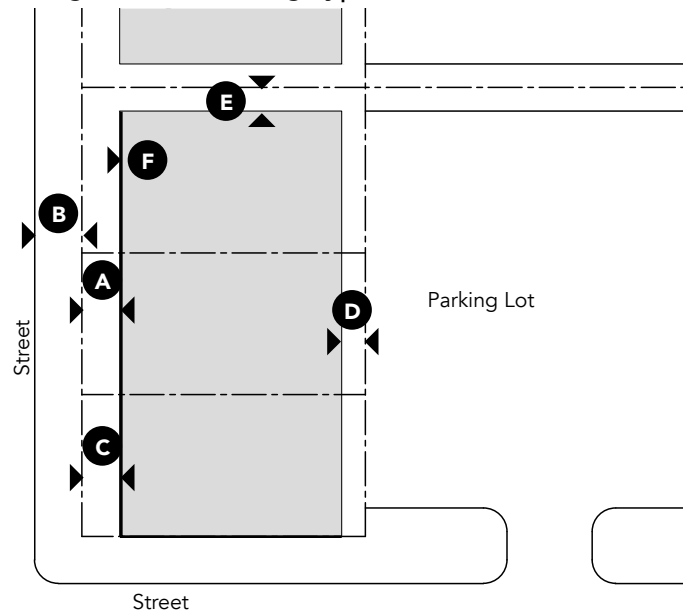


Type III. Mixed Use: two to three stories, with restaurant, retail, and service space below, and commercial or residential uses above.

Type IV. Main Street: one to two stories, welcoming a variety of business and residential uses.

- G. Private Frontage
- H. Public Frontage
- I. Front Setback
- J. Rear Setback
- K. Interior Side Setback
- L. Build-To Line

Figure 4.B: Building Types III & IV



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4.1 BUILDING TYPE I: RESIDENTIAL

Type I Residential allows single family houses, attached (townhome), semi-detached (duplex), and fully stand alone, on a single lot, with alley-accessed parking.

Use: Residential

Lot Width: 20 ft. minimum, 100 ft. maximum

Lot Depth: 50 ft. minimum

Building Setbacks: **Front:** 8 ft. max. or as specified in the Regulating Plan, along a minimum of 50% of frontage lines.

Sides: 0 ft. interior side for attached buildings or 5 ft. minimum where not attached

Rear: 5 ft. minimum

Building Height: 35 ft. maximum

3 stories

Parking: Alley access, garage or parking pad

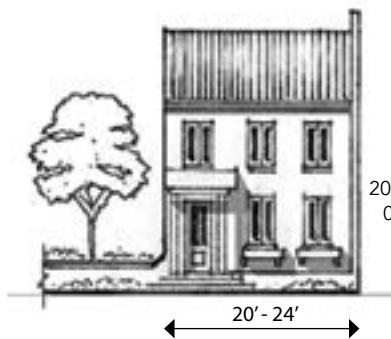
Additional Standards:

- Build-to lines for individual buildings are according to the Regulating Plan.
- Porches, stoops, and lightwells for basement windows may encroach into front and side street setbacks, up to 2 feet from the frontage line. Balconies and bay windows may encroach into the front, side street, and rear setback up to 50%.
- Walls or fences are required as follows:
 1. Required along shared side property lines, between the front and rear setbacks;
 2. Required in alignment with facades enclosing yards; and
 3. Are limited to 6 ft. in height, maximum.
- Facades must include 30% minimum glazing.



4.1 BUILDING TYPE I: RESIDENTIAL

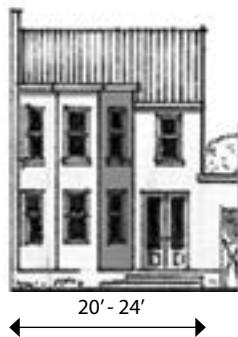
Figure 4.1.A: Illustrative Elevations



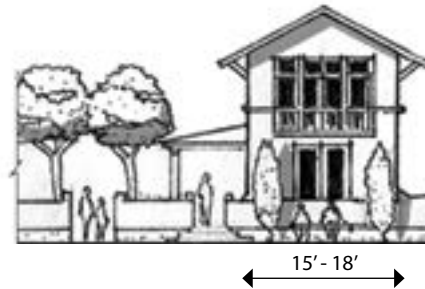
TYPE I
A
20 ft. lot width min.
0 ft. side setback



TYPE I
E
30 ft. lot width min.
0 ft. side setback



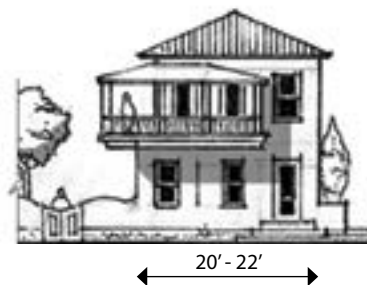
TYPE I
B
20 ft lot width min.
0 ft. side setback



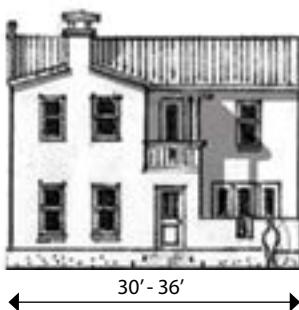
TYPE I
F
35 ft. lot width min.
5 ft. side setback min.
both sides



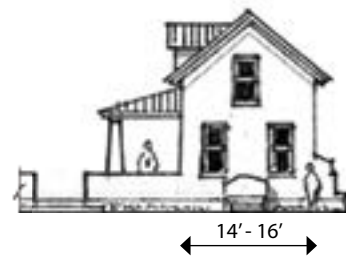
TYPE I
C
25 ft. lot width min.
0 ft. side setback



TYPE I
G
35 ft. lot width min.
5 ft. side setback min.
both sides



TYPE I
D
30 ft. lot width min.
0 ft. side setback



TYPE I
H
35 ft. lot width min.
5 ft. side setback min.
both sides

4.1 BUILDING TYPE I: RESIDENTIAL

Figure 4.1.B: Illustrative Elevation and Plans



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4.2 BUILDING TYPE II: LIVE-WORK

Type II Live-Work Building allows residential and commercial uses of a small scale on a single lot, with alley-accessed parking. This type serves as a transitional type between commercial and residential uses. It is intended to facilitate small businesses, working at home, and to encourage incubation of new businesses.

Use:	Residential, commercial
Lot Width:	25 ft. minimum, 50 ft. maximum
Lot Depth:	50 ft. minimum
Building Setbacks:	<p>Front: 8 ft. max. or as specified in the Regulating Plan, along a minimum of 50% of frontage lines.</p> <p>Sides: 0 ft. interior side for attached buildings or 5 ft. minimum where not attached</p> <p>Rear: 5 ft. minimum</p>
Building Height:	<p>35 ft. maximum</p> <p>3 stories</p>
Parking:	Alley access, garage or parking pad, or rear access shared parking lot

Additional Standards:

- Build-to lines for individual buildings are according to the Regulating Plan.
- Porches, stoops, and light wells for basement windows may encroach into front and side street setbacks, up to 2 ft. from the frontage line. Balconies and bay windows may encroach into the front, end unit side, and rear setback up to 50%.
- Walls or fences are required as follows:
 1. Required along shared side property lines, between the front and rear setbacks;
 2. Required in alignment with facades enclosing yards; and
 3. Are limited to 6 ft. in height, maximum.
- Facades must include 40% minimum glazing.

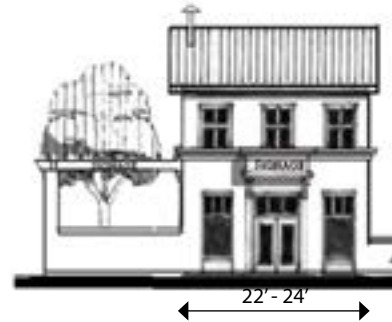


4.2 BUILDING TYPE II: LIVE WORK

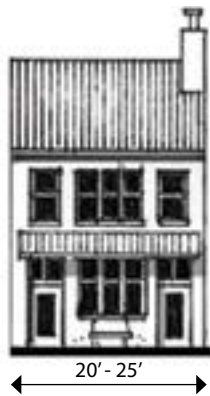
Figure 4.2.A: Illustrative Elevations



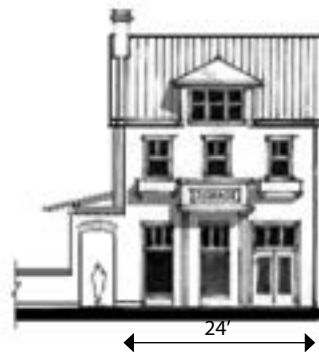
TYPE II
A
30 ft. lot width min.
0 ft. side setback



TYPE II
E
30 ft. lot width min.
0 ft. side setback



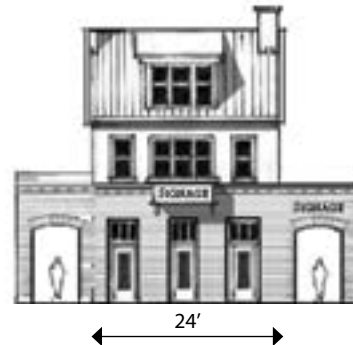
TYPE II
B
25 ft. lot width min.
0 ft. side setback



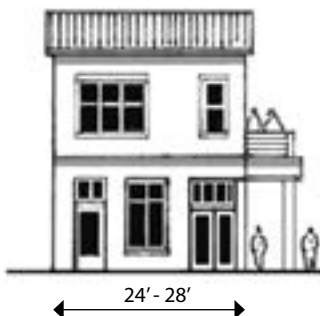
TYPE II
F
30 ft. lot width min.
0 ft. side setback



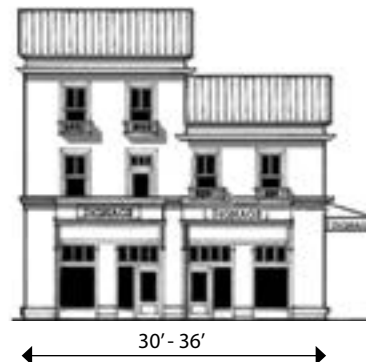
TYPE II
C
25 ft. lot width min.
0 ft. side setback



TYPE II
G
40 ft. lot width min.
0 ft. side setback



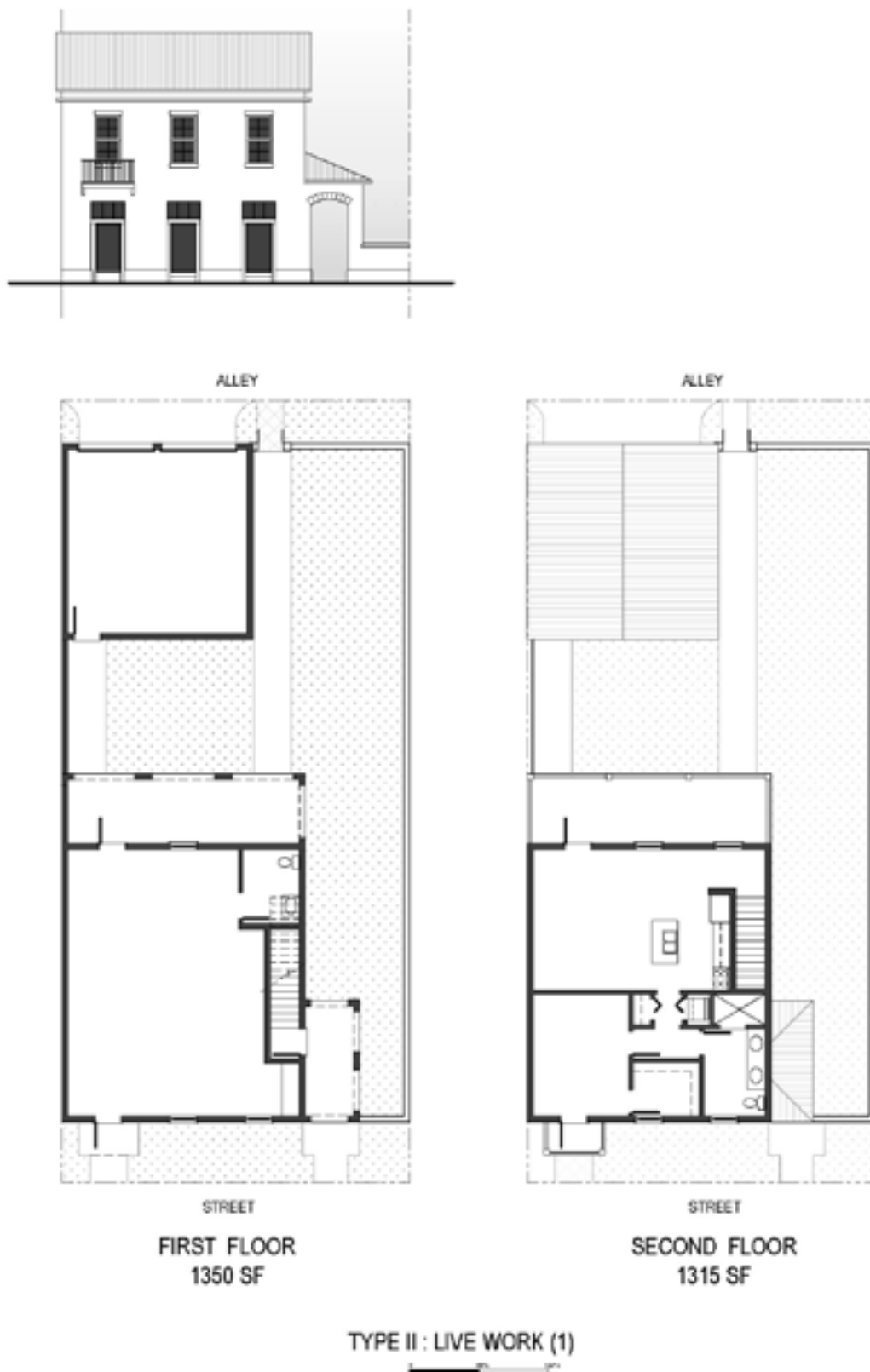
TYPE II
D
30 ft. lot width min.
0 ft. side setback



TYPE II
H
30 ft. lot width min.
0 ft. side setback

4.2 BUILDING TYPE II: LIVE WORK

Figure 4.2.B: Illustrative Elevation and Plans



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4.3 BUILDING TYPE III: MIXED USE

Type III Mixed Use allows a flexible arrangement of commercial and residential uses with alley access or shared lot parking.

Use:	Retail, office, services, and residential
Lot Width:	20 ft. minimum, 200 ft. maximum
Lot Depth:	50 ft. minimum

Building Setbacks:	Front:	0 ft. min. and 8 ft. max. or as specified in the Regulating Plan, along a minimum of 70% of frontage lines.
	Sides:	0 ft.
	Rear:	5 ft. minimum

Building Height:	45 ft. maximum
	2 stories minimum and 3 stories maximum
	Buildings along Deschutes Avenue may be single-story.
	Minimum first floor finished height 14 ft.

Parking:	Rear access shared parking lot
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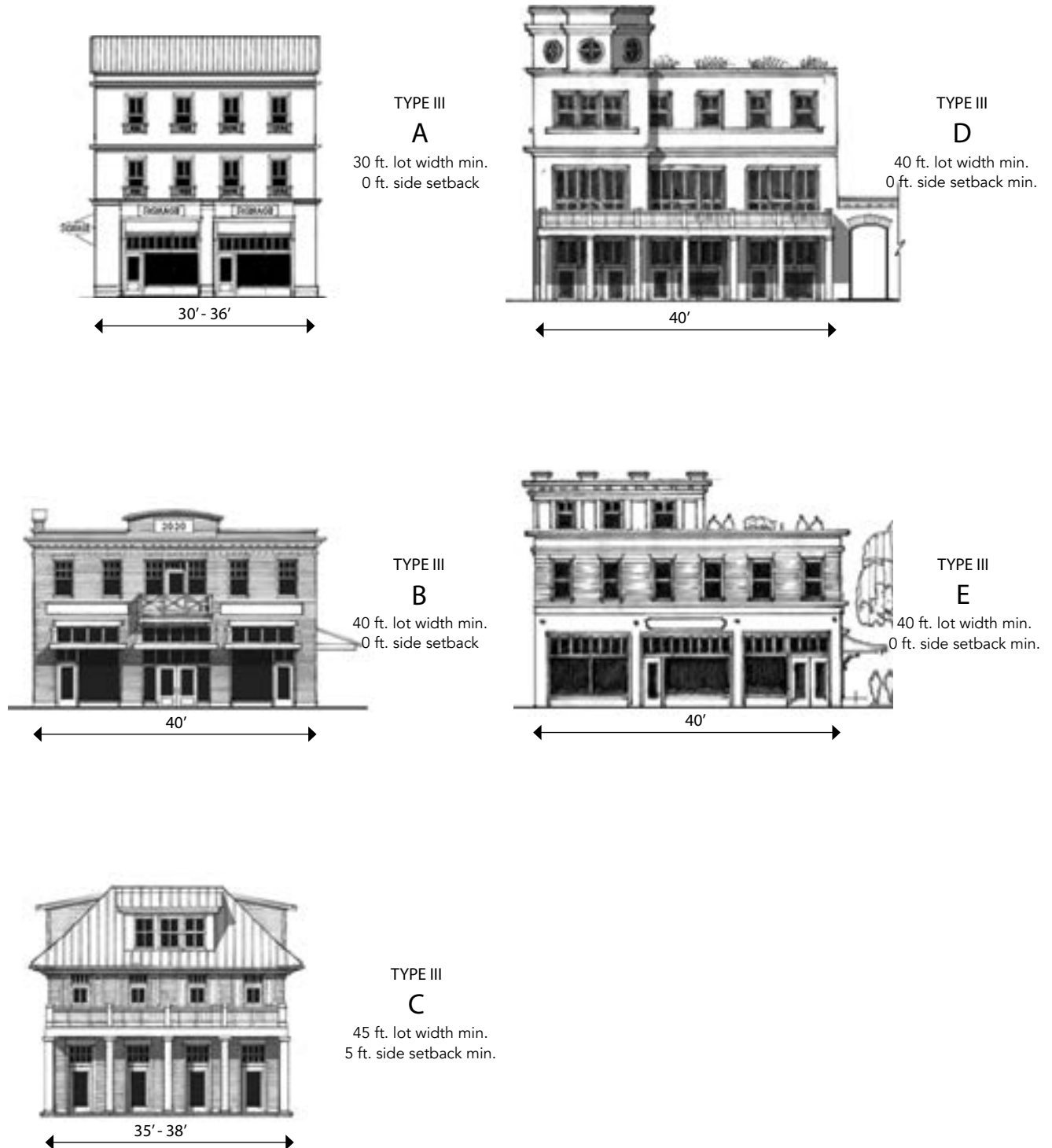
Additional Standards:

- Adjacent to residential Type I, a ground floor residential use with at-grade ADA level entry is acceptable.
- Build-to lines for individual buildings are according to the Regulating Plan.
- Balconies and bay windows may encroach into the front, side, and rear setback up to 50%.
- Retractable awnings and canopies may encroach into setbacks and beyond front property line, by approval of the TA.
- Facades must include 30% minimum glazing at the upper floors. First floor facades must include 60% minimum glazing.



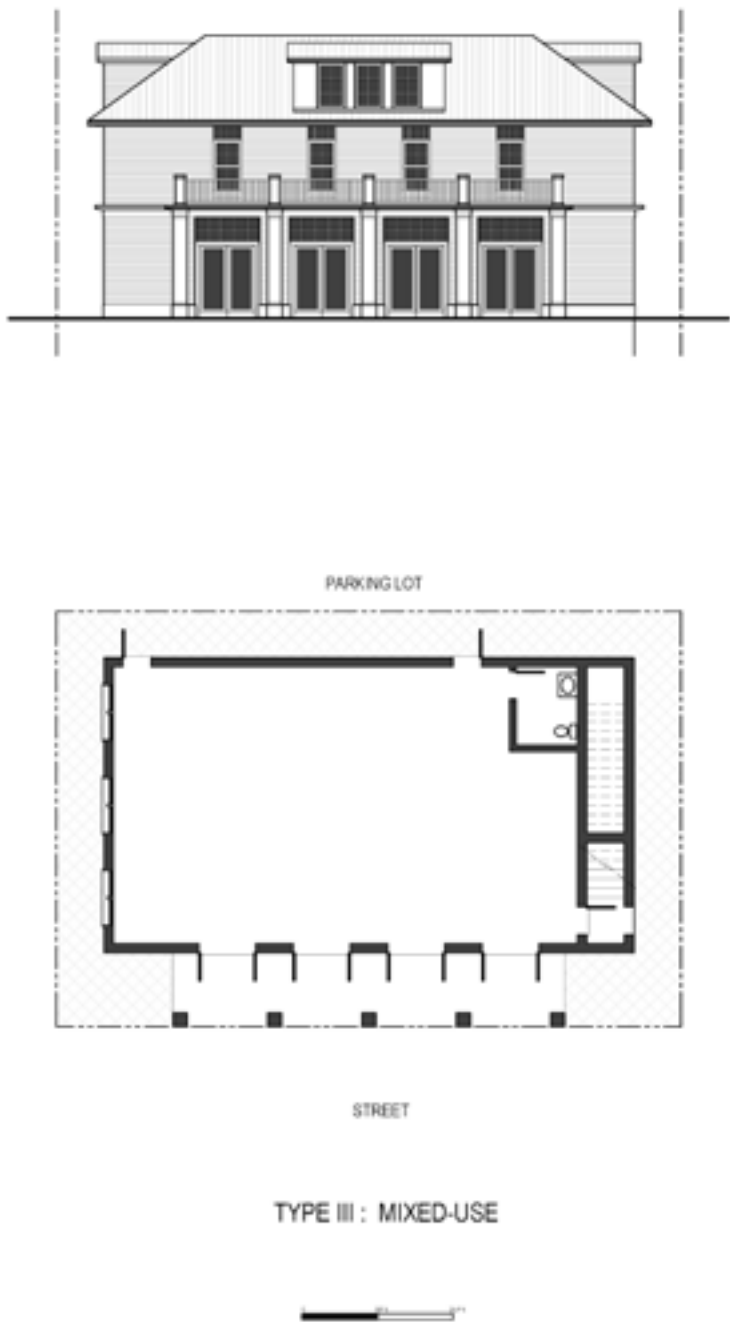
4.3 BUILDING TYPE III: MIXED USE

Figure 4.3.A: Illustrative Elevations



4.3 BUILDING TYPE III: MIXED USE

Figure 4.3.B: Illustrative Elevation and Plan



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4.4 BUILDING TYPE IV: MAIN STREET

Type IV Main Street allows retail use at ground level with or without upper story commercial or residential uses in a single structure, with alley access or shared lot parking.

Use: First floor retail, office, and services
Second floor office, services, and residential

Lot Width: 20 ft. minimum, 150 ft. maximum

Lot Depth: 50 ft. minimum

Building Setbacks: **Front:** 0 ft. min. and 8 ft. max. or as specified in the Regulating Plan, along a minimum of 70% of frontage lines.
 Sides: 0 ft.
 Rear: 5 ft. minimum

Building Height: 35 ft. maximum
2 stories maximum
Minimum first floor finished height 14 ft.

Parking: Rear access shared parking lot

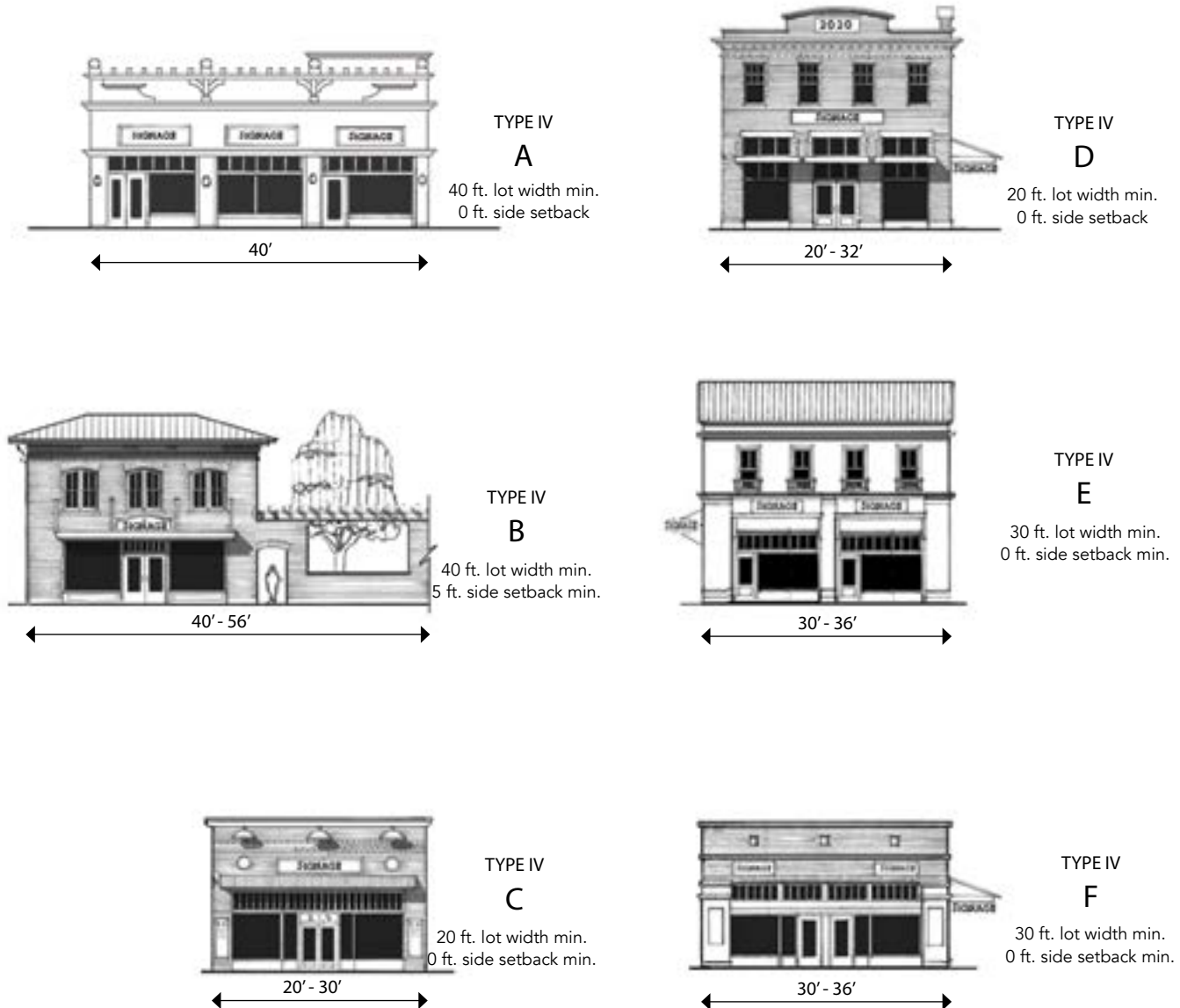
Additional Standards:

- Adjacent to residential Type I, a ground floor residential use with at-grade ADA level entry is acceptable.
- Build-to lines for individual buildings are according to the Regulating Plan.
- Balconies and bay windows may encroach into the front, side, and rear setback up to 50%.
- Retractable awnings and canopies may encroach into setbacks and beyond front property line, by approval of the TA.
- Facades must include 30% minimum glazing at the upper floors. First floor facades must include 60% minimum glazing.



4.4 BUILDING TYPE IV: MAIN STREET

Figure 4.4.A: Illustrative Elevations



4.4 BUILDING TYPE IV: MAIN STREET

Figure 4.4.B: Illustrative Elevation and Plans



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SECTION 5: DEVELOPMENT REGULATIONS

The Development Regulations are organized by these categories:

- 5.1 Design Intent
- 5.2 Accessory Structures
- 5.3 Building Height
- 5.4 Building Massing
- 5.5 Building Placement
- 5.6 Building Materials
- 5.7 Building Walls
- 5.8 Roofs and Eaves
- 5.9 Porches and Other Attachments
- 5.10 Doors, Windows, and Other Openings
- 5.11 Signage and Lighting
- 5.12 Fences, Garden and Retaining Walls, and Pavement
- 5.13 Parking, Service Areas, and Driveways
- 5.14 Landscape

5.1 DESIGN INTENT

- a. The goal of the Development Regulations is to achieve a unique architectural identity for Vista Field through a balance of uniformity and variety. A suitable response to the climate and geography can be learned from the vernacular traditions. Inspiration and lessons can be taken from historical regional buildings, including High Desert, Agrarian Vernacular, Bungalow and Craftsman, Spanish Revival, Neo-Classical and Mission styles. Historical styles when employed should strive to be exemplary of their origins. The use of limited materials, focused on those locally sourced, and a defined color palette provide a background of uniformity for variations in form. Constraints on form seek to produce building design of the highest quality, avoiding clichés and kitsch, in support of the urban and environmental goals and community identity.
- b. All dimensions are considered nominal.
- c. Civic buildings are not regulated under the Design Standards. Civic building designs must be developed in conjunction with the TA.
- d. Materials changes must be along a horizontal line, with the heavier material below the lighter, expressing visual load bearing conditions, even if the material is not load bearing.

5.2 ACCESSORY STRUCTURES

- a. The following outbuildings and landscape constructions may be permitted by approval of the TA:
 - i. Detached garages;
 - ii. Guest houses;
 - iii. Artisan studios and workshops;
 - iv. Garden pavilions, greenhouses, and gazebos;
 - v. Storage sheds;
 - vi. Trellises;
 - vii. Swimming pools, hot tubs, and pool houses;
 - viii. Basketball hoops; and
 - ix. Sports courts.
- b. Swimming pools and hot tubs must maintain a low profile and must be screened from surrounding lots and street views.

5.3 BUILDING HEIGHT

- a. Building Heights are limited as specified in [Section 4: Building Types](#) and as follows:
 - i. The number of stories is determined by counting the highest number of floor levels stacked above each other, with each level being defined by the area between finished floor and finish ceiling above; and
 - ii. Building height is measured from the sidewalk or if there is no sidewalk from the street pavement at the front of the building, at the centerline of the lot width. Building height is measured to the highest point of the roof for flat roofs and to the midpoint between the eaves and the highest point of the roof for pitched roofs.
- b. The following building elements may exceed the maximum building height:
 - i. Chimneys, up to 8 ft. above the roof penetration, or eave;
 - ii. Stairwells accessing flat roofs, up to 12 ft. above the flat roof surface;
 - iii. Trellises on flat roofs, up to 12 ft. above the flat roof surface; and
 - iv. Other portions of a structure up to 215 square ft. in area, up to 12 ft. above the roof surface for flat roofs or the highest point of roof contact for sloped roofs.
- c. Habitable accessory structures are limited to 2 stories in height, and a maximum of 24 ft.
- d. Other structures are limited to 1 story in height, and a maximum of 14 ft.

5.4 BUILDING MASSING

- a. Building massing must be simple and adhere to the following:
 - i. Buildings are limited to 2 gables per facade; and
 - ii. Buildings are limited to 6 exterior corners facing the street, exclusive of attachments.

5.5 BUILDING PLACEMENT

5.5.1 Setbacks

- a. Buildings, attachments, and accessory structures must be placed in relation to their lot lines, setbacks, build-to lines, and frontage lines according to [Section 3: Regulating Plan](#) and [Section 4: Building Types](#). See [Figure 4.1.A](#) and [Figure 4.1.B](#).
- b. Setbacks are measured perpendicular to the property line of the lot. Where property lines are curved, the measure is taken perpendicular to the tangent at the centerline of the lot.
- c. Maximum setbacks may be extended by the TA where in conflict with utilities.
- d. Build-to lines override setbacks. If the [Section 3: Regulating Plan](#) assigns a build-to line, the building facade must be placed at the build-to line, with a tolerance of 2 ft.
- e. Where [Section 4: Building Types](#) includes a percentage related to the build-to line, only that percentage of the length of the build-to line is required to have facades along the build-to line.
- f. Encroachments into setbacks and beyond the build-to line are permitted as specified in [Section 4: Building Types](#), subject to utilities.

5.5.2 Number of Buildings

- a. Each lot must include one habitable, principal building.
- b. Lots may include additional buildings as specified in [Section 4: Building Types](#).

5.5.3 Frontages

- a. Lot lines that coincide with a right-of-way or public space are designated frontage lines.
- b. Buildings must have their principal pedestrian entrances on a frontage line.
- c. Facades must be built along the minimum percentage of frontage lines specified in [Section 4: Building Types](#) and as follows:
 - i. Facades must be in alignment with build-to lines;
 - ii. Facades must be parallel to frontage lines; or
 - iii. Facades must be parallel to the chord of a broken or curved frontage line.
- d. Lots facing two streets are considered as having two frontages. Thus, corner buildings have two fronts and two facades.
- e. Lots with only pedestrian passage access must treat the pedestrian passage as the lot frontage.
- f. The TA may determine that other lot lines or portions thereof be held to frontage line standards where buildings are highly visible from public spaces.

5.5.4 Terminated Vistas

- a. Buildings must be placed on lots with attention to view corridors and terminated vistas specified in [Section 3: Regulating Plan](#).
- b. A building facade that terminates a vista must be designed to recognize its focus and importance as follows:
 - i. A primary building entrance should be located at the vista termination;
 - ii. Style appropriate articulation should express the termination;
 - iii. Rooftop elements such as chimneys, pergola, gables, and articulated parapets should express the termination; and
 - iv. Service doors, blank walls, service areas, and vehicular areas are prohibited at terminated vistas.

Figure 5.5.4 Terminated Vistas



5.5.5 Alleys

- a. Where a lot is provided alley access, vehicular access is restricted to the alley.
- b. Lots with alley access must provide a space for pedestrians to pass from the building to the alley without having to go through the garage. Lots less than 25 ft. in width are exempt from this requirement.
- c. At alley entrances from streets:
 - i. If a building or garage is not built to the minimum rear setback, the alley must be screened from street view by walls or landscape extending along the frontage line to the minimum setback;
 - ii. If the rear property line meets the frontage line at an angle, the building or garage must be aligned with the frontage line.

5.6 BUILDING MATERIALS

5.6.1 General

- a. Materials and architectural details must be consistent between all facades of a building and between buildings where there are multiple buildings on a site.
- b. Materials specified in this document refer to actual building products and not imitations of those products. Materials other than those specified in this document may be approved by the TA.
- c. Where previously approved materials are no longer permitted, the previously approved material may be used only for repairs.

5.6.2 Colors

- a. Colors must be selected from the Benjamin Moore Historic Colors Palette or equivalent with the addition of pure white, and must be approved by the TA.
- b. Residential buildings must be a maximum of 2 colors, including walls, attachments, doors, windows, and trim. Trim is to be 1 color only. Window sashes and entrance doors may be a 3rd color.
- c. Wall colors must be lighter in tone than the trim or attachments and other elements, except where white trim is used.
- d. Awnings are limited to a maximum of 2 colors, subject to approval of the TA.

5.7 BUILDING WALLS

5.7.1 Exterior Walls

- a. Walls may be clad in no more than 2 materials.
- b. Wall materials above foundation walls and piers may be stone, concrete, stucco, tile, brick, metal, cementitious boarding, wood, or composite. Exterior Insulation and Finish Systems (E.I.F.S.) are prohibited.
- c. Metal must be brass, bronze, wrought iron, galvanized, stainless or enameled steel, or marine-grade aluminum, and is only permitted by approval of the TA.
- d. Nails, screws, fasteners, hinges exposed to the elements must be galvanized or stainless steel.

5.7.2 Columns, Posts, and Arches

- a. Columns above foundation walls and piers may be stone, concrete, stucco, tile, brick, metal, cementitious boarding, wood, or composite.
- b. Wood posts must be 6" minimum in width and depth, or only in width if the post is connected to a wall, chamfered at the corners, and with spacing of traditional proportions.
- c. Porch columns must be brought to grade as masonry piers or masonry foundation walls. Openings between piers must be framed and filled with wood or brick lattice. Wood skirts covering piers are prohibited.
- d. Metal columns must be steel. Columns must be round in section and a minimum of 6" in diameter.
- e. Arches are only permitted in masonry or stucco wall surfaces. Keystones must be centered on the arch and have sides radial to the arch.

5.7.3 Foundations and Piers

- a. Foundation and pier materials must be concrete, stone or brick. Block with light coating of stucco for exposed foundation walls may be permitted by approval of the TA.
- b. Concrete must be architectural cast-in-place or board form.
- c. Foundations must appear to carry the weight of the building.
- d. Foundation walls and piers must be exposed a maximum of 8". Where exposed above 8", an architectural finish is required.
- e. Foundation piers of masonry or concrete must conform to the following:
 - i. Piers must be at least 12" in width and 8" in depth; and
 - ii. Exposed crawlspaces are limited to a maximum of 18" above grade.

5.7.4 Siding

- a. Trim such as corner boards, framing for openings and fascia, is to be no less than 1.25" in width.
- b. Shingle siding must conform to the following:
 - i. Shingles must be smooth cut sawn cedar, 4" to 6" exposure, and sealed with oil or stain only;
 - ii. Coarse variety may be permitted by approval of the TA;
 - iii. Shingle panels are prohibited; and
 - iv. Decorative shingles may be permitted by approval of the TA.
- c. Horizontal lap and ship lap siding must conform to the following:
 - i. Smooth face clear redwood or western red cedar, 4" to 6" exposure, and painted or sealed and stained;
 - ii. Composite siding smooth side only, Hardie, Hardie Artisan or Boral, 4" to 6" exposure, painted or prefinished;
 - iii. Siding spacing must butt into corner boards and openings trim; and
 - iv. Siding must not extend in front of trim.
- d. Board and batten siding must conform to the following:
 - i. Permitted materials are clear redwood, western red cedar, or composite panel, smooth face only;
 - ii. Battens must be 2"x3", spaced 16" o.c. maximum, painted or sealed and stained;
 - iii. Siding must be applied by centering a batten on each wall plane;
 - iv. Siding spacing must butt into corner boards and openings trim; and
 - v. Siding must not extend in front of trim.

5.7.5 Brick and Stone

- a. Brick must conform to the following:
 - i. Brick must be laid in a horizontal running bond pattern;
 - ii. Mortar joints are to be no greater than 3/8";
 - iii. Brick must have minimal color variation, and must not be painted; and
 - iv. Facade-only brick must return onto the adjacent side wall 8" to 12".
- b. Stone must conform to the following:
 - i. Stone must be natural rock, sourced from the region;
 - ii. Individual stones must be 8" minimum in height;
 - iii. Stone must be laid dry-stack or mortared;
 - iv. Stone must be uniform in style, ranging from coursed ashlar to uncoursed rubble;
 - v. The finished product must appear to be weight-bearing and not applied; and
 - vi. Facade-only stone must return onto the adjacent side wall 8" to 12".

5.7.6 Accessories

- a. Accessories attached to buildings, such as mailboxes, newspaper boxes, flower boxes, lettering, and numbering, must not be plastic or vinyl.

5.8 ROOFS AND EAVES

5.8.1 Roofing

- a. Pitched Roofs
 - i. Cladding on pitched roofs must be slate, terracotta tile, metal, or asphalt shingles.
 - ii. Metal roof cladding may be pre-finished standing seam, galvalume or zincalume; pre-finished corrugated; or unfinished copper.
 - iii. Asphalt shingles must be multi-ply architectural in 1 color.
- b. Flat Roofs
 - i. Flat roof surfaces may be reflective roofing, wood decked, and concrete with ceramic or terracotta tile.
 - ii. Green (vegetated) roofs may be permitted by approval of the TA.
- c. Flashing must be copper, lead, or anodized aluminum.
- d. Copper roofs, flashing, gutters, and downspouts must be allowed to age naturally, not painted or sealed.
- e. All roof attachments must match the main roof.

5.8.2 Roof Forms

- a. Roof forms must be simple, either symmetrically gabled, hipped, or flat.
- b. Two roof types are allowed for each building, one primary and one secondary type.
- c. Flat roofs must be surrounded by a parapet wall tall enough to conceal any rooftop equipment, and no less than 1 ft. above the roof deck. The parapet may be interrupted by drainage scuppers.
- d. Gabled and hipped roofs must be pitched between 6:12 and 14:12.
- e. Shed roofs are only permitted as secondary roofs and where the ridge is attached to an exterior wall of a building.
- f. Shed roofs must be pitched between 2:12 and 4:12.
- g. Roof slope breaks may be permitted at no more than 25% of overall width of roof and require approval by the TA.

5.8.3 Dormers

- a. Dormers must be habitable.
- b. Dormers must be roofed with a symmetrical gable, hip, or shed.
- c. Dormers must be placed a minimum of 3 ft. from side building walls.

5.8.4 Eaves

- a. Eaves are permitted to cantilever 2 ft. maximum.
- b. Gable end eaves are permitted to cantilever 2.5 ft. maximum.

5.8.5 Soffits

- a. Exposed soffits must have 2x4 or 2x6 rafter tails, infilled with tongue-in-groove or ACX plywood.
- b. Gable end rake rafters and fascia must be 2x8 minimum.
- c. Enclosed soffits must be tongue-in-groove, skip sheathing with a 1/2" gap, or stucco.
- d. Brackets must be composed with 4x6 vertical, 6x6 horizontal, 4x6 strut members.

5.8.6 Skylights

- a. Skylights must be flat in profile.
- b. Skylights must not face streets.

5.8.7 Solar Panels

- a. Solar tiles and panels may be permitted by approval of the TA.
- b. Solar tiles and panels must be integrated into the surface of the roof, and must not expose an independent structure.

5.8.8 Gutters and Downspouts

- a. Gutters must be 1/2 round, J-style, or box style. Only 1 style is permitted on a building.
- b. Gutters and downspouts must be copper, steel, or anodized/natural finish aluminum. Copper-anodized aluminum is prohibited.
- c. Downspouts must be round or square and mounted on a stand-off pin.
- d. Downspouts must be located in composition with the facade, subject to approval of the TA.
- e. Rain chains and barrels are permitted by approval of the TA.
- f. Splash blocks must be provided, in stone, brick, concrete, or gravel.
- g. In the absence of gutters, gravel must be placed at the dripline.

5.8.9 Other Rooftop Attachments

- a. Additional rooftop attachments are subject to approval of the TA.
- b. Vent stacks and other roof applications and protrusions are subject to the following:
 - i. Must be placed on roofs facing away from streets, or on flat roofs. Other locations are subject to approval by the TA; and
 - ii. Must be painted either to match the color of the roof, or flat black. Those made of metal may be left natural.
- c. Antennas must be concealed to the greatest extent consistent with Federal law, and when possible concealed from public view.

5.9 PORCHES AND OTHER ATTACHMENTS

5.9.1 Porches and Stoops

- a. Porches must be a minimum of 7 ft. deep.
- b. Porch openings and openings in covered stoops must be vertical in proportion.
- c. Porch, stoop, and deck floors may be wood or concrete. Brick, stone, and composite decking may be allowed by approval of the TA.
- d. All crawlspaces must be enclosed and screened from public view.
- e. Porches and stoop covers may be made of the following:
 - i. The wall materials;
 - ii. Wood, painted or sealed and stained to match the building wall materials; or
 - iii. Metal finished to match other metal of the building including windows and doors.
- f. Front entrance porch and stoop steps must be stone, brick, or concrete, and must be faced on all exposed sides with stone, brick, or concrete.
- g. Secondary porch and stoop steps may be permitted in wood or composite by approval of the TA.

5.9.2 Balconies

- a. Balconies are permitted to cantilever 3 ft. maximum.
- b. Balconies must be supported with brackets or other architectural support.
- c. Balconies may be made of the following:
 - i. The wall materials;
 - ii. Wood, painted or sealed and stained to match the building wall materials; or
 - iii. Metal finished to match other metal of the building including windows and doors.

5.9.3 Awnings

- a. Awnings must be sloping rectangles with a free-hanging drip edge, without side or bottom soffit panels.
- b. Awnings must be 36 in. wide minimum and 6 ft. minimum in depth. They may extend up to 2 feet from curbs.
- c. Awnings are limited to a maximum 1:3 slope from the building to the edge of awning.
- d. 9 ft. clear height above pedestrian walkways must be maintained.
- e. Awnings must be integral to the overall design of the storefront and must respect vertical column and window spacing.
- f. Awnings must have visible architectural support, such as brackets, integral to the awning design.
- g. Awnings must be made of structural building materials such as metal, wood, glass or concrete. Awnings made of canvas or synthetic woven material resembling canvas may be permitted by approval of the TA.
- h. Awnings must be a solid color to match the wall color, trim color, or a dark accent color.

5.9.4 Railings

- a. Balcony, porch, deck, and stair railings must be wood or metal and are subject to approval of the TA.
- b. Railings must have top and bottom rails. Top rails must be eased for handling comfort and bottom rails must have a vertical section.
- c. Pickets must be centered on the top and bottom rails.

5.9.5 Bay Windows

- a. Bay windows are permitted to cantilever up to 2 ft.
- b. Bay windows must be supported by knee-braces, foundation walls, or other architectural support.
- c. Bay windows may be made of the following:
 - i. The wall materials;
 - ii. Wood, painted or sealed and stained to match the building wall materials; or
 - iii. Metal finished to match other metal of the building including windows and doors.

5.9.6 Pergolas and Trellises

- a. Pergolas and trellises must be made of wood, metal, or vinyl.
- b. Trellis wire must be stainless steel held by 6" stand-offs.

5.9.7 Air Conditioners

- a. Window air-conditioners are prohibited.
- b. Wall air-conditioners facing an Alley or parking lot may be allowed by approval of the TA.

5.9.8 Chimneys

- a. Chimneys must have a foundation at grade.
- b. Chimneys must replicate wood-burning standards for height, dimension, and profile.
- c. Chimney top flues must be metal or tile.
- d. Horizontal flues are permitted by approval of the TA, and must not face a street or other public space frontage.
- e. Metal flues must be painted the color of the roof, flat black, or left natural.

5.9.9 Other Attachments

- a. Flagpoles may be mounted at an angle to porch columns or posts and to building walls, provided they are less than 6 ft. tall.

5.10 DOORS, WINDOWS, AND OTHER OPENINGS**5.10.1 Doors:**

- a. Doors facing frontages, streets, and public spaces must be located within wall sections such that wall thickness is perceived from the exterior of the building. Flush mounted doors are prohibited.
- b. Doors facing frontages must be made of:
 - i. Visible boarding;
 - ii. Stiles with glass panels, in half-lite, full-lite, or three-quarter lite configuration;
 - iii. Stiles with recessed panels; or
 - iv. Stiles with raised panels; and
 - v. Door construction must express traditional assembly techniques.
- c. Door lites that are arches, rounds, fans, or ovals are prohibited.
- d. Flush doors with applied trim are prohibited.
- e. Double doors must not exceed 5'-6" in overall width, except where intermediate posts are provided, 4" minimum in width.
- f. Sliding glass doors are not permitted on frontages.
- g. Doors must be made of wood, aluminum-clad wood, glass panel, or steel.

5.10.2 Garage Doors:

- a. Garage doors must be either sectional overhead or hinged carriage doors, and must be configured as an individual door for each parking space.
- b. Garage doors are limited to 8 ft. in height except as approved by the TA.
- c. Garage doors must be made of wood, composite wood, steel, or wood-veneered fiberglass.
- d. Garage doors may have glass or framed panels.

5.10.3 Storefronts:

- a. Storefronts must be designed as a unified composition of doors, windows, bulkheads, transoms, signage, awnings, and lighting, as shown in [Figure 5.10.3 Storefront Components](#).
- b. Storefront entrance doors must be recessed to allow the door to swing out without obstructing pedestrian flow on the sidewalk.
- c. Storefront entrances are encouraged at building corners.
- d. Each tenant space must have an entry door along the building facade. Subject to approval by the TA, an exception may be made where there are multiple tenants sharing a space, provided they are not separated by full interior partition walls.
- e. Folding doors and windows that allow the activity of the business to open adjacent to and onto the public sidewalk are encouraged for restaurants and food services.
- f. Doors and windows into tenant spaces are required along pedestrian passages.
- g. Rear and side doors and windows facing service alleys and parking lots are encouraged, but not required.
- h. Storefronts must have a continuous bulkhead 12" to 36" above the sidewalk.
- i. Storefronts may be made of the following materials:
 - i. Wood;
 - ii. Brick;
 - iii. Composite board;
 - iv. Stone;
 - v. Custom metal work; or
 - vi. Steel frame and clear glass.
- j. Painted surfaces must be white or a dark color glossy painted finish.
- k. Masonry and anodized aluminum storefronts may be permitted by approval of the TA.

Figure 5.10.3 Storefront Components



5.10.4 Windows:

- a. Windows facing frontages, streets, and public spaces must be located within wall sections such that wall thickness is perceived from the exterior of the building. Flush mounted windows are prohibited.
- b. Facade glazing is calculated independently for each story and frontage, determined by dividing the area of the glazing by the wall area of the facade between the finished floor and finished ceiling. Requirements for minimum facade glazing are specified in [Section 4: Building Types](#).
- c. Windows must be shaped as follows:
 - i. Windows must be square or vertical in proportion, such as 1:1.5, golden section, double square, triple square;
 - ii. Transom windows may be horizontal;
 - iii. Windows may be circular, semi-circular, oval, hexagonal, or octagonal in shape, but only one such window may be placed on a Facade; and
 - iv. Windows may be quarter-circular in shape when paired in a gable end.
- d. Windows may be sub-divided into panes that are square or vertical in proportion, with similar proportions throughout the building.
- e. Muntins must be true-divided light, or three-part simulated divided lite, and must match the color of the exterior sash. Snap-on muntins are prohibited.
- f. Windows must be operable and may be single-hung, double-hung, casement, awning, or fixed, except in storefronts.
- g. Two or more windows within the same rough opening on a facade must be separated by a minimum 4" wide post.
- h. Windows facing streets must be at least 2 ft. from the corners of the building, except in Main Street and Mixed-Use Buildings.
- i. Single panes of glass must be a maximum 20 square ft., except in Main Street and Mixed-Use Buildings, and storefronts.
- j. Glass must be clear and free of color. Frosted, etched, tinted or other decorative glass and glass blocks may be permitted by the TA. Reflective or dark glass is prohibited.

5.10.5 Screens

- a. Window screens must be full view screens. Half view screens may be permitted by approval of the TA.
- b. Porch screens must be framed to reflect column spacing proportions.
- c. Screen doors must be full view or three quarter view, and may have a center cross rail finished to match the screen door.
- d. Screens for windows and doors must be made of bronze, aluminum, dark colored fiberglass or black vinyl.
- e. Screen windows and doors must be finished to match the window or door they serve or the trim around it.

5.10.6 Shutters

- a. Shutters, if provided, are subject to the following:
 - i. Shutters must be applied to all of the typical windows on a Facade or Elevation.
 - ii. Shutters must be shaped and sized to the opening they serve.
 - iii. Shutters must be fully functional except with approval of the TA. If fixed, shutters must be mounted as if hinged to the window sash.
- b. Shutters must be made of wood, painted or sealed and stained, or painted metal.
- c. Shutters must match the color of the wall or the building trim.

5.10.7 Security Doors and Windows

- a. Security doors and windows may be permitted by approval of the TA.
- b. At residences, security doors and windows must be designed as decorative window grills and doorway gates.
- c. At storefronts, security doors must be interior links or grills that are completely hidden from view when not in use. Solid metal gates or roll-down shutters are not permitted.

5.11 SIGNAGE AND LIGHTING

5.11.1 General Regulations

- a. All signs are subject to approval by the TA.
- b. Signs must be made of wood, synthetic wood, brass, bronze, copper, wrought iron, ceramic, cast aluminum or thickly enameled steel. Plastic signs or letters, backlit signs, and electronic or video screen signs are prohibited.
- c. Signs are subject to the requirements of [Table 5.11.1 Sign Standards](#).

5.11.2 A-Frame Signs

- a. A-frame signs must be made of wood, synthetic wood or metal, and have a hand-crafted design.

5.11.3 Projecting Signs

- a. Projecting signs may be a representational silhouette in metal.

5.11.4 Window Signs

- a. Window signs for shopfront businesses must be inscribed on the shopfront glass or made of permanently affixed cut-out lettering or hand-painted letters.
- b. Neon signs on the inside of a Main Street or Mixed-Use Building shopfront window may be allowed by approval of the TA.

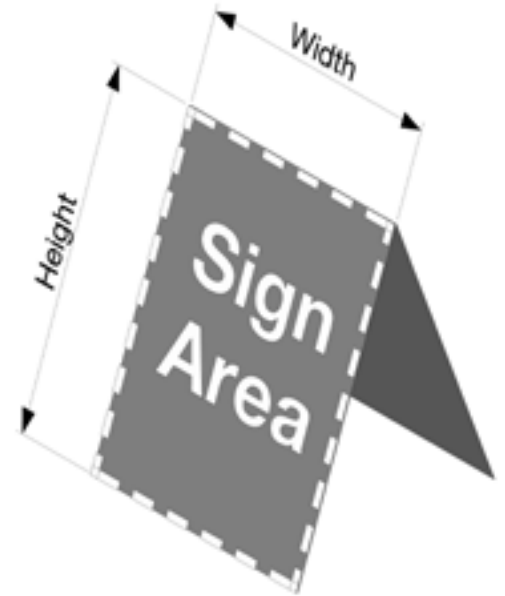
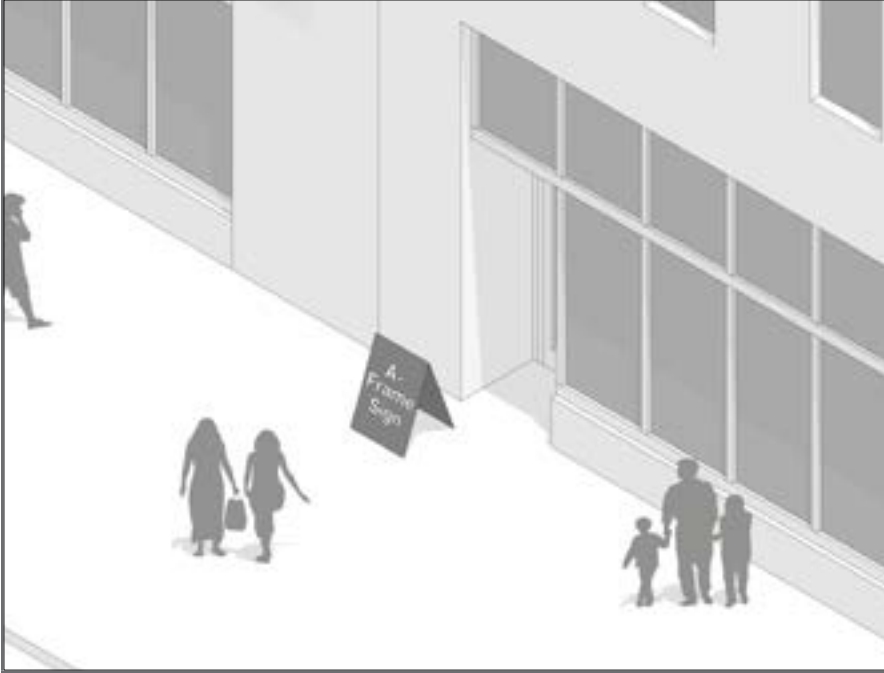
5.11.5 Wall Signs

- a. Wall signs for a shopfront businesses must be integrated in design with the storefront's details, and may be a contrasting color to the building.
- b. Wall signs may be externally lit subject to the approval of the TA. Internally illuminated wall signs are prohibited.

Figure 5.11.2 Sign Types Illustrated

A-Frame Sign

A portable sign not secured or attached to the ground or surface upon which it is located, typically constructed in such a manner as to form an “A” or tent-like shape, and primarily intended to advertise to pedestrian traffic.

**Awning Sign**

A sign consisting of information painted on, sewn on, imprinted on, or attached to the surface of an awning. Awning sign standards differentiate the sloping plane area and the valence area.

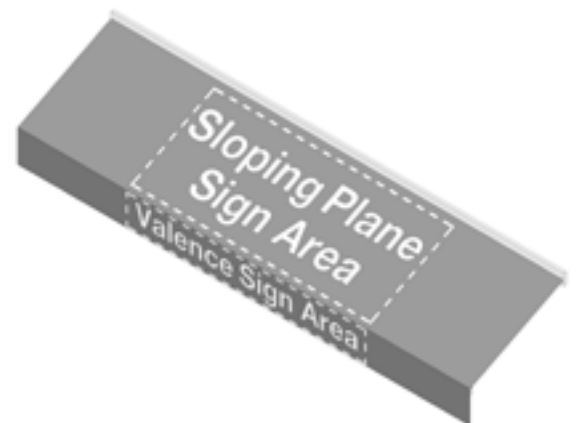
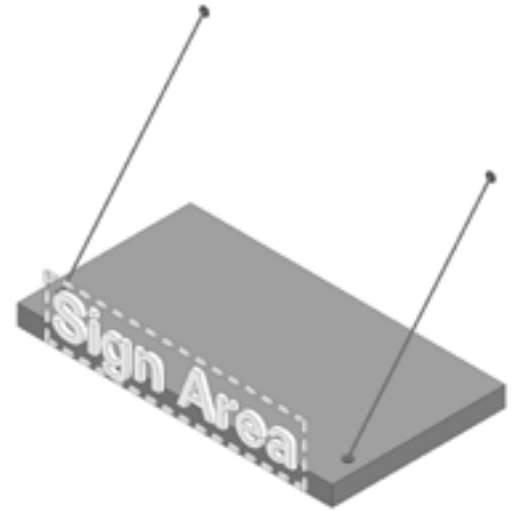
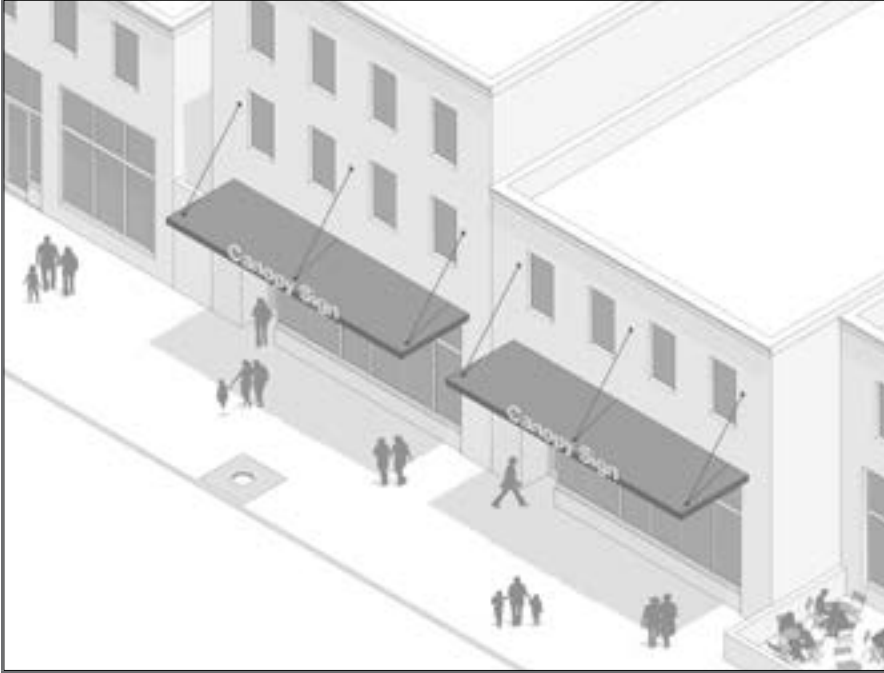


Figure 5.11.2 Sign Types Illustrated

Canopy Sign

A sign that is part of, or attached to, a canopy. The sign area is a bounding rectangle around the sign copy and graphics.

**Corner Sign**

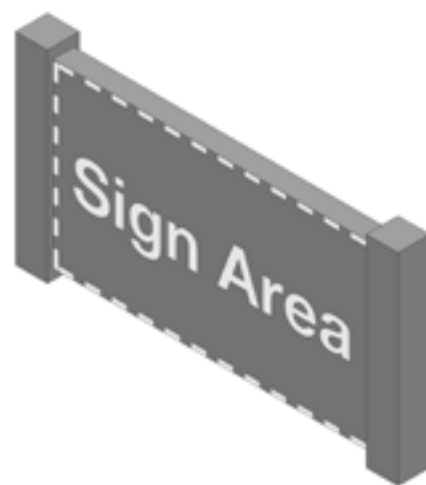
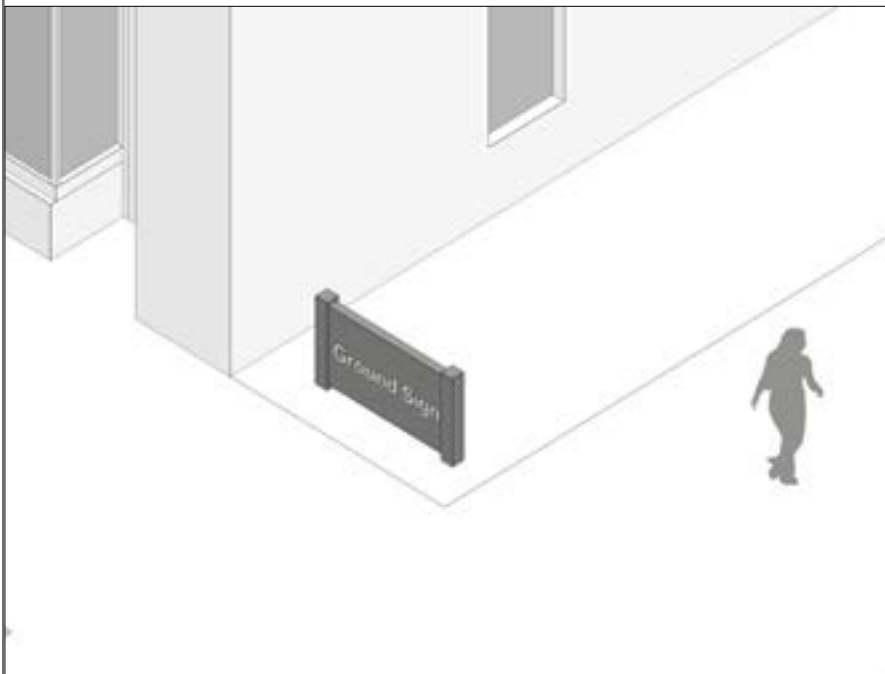
A vertically proportioned sign affixed perpendicularly to the outer corner of a building face. The sign area is the full face of the sign.



Figure 5.11.2 Sign Types Illustrated

Ground Sign

A free standing sign supported by uprights or along its bottom, placed on or near ground level, often referred to as a monument sign. The sign area is the full face of the sign.

**Projecting Sign**

A sign affixed to a building which projects in such a manner that both sides of the sign are visible. The sign area is the full face of the sign.

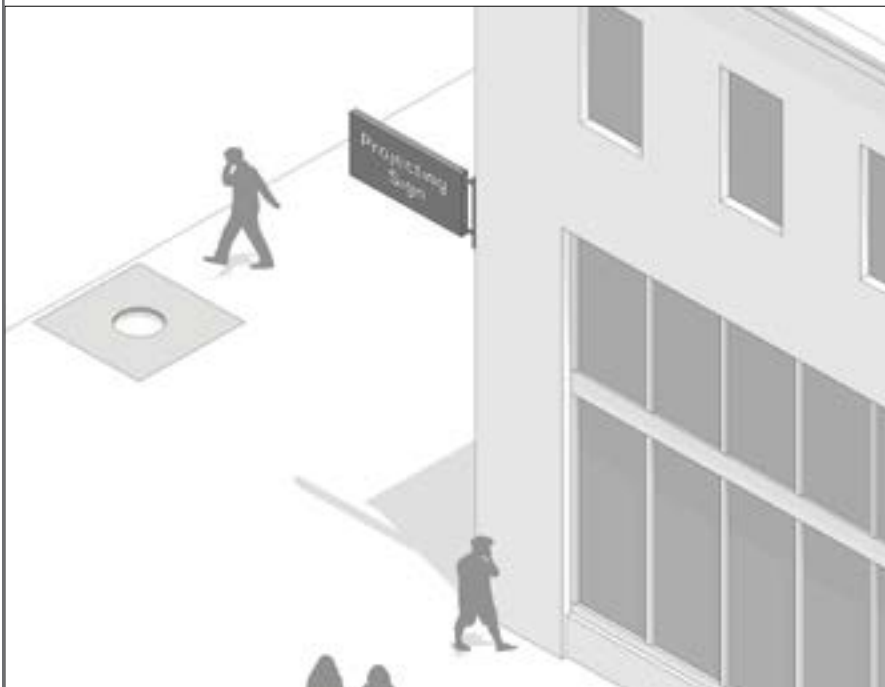


Figure 5.11.2 Sign Types Illustrated

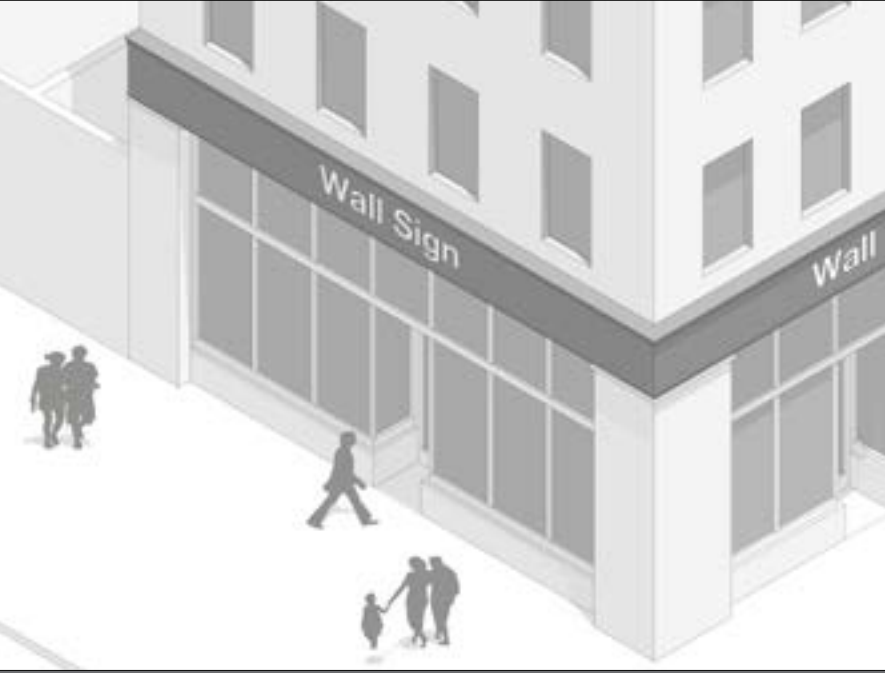
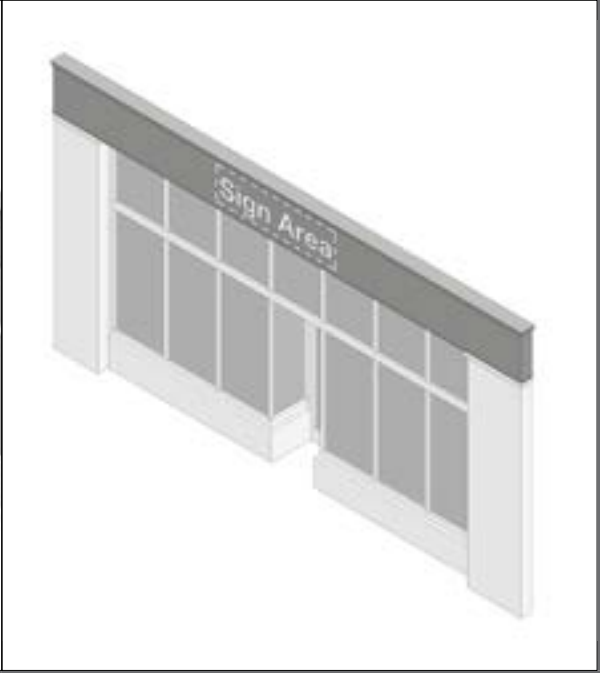


Wall Sign	
A sign erected on the wall of a building, or a sign which is affixed to or painted on the wall. The sign area is a bounding rectangle around the sign copy and graphics.	
	
Window Sign	
A sign, graphic, or design that is painted, mounted, or otherwise displayed within a window. The sign area is a bounding rectangle around the sign copy and graphics.	
	

Table 5.11.1 Sign Standards

Sign Type	Building Type				Height (max)	Number (max)	Sign Area (max.)	Copy Height (max.)	Location
	I	II	III	IV					
Permanent Signs									
A-Frame	□	□	■	■	42 in.	1 per ground floor tenant	max. 30 inches wide and 42 inches high	n/a	on sidewalk adjacent to business; may only be displayed during business hours
Awning	□	□	■	■	n/a	1 per awning valence and sloping plane	75% of valence and 25% sloping plane	18 inches	
Business Hours	□	□	■	■	n/a	1 per storefront entry	1 sq. ft.	n/a	may be window or wall-mounted
Canopy	□	□	■	■	n/a	1 per entry	2 sq.ft. per linear ft.	18 inches	
Corner	□	□	■	■	6 ft. above eave or parapet	1 per building at corner street front-ages	40 sq.ft.	n/a	
Ground	■	■	□	□	4 ft.	1 per frontage	2 sq.ft.	n/a	
Postal Numbers	■	■	■	■	6 in.	1 per parcel	n/a	6 in.	principal building facade and on Alley or rear parking entrances
Projecting	■	■	□	□	n/a	1 per frontage	2 sq. ft. per side	8 inches	9 ft. min. height above sidewalk, 15 ft. min. distance between projecting signs
	□	□	■	■	2.5 ft.	1 per ground floor tenant	2.5 sq.ft. per side		
Security	■	■	■	■	n/a	1 per frontage + 1 per service entry	40 sq. in.	n/a	may be window or wall-mounted
Wall	■	■	□	□	n/a	1 per frontage	2 sq. ft.	n/a	
	□	□	■	■	1 ft.	1 per tenant	length of storefront	18 inches	
Window	□	□	■	■	n/a	limited by sign area	25% of glazing	6 inches	
Temporary Signs									
Construction	■	■	■	■	4 ft.	1 per parcel	6 sq.ft.	18 inches	sign only permitted for the duration of construction
For Sale/Rent	■	■	■	■	4 ft.	1 per frontage	40 sq. in.	6 inches	affixed to building or on post, max. 90 days per year

■ Permitted □ Not Permitted

5.11.6 Lighting

- a. Exterior light fixtures must be compatible with the style of the building to which they are attached.
- b. All lighting must have a functional purpose.
- c. Additional decorative lighting for Main Street and Mixed-Use Buildings may be allowed by approval of the TA.
- d. Luminaires are limited as follows:
 - i. All exterior lighting is limited to a maximum color temperature of 3000K; and
 - ii. LED luminaires must include shielding to disperse light, whether built into the luminaire or the fixture.
- e. Lighting should adhere to Dark Sky Friendly standards.
- f. Uplighting, floodlighting, and wall washing lighting are prohibited.
- g. Path and area lighting must have shields to direct light to ground area of use.
- h. Doors facing a street or a public space, and garage doors opening onto an Alley, must have a light fixture with a photocell that lights from dusk to dawn.
- i. For storefronts, Main Street, and Mixed-Use Buildings:
 - i. Signs may be lit by a gooseneck fixture with focus specific to the sign.
 - ii. Interior lighting of storefronts and exterior lighting of signs is recommended throughout nighttime hours (or at a minimum until 11pm) to accentuate storefront displays, illuminate building details, and promote public safety.
 - iii. External lighting of awnings may be permitted by approval of the TA. Backlighting of awnings from under or inside is prohibited.
 - iv. Main Street and Mixed-Use Building service entries must have fixtures with photocells that light from dusk to dawn.
- j. For Residential or Live-Work Buildings:
 - i. Up to 2 exterior light fixtures may face the street, excluding storefront lighting;
 - ii. Other light sources must be concealed from exterior views; and
 - iii. Fixtures must be located to preclude glare.

5.12 FENCES, GARDEN AND RETAINING WALLS, AND PAVEMENT

5.12.1 Fences

- a. Fences must be designed in location and height to coordinate with the design of the adjacent public frontage and neighboring lots.
- b. Fences must be located no closer to the street than the front facade of the building.
- c. For Main Street and Mixed-Use Buildings, fences must be located to screen parking lots from the street.
- d. Fences must provide closure, starting and ending at a building wall or terminal post that is larger than the other fence posts.
- e. Fences must be a maximum 6 ft. in height above grade.
- f. Fences enclosing trashcans and dumpsters must be at minimum as tall as the containers they conceal.
- g. Fences must be made of wood pickets, painted or sealed and stained, or steel, painted wrought iron, or ESP aluminum. Fence gates must be made of the fence material.

5.12.2 Garden Walls

- a. Garden walls must be designed in location and height to coordinate with the design of the adjacent public frontage and neighboring lots.
- b. Garden walls must be located no closer to the street than the front facade of the building.
- c. For Main Street and Mixed-Use Buildings, garden walls must be located to screen parking lots from the street.
- d. Garden walls must provide closure, starting and ending at a building wall or terminal post that is larger than the other fence posts.
- e. Garden walls must be a maximum 6 ft. in height above grade.
- f. Garden walls enclosing trashcans and dumpsters must be at minimum as tall as the containers they conceal.
- g. Garden walls must be minimum 8" wide and capped with overhang of 1/2" to 1 ft. on each side to protect from water intrusion.
- h. Garden walls must be made of architectural finish concrete, segmental block, brick or brick veneer, local stone or local stone veneer, and must be capped.
- i. Garden wall gates must be made of wood, painted or sealed and stained, steel, painted wrought iron, or ESP aluminum.

5.12.3 Trash and Dumpster Enclosures

- a. Trash and dumpster enclosures must be made of concrete, wood sealed and stained or painted, or painted steel, with gates of wood or steel.

5.12.4 Retaining Walls

- a. Retaining walls must be designed in location and height to coordinate with the design of the adjacent sidewalk and neighboring lots.
- b. Retaining walls must be part of building foundations or part of garden terracing.
- c. Retaining walls must be minimum 8" wide and capped with overhang of 1/2" to 1 ft. on each side to protect from water intrusion.
- d. Retaining walls must be made of architectural finish concrete, segmental block, brick or brick veneer, regional stone or regional stone veneer, and must be capped.

5.12.5 Pavement

- a. Garden pavement must be permeable and may be made of, stone, concrete pavers, brick, brick pavers, wood, or gravel with aggregate maximum 1/4".
- b. Gravel in front yards and at frontages must be edged to prevent runover.
- c. All pedestrian pavements must have a non-skid finish.
- d. Driveway and parking lot pavement must be made of asphalt, brick, brick pavers, or concrete. Driveway and parking lot materials are subject to approval by the TA.
- e. Concrete may be patterned but stamped concrete patterns are prohibited.

5.13 PARKING, SERVICE AREAS, AND DRIVEWAYS

5.13.1 Parking

- a. Required off-street parking is subject to the following:
 - i. Off-street parking must be placed according to [Section 4: Building Types](#).
 - ii. Required parking quantities are as per Kennewick, WA Code of Ordinances Off-Street Parking Standards.
 - iii. Parking must be accessed by alley or through a parking lot at the rear of a lot or shared between lots, and may be unsheltered or in a garage or carport.
 - iv. Parking lots must be masked from the frontage by a liner building or street screen.
- b. Shared parking lots must have a minimum of one bicycle rack space for every 20 vehicular parking spaces.

5.13.2 Service Areas

- a. Outdoor equipment location and storage of items outdoors are subject to the following:
 - i. Equipment and items include, but are not limited to, trash cans, electrical, plumbing, mechanical, and communications equipment, tanks, generators, utility meters, clotheslines, satellite dishes, play equipment, hot tubs, permanent grills, and firewood;
 - ii. Equipment and items must not be placed between the facades and frontage lines;
 - iii. Equipment and items must be placed in yard spaces enclosed by fencing or walls;
 - iv. Equipment and items on roofs must be concealed by parapet walls;
 - v. Firewood may be stored on porches, limited to a maximum of 1/4 cord;

- b. Loading docks and service areas in Main Street and Mixed-Use Buildings must be concealed from street and sidewalk views. When alley or rear parking lot access is not available, service areas at a frontage, concealed from public view by a street screen, may be permitted by approval of the TA; and
- c. Trash containers in Main Street and Mixed-Use Buildings must be concealed from street view, located within a permanent enclosure, and accessed from an alley or rear parking lot.

5.13.3 Driveways

- a. Where a driveway crosses a sidewalk, any elevation change or slope must occur within the lot to maintain a sidewalk without uneven slopes.

5.14 LANDSCAPE

5.14.1 General

- a. The goal for the outdoor spaces and landscape improvements of Vista Field is to construct a landscape of plants native to the high desert location of Kennewick, including drought tolerant materials that can provide shade.
- b. Site designs must minimize grading.
- c. Topographic transitions between improvements and existing grades or between lots must appear to be natural slopes or to be garden terraces.
- d. All site drainage and water runoff from impervious surfaces must be retained on the lot that generates it.
- e. Tree planting is considered permanent improvement of the community landscape.
- f. Fenced areas and lawn areas must be located and designed to be functional and geometrically defined for privacy, protection from the wind, and security of children and pets. Lawn areas are restricted to a functional space to minimize irrigation.

5.14.2 Planting and Trees

- a. Garden planting may provide shade for adjacent public frontage, but must not interfere with public frontage landscaping.
- b. Hedges and their location and height must be designed to coordinate with the design of the adjacent public frontage and neighboring lots.
- c. Hedges must be located no closer to the street than the front facade of the building.
- d. At Main Street and Mixed-Use Building lots, hedges must be located to screen parking lots from the street.
- e. At installation, hedge plants must be spaced 18" o.c. and a minimum 24" in height.
- f. Plant species are to be selected from the following plant lists:
 - i. Tree Lists by Mature Heights of the Community Tree List of the Mid-Columbia Community Forestry Council; or
 - ii. Washington Native Plant Society's WNPS Native Plants of Eastern WA brochure.
- g. Removal of trees larger than 4" caliper deciduous and 6" caliper conifer requires approval by the TA.

5.14.3 Irrigation

- a. Landscape irrigation must be an underground or drip irrigation system.
- b. Irrigation systems must have retracting sprinkler heads or must be otherwise visually unobtrusive.

5.14.4 Parking Lot Landscape

- a. Parking lots for Main Street and Mixed-Use Buildings must be planted to provide maximum shading of the pavement.
- b. Continuous tree islands perpendicular to the parking stalls, or tree diamonds with corners intersecting the striping, must be provided at a maximum separation of four parking spaces.
- c. Each parking lot tree must have a minimum of 5 ft. x 5 ft. planting area.

5.14.5 Other Landscape Features

- a. Hot tubs and pools must be recessed in the ground and visually screened with a fence, wall, or hedge.
- b. Woodburning outdoor fireplaces and firepits may be allowed by approval of the TA.
- c. Fireplaces and firepits must be separated from all combustible structures and trees by a minimum distance of 15 feet.

8.01.22 DRAFT

PORT OF KENNEWICK, WASHINGTON

PORT COMMISSION

**RULES
OF
POLICY AND PROCEDURE**

**ADOPTED AT A REGULAR, OPEN
MEETING OF THE PORT COMMISSION**

FEBRUARY 22, 2011

Section 6 Revised and Adopted January 12, 2016

Draft of 8.01.22

8.01.22 DRAFT

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[WILL BE UPDATED IN FINAL DRAFT]

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1. INTRODUCTION AND PURPOSE

1.1 Port of Kennewick. The Port of Kennewick (“Port”) is a Washington port district, with authority to act under law, as they exist and or as they may be amended in the future including but not limited to Titles 14 and 53 RCW. The powers of a port district are exercised through a port commission. The Port Commission of the Port of Kennewick consists of three Port Commissioners.

1.2 Other Governing Law. In addition to enabling legislation, the Port is subject to Washington State laws, including but not limited to the Open Public Meetings Act, chapter 42.30 RCW; the Public Records Act, chapter 42.56 RCW; and, the Code of Ethics for Municipal Officers, chapter 42.23 RCW.

1.3 Port Managing Official. Consistent with its authority under RCW 53.12.270, the Port Commission has delegated to the office of Chief Executive Officer such administrative powers and duties as deemed proper for the efficient and proper management of the Port’s operations. See “Delegation of Authority to Executive Director,” Port Resolution 2009-06 (February 10, 2009 – the “Delegation Policy.”)

1.4 Purpose. It is the purpose of these Rules of Policy and Procedures to provide a framework and rules guide for governance, management and operation of the Port.

Commented [CL1]: Framework is discretionary, Rules are mandatory, so opting for Rules

1.5 Reserved Rights. The adoption and maintenance of these Rules of Policy and Procedure (“Rules”) create no vested rights or entitlements. These Rules may be revised, suspended, amended or repealed by majority vote of the Port Commission when acting pursuant to and in compliance with applicable law and these Rules.

2. COMMISSION AND COMMISSIONERS

2.1 Purpose. The purpose of the Commission is to:

2.1.1 Identify and define the purpose, values and vision of the Port, along with the results the Port is to achieve, and to communicate those items in the form of policy;

2.1.2 Make certain decisions as are designated by law; and

2.1.3 Hire, evaluate, and terminate the Chief Executive Officer ~~Executive Director~~.

2.2 Governance. Commission governance addresses:

2.2.1 Strategic leadership more than administrative detail;

2.2.2 Encouragement of diversity in viewpoints;

2.2.3 Collaborative rather than individual decisions;

2.2.4 Future, rather than past or present, direction;

2.2.5 Proactive, rather than reactive, conduct; and

2.2.6 Full transparency to the public.

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2.3 Actions. The Commission will:

2.3.1 Produce and maintain written policies that ensure a high quality of governance and clear roles in decision-making between Commission and staff;

2.3.2 ~~Regularly in Monitor~~, and not less than annually, evaluate the Chief Executive Officer's Executive Director's performance, based on the then-current adopted Commission policies and the Port's Work Plan, using the Evaluation Process and Procedures of Resolution 2022-19;

2.3.3 Adopt, and ~~bi~~-annually review, the Port's Strategic Work Plan;

2.3.4 Adopt the Port's annual budget;

2.3.5 Adopt, regularly review, and modify as necessary the Delegation of Authority to the Chief Executive Officer~~Executive Director~~; r;

2.3.6 Set the rates, rules and regulations for services provided by the Port;

2.3.7 Purchase or dispose of real estate or other property to the benefit of Port District taxpayers/citizens;

2.3.8 Establish Port positions on significant governmental legislation;

2.3.9 ~~Reserve to the Chief Executive Officer management and direction of Port Staff, unless undertaken pursuant to the leadership of the Chief Executive Officer;~~

2.3.10 At all times maintain strict moral, ethical and honest conduct;

2.3.11 ~~At all times treat the Chief Executive Officer, staff and public with respect; and~~

2.3.12 Approve the annual budget of the Port and set the amount of the annual tax levy by December 1 of each calendar year, pursuant to RCW 53.35.045;

2.3.13 Reserve to itself if, how, and the degree to which the Port will use the governmental powers of taxation and eminent domain;

2.3.14 Establish financial policies, including capital formation and debt issuance;

2.3.7 ~~On an annual basis, affirm agreement to comply with these Rules and acknowledge and accept the consequences of failure to do so; and~~

~~2.3.8~~

2.3.92.3.15 Take such other actions as may be required by law.

2.4 Port Financial Goals.

As specified in Port Resolution ~~2018-27, 40-41~~, as may from time to time be amended, the Port Commission reiterates the following budgetary goals and acknowledges the importance thereof:

2.4.1 The Port shall work toward funding all operating expenses from revenues from Port operations;

Commented [CL2]: References the proposed CEO evaluation updated process in Resolution 202-19.

Commented [CL3]: Confirm name of Plan - Strategic Work Plan or Work Plan

Commented [CL4]: Note - see 3.6 below - existing language: " and shall conduct themselves with civility and respect at all times with one another, with staff, and with members of the public"

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2.4.2 The Port shall fund projects with available resources, not with bonds or loan financing unless otherwise in the best interest of the Port and the communities' long term interest;

2.4.3 The Port shall pursue fewer projects while selecting projects with the greatest return to the Port and to taxpayers; and

~~2.4.4~~—The Port shall pursue projects with development partners who demonstrate support (e.g. matching funds, political/citizen/taxpayer support, leveraged investment, enthusiasm/goodwill).

~~2.4.4~~ Produce and maintain a balanced budget.

~~2.4.5~~ Provide a fiscally sound approach to finances by ensuring that expenditures and debt repayments do not exceed available resources in current budget and future years impacted;

~~2.4.6~~ Promoting fiscal responsibility among departments.

~~2.4.7~~ Focusing on long-term financial planning.

~~2.4.8~~ Support intergovernmental cooperation by partnering with entities which demonstrate support; (e.g. matching funds; previous successes; political and taxpayer support; and enthusiasm).

~~2.4.9~~ Provide the public with high quality projects and services within a healthy work environment by encouraging efficiency, cooperation, honesty, integrity, and respect; and

~~2.4.5~~~~2.4.10~~ Adhere to the additional Policies set forth in Chapter 14.2 herein below.

Commented [CL5]: 2.4.4 through 2.4.10 are from Reso 2018-27

3. COMMISSION CODE OF CONDUCT

3.1 Purpose. The purpose of these Port of Kennewick Rules is to foster public transparency and public accountability concerning the transaction of Port business and to protect, and promote the efficiency of, the Port by prohibiting incidents and areas of conflict. Commissioners shall conduct themselves in accordance with all laws and applicable policies and further shall comply with the following:

3.2 Conflict Avoidance. Commissioners are strictly prohibited by law from entering into or engaging in any activity identified in chapter 42.23 RCW as a conflict of interest with their official duties as a Port of Kennewick Commissioner and shall further avoid conduct that may present an appearance of a conflict of interest.

3.3 Policy Acknowledged. On an annual basis and in a public forum, each Commissioner shall acknowledge the obligation to disclose any conflicts of interest under chapter 42.23 RCW, ~~and execute a written pledge to do so.~~

3.4 Disclosure. On a case-by-case basis, each Commissioner will disclose to the other Commissioners in a public forum, any remote conflicts of interest under chapter 42.23 RCW. Disclosure will be noted in the Port's official minutes which are public record. As required by RCW 42.23.040, a Commissioner with such remote interest will not participate in any discussion

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and/or debate concerning such interest, will not vote on the matter, and will do nothing to influence any other Commissioner concerning their decision on the matter. The foregoing shall also apply to any business owned by a Commissioner's spouse, in the absence of a separate property agreement.

~~3.5—~~ 3.5 Statement of Financial Affairs. On or before April 15 of each year, or within (14) days of taking oath of office, each Port Commissioner shall file with the Port the number of the Statement of Financial Affairs prepared in satisfaction of the requirements of RCW 42.17.240 ~~-.241 and filed with the a copy of a~~ Public Disclosure Commission. ~~Statement of Financial Affairs prepared in satisfaction of the requirements of RCW 42.17.240—~~
~~3.6—~~ ~~.241, which shall be available for public inspection at the first regular Commission meeting after the above-referenced dates.~~

3.6 Conduct as Commissioner. Commissioners shall adhere to these Rules ~~of Policy and Procedure~~ as adopted by the Commission, and shall conduct themselves with civility and respect at all times with one another, with staff, and with members of the public. As fiduciaries of the Port, Commissioners shall make decisions on the basis of public policy and shall demonstrate undivided loyalty to the interests of Port and its taxpayers. This loyalty shall supersede any conflicting loyalty to advocacy or special interest groups.

3.7 Commissioner Knowledge of Policies. Commissioners will become familiar with their individual and joint obligations pertaining to the Port's directive on reporting alleged improper governmental action, including actions required of the Commission regarding complaints by Port employees and/or the public of alleged improper governmental actions and/or employee claims of retaliation for reporting alleged improper governmental actions.

3.8 Representation of Positions. Unless authorized by the Commission at an open meeting or as set forth in Port policy or plan (e.g., an approved plan), an individual Commissioner may not represent a position as being the position of the Port, either in private communications or in a public forum.

3.9 Shared Information and Advocacy. Recognizing that differences may exist among the Commissioners and that a collegial approach to issue resolution is preferred, Commissioner shall make available to fellow Commissioners all information related to Port activities. A Commissioner should make clear the foundation upon which an opinion stands; be candid about any philosophical or political preferences; and recognize and make clear the limits of expertise.

3.10 Representation of Port Position. No Commissioner is authorized, without Commission authorization, to represent the Port with special interest groups, Port tenants, suppliers, vendors, consultants, contractors or others that are or seek to do business with the Port. Unless otherwise authorized by the Commission, a Commissioner shall disclose that the Commissioner's position is not that of the Port or of the Commission when participating in discussions, debates, and forums where the sponsoring group(s) or other participants are identified with a particular perspective on an issue and the Commissioner's participation might put into question both the Commissioner's and the Commission's impartiality. Nothing in this Policy prevents an individual Commissioner from stating a position as that of the individual Commissioner, but not that of the Port or of the Commission.

3.11 Special Privileges Prohibited. RCW 42.23.070 prohibits, in part, Commissioners from using public office to secure special privileges or exemptions for a Commissioner or others.

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3.11.1 Commissioners must conduct themselves at all times in a manner that leaves no grounds for belief, or even the appearance that information they have gathered on the job has been used for personal gain or for gain of any individual or special interest group, whether such gain is financial or otherwise.

3.11.2 Commissioners shall avoid any association with individuals or groups organized with an attempt to influence Port policy that will benefit themselves or their cause at the exclusion of the Port at large.

3.12 Commission-Staff Relations. Commissioners may not attempt to exercise individual authority over the Port or staff, except as explicitly set forth and authorized in Commission policies, including the Delegation Policy referenced in Section 1.3.

3.13 Open Meetings. In accordance with Chapter 43.20 RCW, Washington state's Open Public Meetings Act, Commissioners shall:

3.13.1 Not meet as a quorum outside of Commission-called public meetings to hold discussions or make decisions, as defined under Open Public Meetings Act, eChapter 42.30 RCW, regarding the business of the Port.

3.13.2 Not meet as a Commission quorum with staff outside of a Commission-called public meeting for the purpose of gathering information.

3.13.3 Understand that the requirements of the Washington Open Public Meetings Act apply to communications via telephone, e-mail, instant messaging or other forms of electronic communications. Any exchange of communication between any two Commissioners may constitute an official meeting of the Commission and be in violation of the Act. Commissioners may request that the Chief Executive Officer or his/her designee send send information to other members of the Commission on an informational basis; however, replies and/or exchanges of Commissioner communications regarding Port business must not occur outside of an official public meeting of the Commission. Any such e-mail sent for informational purposes as described above, by any member of the Commission, shall be sent individually, not as group e-mail. Commissioners will not "reply" or "reply all" to any e-mail received by another member of the Commission.

3.13.4 Respect the confidentiality appropriate to issues, including personnel, real estate transactions, proprietary matters, and attorney-client privileged communications, including those requirements listed under RCW 42.30.110, Executive Sessions, and including any other confidential information gained by reason of the Commissioner's position. See also RCW 42.23.070(4) prohibiting disclosure of confidential Port information; and-

3.13.5 Complete training on Open Public Meeting Act requirements no later than ninety days after taking office. Thereafter, each Commissioner shall maintain Open Public Meeting Act training at no less than every four years while a member of the Commission. Training may be completed remotely with technology including but not limited to internet-based training.

3.14 Commission Disclosure of Economic Associations. RCW 42.23.070 states in part that "[n]o municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or

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which may be made for the benefit of his or her office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein.” Port contracts made in violation of the law are void; and any Port officer violating the law is liable to the Port for a “penalty in the amount of five hundred dollars, in addition to such other civil or criminal liability or penalty.” RCW 42.23.050. The law also prohibits a Commissioner from employment or engaging in any professional activity that may require disclosure of confidential Port information to non-Port interests. RCW 42.23.070. These statutory prohibitions are based on the principle that a Port official may not have divided loyalties. The line between proper and improper conduct may not always be clear, and even unintentional conduct may expose the Port and Port officers and employees to liability. See *City of Raymond v. Runyon*, 93 Wn. App. 127 (1998) (“In spite of well-intentioned attempts to avoid a prohibited conflict of interest,” city commissioner found in violation of law). These Rules ~~attempt to address~~ a Commissioner’s responsibility under law and duty of loyalty to the Port, with other interests. See also, Section 3.2 herein.

3.14.1 Under ~~e~~Chapter 42.23 RCW, no Commissioner may have an economic association (affiliation, involvement, or interest), directly or indirectly, that may conflict with the Commissioner’s official duties as a Port Commissioner. However, Commissioners may engage in other employment or activity only so long as it does not interfere or conflict with their duties as a Commissioner.

3.14.2 In order to avoid inadvertent violation of law, and consistent with the Port’s policy for its officers and employees, on or before April 15 of each year, or within fourteen (14) days of taking office, each Port Commissioner, shall file with the Port a written statement identifying any current or prospective economic relationship, whether direct or indirect, which could be a conflict of interest, a remote interest or give rise to an appearance of a conflict of interest with the Port. In addition, each Port Commissioner shall in the written statement disclose other employment and/or business relationships in order that the Port may confirm that there are no Commissioner conflicts or potential conflicts of interest with current or prospective Port activities. The statement shall include the name of the employer~~ing~~ or business, the nature of services rendered, the time commitments, the location of the performance of such services and the amount of compensation (and expense reimbursement) received for such services. This Section 3.14.2 shall also apply to any employment or business of a Commissioner’s spouse, in the absence of a separate property agreement.

3.14.3 ~~Each~~The Commissioner shall declare his or her intention to refrain from deliberations and voting on issues related to the person or entity in such relationship. This requirement may be extended by Commission action to any individual or entity that, in the judgment of the Commission, could represent the potential for or the appearance of a conflict of interest. Even with disclosure, chapter 42.23 RCW may prohibit the Commission from acting ~~where in the face of~~ a conflict of interest ~~exists~~.

3.14.4 A Commissioner shall not receive reimbursement for expenses, per diem, or other Port payment for activities (e.g., travel, meals and other costs) when the Commissioner is engaged in or participating for both the Port and another ~~E~~entity.

3.14.4.3.14.5 ~~Commissioners acknowledge that the Washington State Public Records Act, chapter 42.56 RCW, applies to all records pertaining to the business of the Port.~~

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Commissioners shall comply with all mandatory requirements of that law.

4. FULL TRANSPARENCY IN PORT ACTIONS

4.1 Compliance with these Rules is policy shall ensure full, fair, and open discussion of matters of public importance, with opportunity for public participation and media coverage.

4.2 With respect to any quasi-judicial matter before the Commission, or reasonably expected to come before the Commission, ~~it is the policy of the Port Commission that~~ no Commissioner shall:

4.2.1 Have contact with any person, either oral, written, electronic or otherwise communicated, except in an open, public Commission meeting; and

4.2.2 Receive any information or evidence except as a part of the public record at a Commission meeting.

4.3 If a Commissioner is not able to avoid contact with parties outside of an open public Commission meeting or receipt of information from parties outside of an open public Commission meeting, the Commissioner shall disclose at the next public meeting, the full content of the contact made or information received.

4.4 Commissioner A avoidance of communications described above is preferred over relying on the public disclosure remedy because an incomplete or inaccurate conveyance of the contact, even if inadvertent, may bias the outcome and subject the Commission action to challenge.

4.5 The Commission shall facilitate that A all information ~~sought to be any person or entity would like~~ distributed to Commissioners by the public should be first provided to Port staff; staff will then consistently distribute the information to all Commissioners and file the information as appropriate.

5. REPORTING MISCONDUCT

5.1 General. The Port is committed to lawful and ethical behavior in all of its activities and requires its staff and Commissioners to conduct themselves in a manner that complies with all applicable laws, regulations and ~~these Rules is policy~~. Complaints against staff (other than the Chief Executive Officer Executive Director) shall be resolved by the Chief Executive Officer Executive Director, according to applicable law and the Port's Policies and Procedures manual. Complaints against the Chief Executive Officer Director shall be resolved by the Port Commission according to applicable contract, Delegation of Authority and ~~these~~ Commission Rules of Port Policies and Procedures. ~~manual~~. Complaints against Commissioners shall be resolved as set forth below.

5.2 Complaint. If any person believes that a Commissioner has engaged in misconduct, the Chief Executive Officer Executive Director shall investigate consistent with Section 5.3 herein and report to the Commission. No employee will be discharged, threatened, or discriminated against in any manner for following up on any complaint or for reporting what they perceive to be misconduct. All complaints must include a description of the alleged misconduct. The proceedings shall be treated confidentially, including the name of the complainant, except to the extent required to complete any investigation or as required pursuant to the Public Records Act, and in the event that an action is taken.

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5.3 Initial Determination. Based upon the complaint, and only following investigation and with the advice, ~~and~~ counsel and concurrence of Port general or special legal counsel ("Port Ceounsel"), the ~~Chief Executive Officer Executive Director~~ shall determine whether sufficient evidence exists to proceed with an investigation. If the ~~Chief Executive Officer Executive Director~~ determines that insufficient evidence exists and Port Counsel concurs, the complaint shall be dismissed. Otherwise, the Chief Executive Officer shall proceed as follows.

5.4 Investigation. If an investigation is deemed warranted, the ~~Chief Executive Officer Executive Director~~ shall recuse himself from the process and delegate all further steps to Port Ceounsel, and/or an investigator retained for such purpose by Port Ceounsel ("Investigator"). Port ~~e~~Counsel shall inform the party subject of the complaint ("Respondent") in writing that a complaint has been filed and that an investigation will take place. Port Ceounsel shall provide a copy of the complaint to the Respondent and the Respondent shall have a reasonable time to prepare and submit a response in writing. Port Ceounsel or Investigator may seek additional information regarding the matter from the complainant, the Respondent and/or relevant third parties. In conducting the investigation and evaluating all evidence, the Port's ~~e~~Counsel and or Investigator shall presume that the Respondent acted ethically and shall determine that an act of professional misconduct has occurred only upon a finding of substantial evidence of such misconduct.

5.5 Determination and Recommendation. Port Ceounsel and or Investigator, if one is retained, shall evaluate the complaint and issue a decision within thirty (30) days of receiving all relevant evidence, that the complaint is substantiated or unsubstantiated. If Port ~~e~~Counsel finds ~~misconduct and~~ the complaint substantiated, Port Counsel shall prepare a report to ~~Chief Executive Officer Executive Director~~ and the Commission which shall set forth the basis for the decision and a recommended action; otherwise, the complaint shall be dismissed.

5.6 Notification of Determination. ~~Following receipt of the decision and recommendation of Port counsel, the Commissioners shall promptly hear, consider and vote upon the recommended action. The complainant and Respondent shall be notified of the action in writing and shall have the right to be heard before the Commission. The Complainant and Respondent(s) shall be notified in writing of the determination and recommended action; or, of the dismissal.~~

Commented [CL6]: Updated from Resolution 2019-10, and further revised

5.7 Hearing and Decision upon Recommended Action. ~~The Complainant and Respondent(s) shall have the right to be heard before the Commission or, if pending before a Neutral as that term is defined below, to be heard before the Neutral. If the complaint received is against one Commissioner, following receipt of the Port Counsel's determination and recommended action from Port counsel, the remaining Commissioners who are not a party to the complaint shall promptly hear, consider and vote upon the recommended action. If the complaint received is made by one or more of the Commissioners against one or more Commissioner, the determination and recommended action of Port counsel shall be submitted to a mutually agreeable neutral selected from the panel of neutrals available at the Seattle office of Judicial Arbitration and Mediation Services ("JAMS") or Judicial Dispute Resolution ("JDR") ("Neutral"), or other similarly qualified third party Neutral as agreed upon by the Complainant and the Respondents. If the parties cannot agree upon the selection, the Port Counsel presiding judge for Benton County Superior Court shall select a Neutral from the panel available at the Seattle office of JAMS or JDR. The Neutral shall determine the hearing process. The Neutral shall promptly hear, consider and issue a decision regarding the recommended action within 30 days of the hearing.~~

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5.8 Reconsideration. A decision (whether by Commission vote or issued by a Neutral) is subject to reconsideration upon written request by Complainant or Respondent(s). The sole ground for reconsideration shall be that the party seeking reconsideration has new, relevant information which was not available for consideration by Port counsel. A party seeking Reconsideration based on new information shall file a written Reconsideration request within fifteen (15) days of the date of the notice of decision. The reconsideration request shall state the reasons in support and include the new information not previously available for Port Counsel consideration and explain why the new information was not previously available. Following review of the entire investigative file, the decision and recommendation of the Port Counsel and the new information, the Commission or, if applicable, the Neutral, shall, within fifteen (15) days of receipt of such new information, hear, consider and render a final decision which may not be further appealed. The parties shall be notified of the final decision, and any action required by the final decision shall be implemented immediately.

~~Reconsideration. A decision is subject to reconsideration upon written request by a respondent. But the sole ground for reconsideration shall be that the Respondent has new, relevant information which was not considered by Port counsel. Reconsideration A respondent having new information to submit to the Commissioners may, within fifteen (15) days of receipt of the written notice of determination, file with the Commission a written request for reconsideration stating the reason and including the new information not considered by the Port counsel. Following review of the entire investigative file, the decision and recommendation of the Port~~

5.9 Sanctions. If a Complaint is upheld, the Commission may invoke Censure and/or reprimand of the Respondent, forfeiture of officer position on the Commission and or removal from may be invoked with respect to Commissioner misconduct, in addition to reassignment of committee assignments and other actions allowed pursuant to state law.

5.10 Public Notification. Unless otherwise determined by the Commission in a particular matter, it shall be standard procedure to publish, in a manner deemed appropriate by the Commission, the fact of any sanction.

5.11 Other Remedies Reserved. Any action taken by the Commission or Neutral shall not prevent other legal action that may be available under law. The Port shall not indemnify or defend any Commissioner found to have committed charged-with misconduct, except as otherwise provided under Section 18.

6. COMMISSION MEETINGS

6.1 Officers. There shall be three Commission officers: a president, a vice president and a secretary.

6.1.1 Terms. The terms of office for each officer shall be two years or until his/her successor is elected. Commissioners may serve consecutive two-year terms

6.1.2 Election. The officers shall be elected at the first regularly scheduled Port Commission meeting in January in even years. Newly elected officers shall take office effective the next regularly scheduled meeting following the election, unless otherwise agreed by the

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Commission.

6.1.3 Special Elections. By affirmative vote of 2/3 of the Commission officers, a special election of officers may be held at any regularly scheduled Port Commission meeting.

6.1.3.1.4 Removal from Commission Officer Position. By affirmative vote of 2/3 of the Commission, and upon a showing of just cause, a Commissioner may be divested of his or her Commission officer position. "Just Cause" includes but is not limited to a violation of these Commission Rules.

6.2 Presiding Officer. The Presiding Officer at all meetings of the Commission is the President, and in the absence of the President, the Vice President will act in that capacity.

6.3 Presiding Officer Duties. The Presiding Officer shall:

6.3.1 Preserve order and decorum ~~for in the~~ Commission ~~meeting~~ chambers;

6.3.2 Observe and enforce all rules adopted by the Commission;

6.3.3 Decide all questions on order ~~raised~~, in accordance with these ~~R~~rules and Roberts Rules of Order, subject to appeal by a Commissioner;

6.3.4 Recognize Commissioners in the order in which they request the floor. Except as otherwise set forth herein, the Presiding Officer, as a Commissioner, shall have only those rights, and shall be governed in all matters and issues by the same rules and restrictions as other Commissioners; and

6.3.5 Have the authority to appoint Commissioners or the public to serve on ad hoc committees, task forces and any advisory boards, with input from fellow Commissioners.

6.4 Regular Meeting. Port meetings are held on the second and fourth Tuesdays of each month in the Commission Chambers, 350 Clover Island Drive, Suite 200, Kennewick, Washington at 2:00 p.m.

6.5 Special Commission Meetings. A special public meeting of the Commission may be called by the President or by any two Commissioners. Any request and subsequent special meeting notices shall state ~~all agenda items the subjects (e.g., agenda items)~~ to be considered at such special meeting. ~~and Commissioners shall not discuss, consider or take final action upon any other subject not appearing on the special meeting agenda. shall be acted upon.~~

The Port Administrative Assistant shall ~~carry out~~ provide the required published and posted notice ~~required for of~~ special Commission meetings pursuant to applicable law.

6.6 Quorum. At all meetings of the Commission, a majority of the Commission (two members) constitutes a quorum for the transaction of business.

~~6.6.7~~ Adjournment. ~~The Commission or less than a quorum may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. If all Commission members are absent from any regular or adjourned regular meeting the Port Administrative Assistant may declare the meeting adjourned to a stated time and~~

Commented [CL7]: Per 2022 updates to OPMA

Commented [CL8R7]: RCW [42.30.090](#)

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place. He or she shall cause a written notice of the adjournment to be given in the same manner as provided in RCW 42.30.080 for special meetings, unless such notice is waived as provided for special meetings. Except in the case of remote meetings without a physical location as allowed by law, whenever any meeting is adjourned a copy of the order or notice of adjournment shall be conspicuously posted immediately after the time of the adjournment on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule. ~~but a lesser number may adjourn from day to day or until the time of the next regular meeting.~~

6.76.8 Recording Proceedings. The Port Administrative Assistant shall maintain an ~~recorded~~ account of all ~~open public~~ proceedings of the Commission in accordance with statutory requirements, ~~and all such records shall be available for public inspection. If feasible, the recording of the meetings should be available online for a minimum of six months.~~ Port meeting minutes can be corrected but shall not be revised without a majority affirmative vote of the Commission at a regularly scheduled Commission meeting.

Commented [CL9]: RCW [42.30.035](#)

Commented [CL10R9]: And RCW 42.30.220 - New for 2022

6.86.9 Call to Order. The Presiding Officer shall call each meeting to order. The Presiding Officer will announce the attendance of Commissioners and indicate any Commissioner who is not in attendance.

~~6.9—6.10 Remote Meetings. Participation by Telephone.~~ The Commission ~~notes that it has successfully held remote meetings after March 1, 2020 and believes that remote meetings have value by increasing transparency and s allowing broader public participation and attendance. As allowed by state law, the Commission authorizes continued use of remote meetings, conditioned upon compliance with the requirements of this section. During a remote meeting, Commissioners, the Chief Executive Officer, staff, and the public may appear or attend by phone or by other electronic means that allows real-time verbal communication without being in the same physical location and includes proper accommodation for public participation. Remote meetings may be conducted through the use of Internet or telephonic meeting services that support voting and audio and or visible displays identifying those participating, identifying those seeking recognition to speak, showing (or permitting the retrieval of) text of pending motions, and showing the results of votes. Participation by such means shall constitute presence in a meeting for purposes of establishing a quorum, voting, attendance and for all other purposes. In addition, for a remote meeting, Port must provide an option for the public to listen to the proceedings telephonically or by using a readily available alternative in real-time that does not require any additional cost for participation. Free readily available options include, but are not limited to, broadcast by the Port on a locally available cable television station that is available throughout the Port district or other electronic, internet, or other means of remote access that do not require any additional cost for access to the meeting, or via other electronic means of remote access. The names of those wishing to address the Commission by any means of voice only must be announced and their presence noted in the minutes of the meeting.~~ ~~trongly believes that a Commissioner's first priority shall be to the District's constituents as a whole and that this obligation is best fulfilled by direct, face-to-face participation in public meetings rather than via telephone or other medium. Such policy provides access by the public to the Commission, provides for better understanding by the public of the deliberative process, minimizes miscommunication, ensures that each Commissioner sees all applicable documents and sees all in attendance. Therefore, the Commission, in furtherance of~~

Commented [CL11]: New law as of 2022 RCW 42.30.230(6).

Commented [CL12]: Most of suggested text was added here, some modifications made to conform to OPMA. (See RCW 42/30.040).

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~~its long-standing policy of transparency in governance, hereby prohibits the use of attendance at Commission meetings via telephone or other media.~~

6.11 Commissioner Attendance at Meetings. Commissioners shall inform the President or ~~Executive Director~~ Chief Executive Officer if they are unable to attend any Commission meeting, or if they will be late to any meeting. A majority vote is required to excuse any Commissioner's absence. Unless excused, pursuant to RCW 53.12.140 a Commissioner forfeits office by nonattendance at meetings of the Commission for a period of sixty (60) days. The ~~Executive Director~~ Chief Executive Officer shall maintain a record of Commissioner attendance at Commission, and other meetings, to which a Commissioner is assigned or scheduled to attend. Commissioner participation by remote means shall constitute attendance.

6.12 Commission Meeting Staffing. The ~~Executive Director~~ Chief Executive Officer shall attend all meetings of the Commission, unless excused. At the discretion of the Chief Executive Officer ~~Executive Director~~, other staff members shall attend. The ~~Executive Director~~ Chief Executive Officer may make recommendations to the Commission and shall have the right to take part in the discussions of the Commission, but shall have no vote.

6.13 General Conduct of Business.

6.13.1 The Commission meeting shall be conducted pursuant to an agenda, which shall indicate items requiring Commission action.

6.13.2 President ~~as Presiding Officer of the Port Commission~~ will introduce each agenda item, the issue, stating whether action will be taken on the item ~~issue~~, whether the item ~~issue~~ is introduced for discussion only or whether other results are anticipated.

6.13.3 Port staff will briefly discuss the agenda item ~~issue~~.

6.13.4 If a technical report by a consultant or other is to be presented, the presenter will provide a summary of the technical report, generally not to exceed 15 minutes.

6.13.5 At the conclusion of the technical report, staff will return the issue to the ~~Presiding Officer of the Commission~~ for action. ~~A n y~~ The Commissioners may ask staff, any consultants or the public to briefly clarify any matter presented.

6.14 Public Comment. Public comment shall be permitted at Commission meetings ~~only~~ in accordance with these Rules and as required by RCW 42.30.240, as it now exists or as may be amended in the future, established procedures. Comments shall be received at the beginning of each meeting, and at the end of each meeting, as identified on the agenda. Either the President or staff may read the following guidelines into the record: The public comment required under this section may be taken orally at a public meeting, or by providing an opportunity for written testimony to be submitted before or at the meeting. When the Port receives written testimony intended for and accepted by the Commission, this testimony must be distributed to the full Commission. The deadline for the submission of written testimony is not less than 24 hours prior to the meeting at which Commission action will be taken. Upon the request of any individual who will have difficulty attending a Commission meeting by reason of disability, limited mobility, or for any other reason that makes physical attendance at a meeting difficult, the Commission shall, when feasible, provide an opportunity for that individual to provide oral comment at the meeting remotely if oral comment from other members of the public will be accepted at the meeting.

Commented [CL13]: New 2022 requirement RCW 42.30.240

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6.14.1 Speakers attending in person shall move to the lectern and shall comment only after being recognized by the Presiding Officer. ~~ent; At the conclusion of in-person public comments, the Presiding Officer will request comments from members of the public participating remotely.~~

6.14.2 Speakers shall state their names and addresses prior to addressing the Commission;

6.14.3 The President may allocate available time among individuals wishing to comment. Generally, the time shall be 3 minutes for each speaker;

6.14.4 Groups are encouraged to express their views through a single spokesperson rather than individually;

6.14.5 Speakers shall limit themselves to matters regarding the issue of concern;

6.14.6 Speakers shall not repeat remarks or points of view made by prior speakers;

6.14.7 The ~~—~~ Presiding Officer ~~ent~~ may overrule impertinent, redundant or disruptive comments; Applause or other interruptions disturbances are discouraged;

6.14.8 All remarks should be directed to the Presiding Officer ~~ent~~; and

6.14.9 Individuals should not expect the Commission, staff, consultants, other speakers or any other person, to respond to their comments. Instead, the Commission may direct the matter to staff for comment at a future meeting or for Commission consideration at a future meeting.

6.15 Executive Sessions. Executive Sessions shall be held in accordance with the provisions of the Washington State Open Public Meetings Act. An Executive Session is a Commission meeting that is closed to the public and is attended by except to the Commission, ~~Executive Director Chief Executive Officer~~ and others that may be authorized. ~~The public is restricted from attendance.~~ Executive Sessions may be held during Regular or Special Commission meetings and will be announced by the President. Before convening an Executive Session, the President shall announce the purpose of the session, the specific section of RCW 42.30.110(1) by which the session is authorized, meeting and the anticipated time when the session will be concluded, and whether actin is expected after and as a result of the Executive session. Should the session require more time, the Presiding Officer or his or her designee a publicshall announce announcement shall be made that the executive session is being extended to a time certain. The purpose for the Executive Session shall be noted in the meeting minutes.

Commented [CL14]: RCW 43.20.110

6.16 Commission Discussion. All Commission discussion shall be guided by Robert's Rules of Order Newly Revised (RONR), 11th Edition shall be used to guide meeting procedures in the absence of a governing Commission Bylaw or state law. Robert's Rules of Order, Newly Revised. ~~The~~ The Port Attorney shall assume the additional duty of Parliamentarian.

6.17 Media Representation at Commission Meetings. All public meetings of the Port shall be open to the media, freely subject to recording by radio, television, electronic, and photographic services at any time, provided that such arrangements do not interfere with the

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orderly conduct of the meeting, as determined by the Presiding Officer.

7. AGENDA PLANNING

The work of the Commission is accomplished in public meetings and all proceedings of the Commission shall be by motion or resolution, recorded in its minute books, which shall be public records. The agenda of the public meeting identifies in general terms the topics to be considered by the Commission.

7.1 Placing Item on the Agenda. Items may be placed on either the business agenda or on the consent agenda. An item may be placed on the preliminary Commission meeting agenda by any Commissioner or by the Chief Executive Officer ~~Executive Director~~.

7.1.2 Agenda Preparation. The ~~Executive Director~~ Chief Executive Officer shall prepare a preliminary agenda for each Commission meeting. The preliminary agenda shall set forth a brief general description of each item to be considered by the Commission. The ~~Executive Director~~ Chief Executive Officer shall promptly forward the preliminary agenda to the Presiding Officer for review. The Presiding Officer shall have the option to delete any item from the preliminary agenda. The Presiding Officer shall, at the next commission meeting, report any deleted item to the full Commission and the full Commission shall determine whether the item shall be placed on a subsequent agenda.

7.2.3 Agenda Materials. Agenda materials will be available on the Friday prior to the Commission meeting. Agenda materials will be delivered to Commissioners by delivery or electronic means as preferred by each Commissioner. The Chief Executive Officer and his or her staff shall strive to provide to the Commissioners all subjects to be considered at the Commission meeting, including contracts, call for bids, and other items no later than the Friday preceding the Tuesday meeting, if reasonably possible. Each item for which action is requested of the Commission shall have a written explanation and full briefing of all information necessary for the Commission's review, discussion, and action on said business item.

7.3.4 Adding an Item to a Published Agenda. An item may be placed on a regular Commission meeting agenda after the agenda is closed and the notice published, if the Commissioner or ~~Executive Director~~ Chief Executive Officer explains the necessity and receives a majority vote of the Commission at a public meeting.

7.4.5 Agenda Item Order. The Presiding Officer may, with the concurrence of the Commission, address agenda items out of order.

7.6 Consent Agenda. All matters listed under Consent Items have been distributed to each member of the Commission for review, are considered routine, and will be enacted by the motion of the Commission with no separate discussion. If separate discussion is desired, that item may be removed from the Consent Items and placed under Action Items or tabled for consideration at a future meeting. Items placed on the consent agenda may be moved to the business agenda upon a motion passed by the Commission during a Commission Meeting and prior to the vote to approve the consent agenda. The moved item will be placed on the business agenda for further discussion.

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8. ROLE OF THE COMMISSION PRESIDENT

The President of the Commission shall:

8.1 Ensure that the Commission jointly and consistently adheres to its own rules and policies, and those imposed upon it by the laws of the State of Washington.

8.2 Ensure that deliberation is fair, open and thorough, but also timely, orderly and stays on topic. The President of the Commission shall preside over and facilitate all Commission Meetings in accordance with these governance principles and Roberts Rules of Order Newly Revised (RONR), 11th Edition, as needed.

8.3 Assume responsibility of the Commission that is not specifically assigned to another Commissioner.

8.4 Call Special Meetings of the Commission in the event of a business need as provided for by applicable law.

8.5 Establish ad hoc advisory and standing committees, and appoint members to same.

8.6 Schedule and coordinate the annual ~~process of evaluation of ng the~~ Chief Executive Officer Executive Director.

8.7 Limit Have no authority to superv~~supervision se or administratively and direction of the Executive Director Chief Executive Officer~~ or Port staff, solely to the apart from authority expressly granted by the Commission.

8.8 Be the spokesperson for the Commission in expressing a view held jointly by the Port Commission, unless another spokesperson is named by the full Commission. However, individual Commissioners shall have the right to voice personal opinions differing from decisions taken or under review by the Port Commission as a whole as long as they are stated as such.

9. ROLE OF THE COMMISSION VICE-PRESIDENT

The Vice-President of the Commission shall:

9.1 Perform such duties as are assigned by the President.

9.2 Have all the power and duties of the President in the absence or inability of the President to act.

9.3 Have all the powers and duties of the Secretary in the absence or inability of the Secretary to act, when not acting as the President.

10. ROLE OF THE COMMISSION SECRETARY The Secretary of the Commission shall:

10.1 Attest all contracts, bonds, deeds, leases and other instruments and documents duly authorized by the Commission unless otherwise delegated by the Commission.

10.2 Perform all duties incident to the office of Secretary as may from time to time be

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required by law or assigned to such office by motion, rule or resolution of the Commission.

10.3 Have all of the powers and duties of the President in the absence or inability of both the President and the Vice President to act.

10.4 Have the option of delegating the obligations and duties of Secretary to the appropriate Port staff member for implementation.

11. COMMISSION COMMITTEES

11.1 General. ~~The Commission President may establish ad hoc advisory and standing committees.~~ All Commission committees should include designation of members, chair and a charter describing the committee's purpose. All Commission Committees serve in an advisory capacity only. The Commission President will review each committee at least annually to determine whether the committee should continue.

11.2 Committee Roles and Responsibilities.

11.2.1 Committees will assist the Commission by gaining education, considering alternatives and implications, and preparing policy alternatives.

11.2.2 Commission committees or any individual Commissioner may not speak or act for the Commission, except when formally given such authority for specific and time- limited purposes.

11.2.3 Commission committees cannot exercise authority over staff or interfere with the delegation from the Commission to the Chief Executive Officer ~~Director~~.

11.2.4 Participation in committee meetings shall be in compliance with the provisions of the Open Public Meetings Act, when two or more Commissioners are present, or the committee is acting for the Commission. In such event, the committee meeting must be properly noticed as a public meeting.

11.2.5 These policies apply to any group which is formed by action of the Commission President, whether or not it is called a committee.

12. COMMISSION AND PORT ACTION

12.1 Only decisions of the Commission acting as a body are binding upon the Port and Port staff.

12.2 In the case of Commissioners requesting information or assistance without Commission authorization, the ~~Executive Director~~ Chief Executive Officer and staff *must* refuse such requests that require, upon evaluation by the Chief Executive Officer ~~Director~~, a material amount of staff time or funds, are disruptive to the Port, or which may involve a conflict of interest between the Port and the Commissioner requesting the information or assistance.

12.3 Commissioners individually may communicate directly with Port employees or contractors for the purpose of inquiry only. Commissioners shall, on business matters, deal with staff through the Chief Executive Officer ~~Director~~. However, the Commission as a body and the Commissioners individually do not give direction to persons who report directly or indirectly to

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the Chief Executive Officer Director. If an individual Commissioner is dissatisfied with the response from the Executive Director Chief Executive Officer or staff, the Commissioner may seek resolution through the Commission as a body.

12.4 The Commission as a body and the Commissioners individually will refrain from evaluating, either formally or informally, the job performance of any Port employee, other than the Chief Executive Officer Director, except when approving compensation and benefits in the course of budget or employment contract considerations.

13. PORT COMMISSION & STAFF ROLES AND RESPONSIBILITIES

13.1 General Roles. The Commission is the Port's governing authority. All authority not expressly delegated to the Chief Executive Officer is reserved to the Commission. The Commission sets Port policies and priorities. -and policy-maker. The Chief Executive Officer Director and Port staff execute implement and administer the Commission's policies. The Port of Kennewick has a Commission-Executive Director Chief Executive Officer form of governance. With this structure, the Port Commission's role is to establish port policies and priorities. The Commission hires an Executive Director to implement those policies and undertake the administration of the organization. The Executive Director Chief Executive Officer is hired by the Port Commission to enforce its directives, to direct the daily operations of Port governance, to prepare and monitor the budget, and to implement the policies and programs initiated by the Port Commission. The Executive Director Chief Executive Officer is responsible to the Port Commission as a board, rather than to individual Commissioners, and directs and coordinates all other employees. The Port Commission authorizes priorities and projects positions through the budget process; based upon that authorization, the Executive Director Chief Executive Officer is responsible for hiring all personnel.

13.2 Commissioner's Role. [See also, Section 2.] The Executive Director Chief Executive Officer is authorized to make recommendations on policy matters to the Commission and the Commission retains the authority to accept, reject, or amend the recommendations. Individual Commissioners may not intervene in staff decision-making, scheduling of work, and executing department priorities. This is necessary to allow staff to execute priorities given by the Executive Director. All Commissioners with concerns affecting the Port of Kennewick should address those concerns with the full Commission or with the Chief Executive Officer Executive Director.

No Commissioner shall direct the Executive Director Chief Executive Officer to initiate any action, prepare any report, or initiate any project or study without the authorization of a majority of the Commission. Commissioner requests for information shall be made to the Chief Executive Officer Director, unless otherwise determined by the Chief Executive Officer Director. Commissioners needing staff assistance shall work through the Chief Executive Executive Officer Director.

13.3 Chief Executive Officer's Director's Role.

13.3.1 The Executive Director Chief Executive Officer is the chief administrative officer of the Port. The Executive Director Chief Executive Officer is directly accountable to the Port Commission for the execution of the Port Commission's policy directives as set forth in the Delegation Policy and for the administration and management of all Port activities and staff.

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13.3.2 The ~~Executive Director-Chief Executive Officer~~ is ~~the administrator and manager of all Port activities and staff; and~~ the information liaison between Commission and Port staff. Requests for information from Commissioners are to be directed to the ~~Executive Director Chief Executive Officer~~ and will be responded to promptly. The information requested will be copied to all members of Commission so that each member may be equally informed. The ~~Executive Director-Chief Executive Officer~~ will provide staff support for Commissioners as appropriate in their official roles.

13.3.3 In addition to regular, comprehensive memoranda written by the ~~Executive Director-Chief Executive Officer~~ directly to the Port Commission concerning aspects of Port operations (exclusive of confidential personnel issues), all Commissioners shall receive copies of correspondence received by the ~~Executive Director-Chief Executive Officer~~ that will assist them in their policy-making role. The ~~Executive Director-Chief Executive Officer~~ also provides other documents to the Commission on a regular basis, such as status reports, executive summaries, and minutes of meetings.

13.3.4 The ~~Executive Director-Chief Executive Officer~~ shall have an open-door policy which allows individual Commissioners and the public to meet with the ~~Executive Director Chief Executive Officer~~ on an impromptu, one-on-one basis. Such meetings are highly encouraged. No Commissioner, person or special interest group shall abuse the open-door policy.

13.3.5 In addition to the above, the Chief Executive Officer's job description includes the following:

13.3.6 The Chief Executive Officer reports to the Commission, with duties including but not limited to the responsibilities and specific duties described below, together with such other powers and duties as the Commission may specify via adopted work plans and Delegation of Authority. The Chief Executive Officer shall provide the services hereunder in accordance with his independent and professional judgment and in accordance with his own means and mode of performance. There shall be a presumption that the Chief Executive Officer acted on an informed basis, in good faith, and within the scope of his or her employment. The list below is a codification of existing duties, custom and practice.

13.3.7 ~~The Chief Executive Officer should:~~

- ~~Work with the Commission to ensure that the mechanisms for effective governance are in place and that the Commission is alert to its obligations to the Port, employees and the public.~~
- ~~Assist the Commission in fostering ethical, transparent and responsible decision making.~~
- ~~Work with the Commission and senior management to monitor progress on strategic planning and commission policy implementation, and regularly report on progress to the Commission.~~
- ~~Take all reasonable steps to ensure that Commission policy is executed as effectively as possible.~~
- ~~Participate in the development and implementation of strategic initiatives and provide oversight on strategic orientation of the Port.~~
- ~~Ensure the quality, quantity and timeliness of the information that goes to the Commission and ensure that all Commissioners receive the information~~

Commented [CL15]: In the absence of a job description, this provides a codification of existing duties, custom and practice

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- required for the proper performance of their duties.
- Take reasonable steps in consultation with the Commission President to ensure that business set out in the agendas of Commission meetings is discussed and brought to resolution, as required, and that sufficient time is allowed during Commission meetings to fully discuss agenda items.
 - In coordination with the Commission, Port Human Resources personnel and Port Counsel, actively participate in the annual Chief Executive Officer performance evaluation which will include a performance discussion with candid input and feedback.
 - Work to ensure that the Port promotes equality and fairness for its staff and contract personnel.
 - Foster ongoing formal and informal communication with and among Commission members.
 - Ensure that Port employees work as a team, efficiently and productively.
 - Foster strong relationships between the Port and key stakeholders in the community.
 - Assist the Commission in the development of the Commission's knowledge and capabilities by playing a central role in orientation of new Commission members and providing continuing education opportunities for the entire Commission.
 - Act as a spokesperson for the Port related to execution of established port policy.

13.4 **Staff Role.** The Commission recognizes the primary functions of staff as 1) executing the policies and actions taken by the Commission as a whole, and 2) keeping the Commission informed. Staff is obligated to take guidance and direction from the ~~Executive Director~~ Chief Executive Officer or appropriate supervisor. This direction follows the policy guidance from the Port Commission to the ~~Executive Director~~ Chief Executive Officer through the Delegation Policy. Port staff will, acting through the ~~Chief Executive~~ Executive Director, make every effort to respond in a timely and professional manner to all individual Commissioner's requests for information or assistance; providing, in the judgment of the Chief Executive Officer ~~Director~~, the request is not of such magnitude (in terms of workload, resources, or policy) that it should instead be assigned to the ~~Executive Director~~ Chief Executive Officer through the direction of the full Port Commission.

13.5 **Summary.** The following is a brief summary from the Washington Public Port Association ("WPPA") Commissioner Resource ~~Guide, and~~ Guide and identifies parallel leadership roles and responsibilities.

Port Commission

Governs:
 Guides
 Directs
 Decides what
 Requests information
 Considers issues
 Creates, reviews and adopts policy
 Reviews and monitors plans
 Monitors progress
 Contracts with personnel
 Approves evaluation criteria, procedures

Executive Director

Administers:
 Operates
 Manages
 Decides how
 Seeks and provides information
 Provides recommendations
 Recommends and carries out policy
 Implements plans
 Reports progress
 Supervises hiring process, practices
 Supervises and evaluates personnel

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Reviews and approves budget
Represents public interest

Formulates budget
Acts in the public's interest

14. BUDGET AND PROCUREMENT AUTHORITY

14.1 General. By resolution, the Commission shall set forth the authority of the ~~Executive Director~~ Chief Executive Officer to manage and expend Port funds in accordance with financial policies and budgetary limits. Procurement of goods and services shall take place in accordance with applicable legal requirements in a fair, competitive and inclusive manner to maximize the benefit to the Port's taxpayers/customers.

14.2 Financial Policies. The Commission, by resolution, shall adopt financial policies that provide guidance to the ~~Executive Director~~ Chief Executive Officer in managing the finances of the Port and in developing budgets, financial plans and rates. At a minimum, these policies shall:

14.2.1 Provide for sufficient liquidity relative to the Port's risk profile;

14.2.2 Provide for adequate coverage to meet debt covenants;

14.2.3 Establish criteria for debt and rate – financed capital expenditures;

14.2.4 Require that budgets be developed based on conservative and prudent assumptions consistent with standard industry practice; ~~and~~

14.2.5 Establish budgetary and procurement controls over expenditures;

14.2.6 Produce and maintain a balanced budget;

~~14.2.5~~ 14.2.7 • Provide a fiscally sound approach to finances by ensuring that expenditures and debt repayments do not exceed available resources in current budget and future years impacted;

~~14.2.6~~ 14.2.8 • Provide for financial stability by:

- Funding projects that provide a positive return on investment or which provide important identifiable non-economic benefits to the port district at large;
- Eliminating or transferring to private sector, holdings which provide minimal economic or community benefit;
- Reducing costs and enhancing revenues when feasible while maintaining acceptable service levels;
- Ensure the Port's portfolio includes diversity of revenue streams to offset risk adverse projects;
- Accurately forecasting funding sources;
- Creating successful strategies for capital acquisitions;
- Closely monitoring and accurately reporting all revenues and expenditures;
- Leveraging funds by seeking grants and matching funds from the public and private sectors;
- Accurately and honestly identifying potential financial issues and providing feasible potential solutions;
- Identifying and recommending potential improvements; and

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- Learning and sharing ideas for improvement.

14.2.9 Promoting fiscal responsibility among departments;

14.2.10 Focusing on long-term financial planning;

14.2.11 Support intergovernmental cooperation by partnering with entities which demonstrate support; (e.g. matching funds; previous successes; political and taxpayer support; and enthusiasm);

14.2.12 Provide the public with high quality projects and services within a healthy work environment by encouraging efficiency, cooperation, honesty, integrity, and respect;

14.2.13 Evaluate economic development opportunities based on results to be derived districtwide versus project-specific or jurisdiction-specific results;

14.2.14 Acknowledge the Port's limited staff and financial resources;

14.2.15 Establish a project ranking and selection process which focuses on producing a limited number of projects in order to ensure successful and timely implementation;

14.2.16 Encourage open competition and equal project consideration, fostering a reputation for fairness with the local business community;

14.2.17 Seek to fund projects with available resources;

14.2.18 Incur debt only when both the level and rate of growth of public debt is fundamentally sustainable, can be serviced under appropriate circumstances while meeting cost and risk objectives, can withstand economic uncertainties, while identifying in advance any legal or commission-directed restrictions on its use; and

14.2.19 Maintain reserves of \$2.5M in order to ensure financial stability and mitigate any potential financial hardships. If reserve funds are utilized, funds must be replenished during the current or next budget cycle. The reserve fund may be used for the following:

- Debt service;
- Environmental pollution claims against the Port;
- Unemployment Claims;
- Paid Family & Medical Leave Claims; and
- Any other uses deemed necessary by the Commission.

14.2.20 Identify and report the return on investment (ROI) on projects as appropriate; and

14.2.714.2.21 Share with the public port audited financial and operating data through print and online resources.-

14.3 Budgetary Authority. As required by and consistent with law, the Commission, by resolution, shall approve the Port's budget prior to the start of each calendar year. The ~~Executive Director~~ Chief Executive Officer shall manage the Port's operations within the approved budget levels consistent with authority levels set forth in the financial policies.

14.4 Procurement Authority.

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14.4.1 The Commission, by resolution, shall establish procurement authorities and guidelines for the ~~Executive Director~~ Chief Executive Officer consistent with state laws and regulations. The ~~Executive Director~~ Chief Executive Officer shall establish procurement controls that provide reasonable assurance that the procurement of goods and services are made for a valid business purpose and within authorized budget levels.

14.4.2 It is Port policy that procurement decisions shall be made free from actual or perceived conflicts of interest consistent with these Rules of Policy and Procedure.

14.4.3 It is Port policy that due diligence and prudent judgment be exercised in the making of procurement decisions, including conducting a risk assessment. If the ~~Executive Director~~ Chief Executive Officer reasonably determines that a procurement activity presents, regardless of the size of the financial commitment, either: (1) a unique and significant operational risk to the Port; or (2) a significant impact to customers, the ~~Executive Director~~ Chief Executive Officer shall inform the Commission.

15. EVALUATING THE ~~CHIEF EXECUTIVE OFFICER'S EXECUTIVE DIRECTOR'S~~ PERFORMANCE

~~15.1 General. The Executive Director's job performance shall be evaluated by comparing the organization's operations and results and the Executive Director's performance to the policies established by the Commission.~~

~~15.2~~

~~15.3 Process.~~

~~15.4~~

~~15.5 The Commission shall evaluate the Executive Director's performance on an annual basis.~~

~~15.6~~

~~15.7 The evaluation will be based on an evaluation of the organization's performance and the Executive Director's personal performance against the evaluation criteria previously established by the Commission and the Executive Director.~~

15.1 Chief Executive Officer Evaluation Committee

15.1.1 The Port Commission shall appoint a Chief Executive Officer Evaluation Committee made up of the Port's Chief Financial Officer, Port Attorney, and one Commissioner to serve a 2-year term. Each member shall be unbiased.

15.1.2 The Chief Executive Officer Evaluation Committee will develop the Chief Executive Officer's goals and objectives for Port Commission review and approval. The goals and objectives developed by the Committee shall be specific, measurable, attainable, realistic, timely and in alignment with the Port's mission, budget, work plan, and comprehensive scheme of development.

15.1.3 The Commission accepts the following procedure for the Chief Executive Officer Evaluation Committee to evaluate the Chief Executive Officer's performance, which is attached hereto as **Exhibit "A"**, and the Chief Executive Officer Evaluation Committee has created the Chief Executive Officer Performance Evaluation Form Revised 2022, which is attached hereto as **Exhibit "B"**.

Commented [CL16]: Updated to include the new Section 15 provisions of Resolution 2022-19 as adopted 7/26/2022.

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15.1.4 On an annual basis, the Chief Executive Officer Evaluation Committee will conduct Chief Executive Officer's performance evaluation.

15.1.5 On an annual basis, the Chief Executive Officer Evaluation Committee will present the results of its evaluation of the Chief Executive Officer's performance to the Port Commission for review and approval. Such results may include, among other things, recommendation for salary adjustment in accordance with Chief Executive Officer's employment agreement.

15.1.5 The Chief Executive Officer Evaluation Committee may use assistance from other staff members or consultants as necessary and appropriate.

15.1.6 The Port Commission shall address Chief Executive Officer performance issues as they arise by timely referring them to the Chief Executive Officer Evaluation Committee. The Chief Executive Officer Evaluation Committee will develop a procedure for handling performance issues that may arise between annual evaluations. As part of that procedure, any performance related item must be communicated to the CEO in writing within 14 business days following the date any such alleged action or inaction occurred. If the Chief Executive Officer Evaluation Committee fails to notify the Chief Executive Officer of a matter of which the Commission members are aware, the performance related item shall not be relied upon or addressed in a performance review. Prior to issuing such a written notice, the Chief Executive Officer Evaluation Committee shall undertake an appropriate inquiry, which generally will include discussion with the Chief Executive Officer, in accordance with applicable laws, policies and contracts. Once notified, the Chief Executive Officer shall be provided a reasonable period of time to cure the concern or deficiency.

16. COMMISSION-AUDITOR RELATIONSHIP

16.1 General. The Port Auditor ("Auditor") serves the Port to assist in the Port's compliance with the RCW 53.36.010, RCW 53.36.140, RCW 42.24.080 and the Local Government Accounting Act, RCW 43.09.200 – 43.09.2855.

16.2 Hiring and Reporting.

16.2.1 The ~~Executive Director~~ Chief Executive Officer shall hire the Auditor. The Auditor shall perform those duties specified in RCW 53.36.010, RCW 53.36.140, RCW 42.24.080, RCW 43.09.240, Port Policy and ~~or~~ job description and shall be granted direct access to the Commission as necessary in the performance of these duties.

16.2.2 The Auditor shall report to the Commission through the ~~Executive Director~~ Chief Executive Officer or designee for all administrative matters, including hiring, performance evaluations, salary administration, employee benefits, and terminations. The ~~Executive Director~~ Chief Executive Officer may assign additional duties to the Auditor as long as these duties do not interfere with the Auditor's duties as specified by law.

17. COMMISSION-PORT ATTORNEY RELATIONSHIP

Commented [CL17]: RCW 53.36.010 requires that all port district funds shall be paid to the treasurer and be disbursed by him or her upon warrants signed by a port auditor appointed by the port commission, upon vouchers approved by the commission.

RCW 53.36.140 requires that Port commissions shall adopt, in writing, rules and regulations governing promotional hosting expenditures by port employees or agents and that such rules identify officials and agents authorized to make such expenditures and the approved objectives of such spending. RCW 53.36.140 also requires that all payments and reimbursements be identified and supported on vouchers approved by the port's auditor.

RCW 42.24.080 requires that all claims presented against any political subdivision by officers and employees of that subdivision or by persons furnishing materials, rendering services or performing labor, or for any other contractual purpose, shall be audited, before payment, by an auditing officer and the audit form shall provide for authentication and certification by such auditing officer that the materials have been furnished, the services rendered, the labor performed as described, or that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due and unpaid obligation political subdivision. No claim shall be paid without such authentication and certification.

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17.1 Port Attorney Role. The ~~Executive Director~~ Chief Executive Officer is responsible for hiring and terminating the Port Attorney. The ~~Executive Director~~ Chief Executive Officer shall make provision for and appoint legal counsel for the Port by any reasonable contractual arrangement for such professional services. The Port Attorney is the legal advisor to the Port, the Commission, its committees, commissions and boards, the ~~Chief Executive Officer~~ Executive Director, and all Port officers and employees with respect to any legal question involving an official duty or any legal matter pertaining to the affairs of the Port. It is important to note that the Port Attorney does not represent individual members of Commission, but rather the Port Commission as a whole. The Port Attorney reports to the ~~Chief Executive Officer~~ Executive Director. The ~~Executive Director~~ Chief Executive Officer is responsible for evaluating the Port Attorney's performance.

17.2 Port Attorney Responsibilities.

The general legal responsibilities of the Port Attorney are to:

17.2.1 Provide legal assistance necessary for formulation and implementation of ~~the Commission's~~ legislative policies and projects.

17.2.2 Represent the Port's interest, as determined by the ~~Chief Executive Officer~~ Director, in litigation, administrative hearings, negotiations, and similar proceedings.

17.2.3 Prepare or approve as to form resolutions, contracts, and other legal documents to best reflect and implement the purposes of the Port.

17.2.4 Keep the Port Commission and staff apprised of court rulings and legislation affecting the legal interest of the port.

17.2.5 Shall advise the Commissioners regarding potential conflict of interest issues or ethical matters. Port Attorney shall provide assistance to individual Commissioners in complying with applicable statutes and laws only when such advice does not conflict with the Port Attorney's obligations to the Port or to specific direction of the Commission.

17.2.6 Give advice or opinion when required, ~~and when requested~~ by the Commission or ~~Chief Executive Officer~~ Director.

17.2.7 Inform the Commission of material legal issues impacting the Port or the Commission.

17.2.8 Assist the Commissioners and staff in complying with applicable statutes and laws.

17.2.9 Serve as the parliamentarian at all commission meetings and other port-related meetings as requested by the ~~Chief Executive Officer~~ Director.

17.2.10 Other matters as designated by the ~~Chief Executive Officer~~ Director.

18. INDEMNIFICATION AND DEFENSE POLICY

18.1 Policy Stated. As authorized by RCW 4.96.041, there is hereby created a procedure to provide for indemnification and defense of claims of liability arising from acts or omissions of

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officials and employees of the Port, including volunteers, while performed or in good faith purported to have been performed in the scope of their official duties.

18.2 **Definitions.** Unless the context indicates otherwise, the words and phrases used in this chapter shall have the following meaning:

18.2.1 “Employee” means any person who is or has been employed by the Port, including volunteers and appointed members of advisory boards and commissions. “Employee” does not include independent contractors. “Employee” also includes an employee’s spouse when an employee’s marital community is named in any action subject to this policy.

18.2.2 “Official” means any person who is serving or has served as an elected Port Commissioner, and any person who is serving or who has served as an appointed officer of the Port as defined by RCW 42.23.020(2), as written or hereafter amended. “Official” does not include independent contractors performing the duties of appointed positions.

18.3 Legal Representation.

18.3.1 Upon request by the Official or Employee, and upon a finding by the Commission that the acts or omissions of the Official or Employee were or in good faith purported to be within the scope of his or her official duties, ~~t~~The Port shall provide to an ~~e~~Official or ~~E~~Employee, subject to the conditions and requirements of this chapter, and notwithstanding the fact that such ~~O~~fficial or ~~E~~mployee may have concluded service or employment with the Port, such legal representation as may be reasonably necessary to defend a claim or lawsuit filed against such ~~e~~Official or ~~E~~Employee resulting from any conduct, act or omission of such ~~e~~Official or ~~E~~Employee performed or omitted ~~on behalf of the Port were or in good faith purported to be within the scope of his or her service or employment in his/her capacity as a Port~~ ~~O~~fficial or ~~E~~Employee, ~~which act or omission is within the scope of his/her service or employment with the Port.~~ The provisions of this chapter shall not operate to provide legal representation to defend a claim or lawsuit for any conduct, act, or omission resulting in the termination for cause of any ~~e~~Official or ~~E~~Employee.

18.3.2 The legal representation shall be provided by the office of the Port ~~legal~~ ~~C~~ounsel and may include the ~~Executive Director~~ ~~Chief Executive Officer~~ engaging the services of outside legal counsel, ~~with Port Counsel oversight~~. If any provision of an applicable policy of insurance provides legal counsel for the employee or official, the Port ~~legal~~ ~~e~~Counsel will work with the policy holder for purposes of obtaining legal representation under the existing insurance policy.

18.3.3 In the event that ~~the Port retains~~ outside counsel ~~is retained~~ under Section 18.3.2, the Port shall ~~pay the~~ ~~indemnify the employee or official from the~~ reasonable costs of defense; provided, that in no event shall ~~payment the official or employee be indemnified for legal counsel’s fees in exceed excess of~~ the hourly rates established by the Port’s contract with legal counsel selected by the Port. ~~The official or employee shall be liable for all hourly rates charged in excess of said rate.~~

18.3.4 The determination whether the ~~Official or~~ ~~e~~Employee was acting in ~~or in~~ ~~good faith purported to be good faith~~ within the scope of his or her official duties shall be made by the ~~Commission~~ ~~Executive Director~~ in consultation with the Port ~~legal~~ ~~e~~Counsel and/or outside legal counsel, ~~if retained~~. This determination shall be based on an investigation of the facts and

Commented [CL18]: Changed to Commission to be consistent with RCW 4.96.041(2) and 18.7 herein.

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circumstances surrounding the incident and shall be made as early in the proceedings as is reasonably possible. ~~In making the determination, the Commission shall presume that the Official or Employee acted in good faith within the scope of his or her official duties and shall determine that the Employee was not acting in good faith within the scope of his or her official duties only upon a finding or findings supported by substantial evidence.~~ Once the determination is made, the ~~Official or Employee~~ involved shall be notified by the ~~Executive Director-Chief Executive Officer~~ in writing. If the ~~eEmployee or eOfficial~~ involved is the ~~Chief Executive Officer, Executive Director,~~ the determination shall be made by the Commission in consultation with the Port ~~legal-Counsel~~ and/or outside legal counsel based on an investigation of the facts and circumstances surrounding the incident and shall be made as early in the proceedings as is reasonably possible. Once the determination is made, the ~~Executive Director-Chief Executive Officer~~ shall be notified by the Port ~~legal-Counsel~~, in writing. In any claim involving an allegation of criminal conduct, no investigation by the Port will occur prior to a determination of guilt, or prior to a dismissal of the criminal charge with prejudice, so as not to compromise the ~~Official's~~ or ~~eEmployee's~~ Fifth Amendment right against self-incrimination. Any determination made under this Section shall not be subject to appeal ~~-or reconsideration.~~

~~18.3.5—~~

18.4 Exclusions. Except as otherwise determined pursuant to Section 18.3, in no event shall protection be offered under this chapter by the Port to:

18.4.1 Any dishonest, fraudulent, criminal, willful, intentional or malicious act or course of conduct of an ~~Official~~ or an ~~Employee~~;

~~18.4.2—Any act or course of conduct of an official or employee which is not performed on behalf of the Port;~~

~~18.4.3~~18.4.2 Any act or course of conduct which is outside the scope of an ~~eOfficial's~~ or ~~Employee's~~ service or employment with the Port; and/or,

~~18.4.4~~18.4.3 Any lawsuit brought against an ~~Official~~ or ~~eEmployee~~ by or on behalf of the Port;

~~18.4.5~~18.4.4 Any action or omission contrary to or not in furtherance of any adopted Port policy.

18.5 Reserved Rights. Nothing herein shall be construed to waive or impair the right of the Port neither to institute suit or counterclaim against any ~~eOfficial~~ or ~~Employee~~ nor to limit its ability to discipline or terminate an employee.

18.6 Policy Secondary to Insurance. The ~~Port's payment of defense fees and costs and any resulting non-punitive judgement are secondary to any insurance coverages provisions of this chapter shall have no force or effect with respect to any accident, occurrence or circumstance for the which the Port or the official or employee is insured from whatever source for defense, against loss or damage; provided that the provisions of this chapter shall apply in the event the loss or damages fall within the excluding deductible or exclusion(s) of the Port's applicable insurance policy. The provisions of this chapter are intended to be secondary to any contract or policy of insurance whether owned by or otherwise applicable to any official or employee.~~ The Port shall have the right to require an ~~Employee~~ to fully utilize ~~insurance coverages any such policy protection~~ prior to requesting ~~payment the protection afforded by under~~ this Chapter.

Commented [CL19]: Standards were added to aid the Commission in making the determination. The standard is consistent with Section 5.4.

8.01.22 DRAFT

18.7 Determination of Exclusion. ~~The determination w~~Whether an Official or Employee ~~was acting in or in good faith purported to be acting within the scope of an Official's or Employee's service or employment with the Port and thus eligible for shall be afforded a defense by the Port payment of defense costs under the terms of this chapter shall be determined made by the Commission after a determination pursuant to Section 18.3 as to whether the official or employee was acting within the scope of his or her duties. The Executive Director The Chief Executive Officer~~ and Port legal counsel shall prepare a recommendation to the Commission. The ~~decision of the Commission's decision~~ shall be final as a legislative determination and shall be based upon a finding that an official or employee meets or does not meet the criteria of this chapter. Nothing herein shall preclude the Port from undertaking an Official's or Employee's defense under a reservation of rights. The determination as to whether a defense is to be furnished as provided under this chapter to ~~a member or to members of the Commission~~ er or Commissioners shall be made without the vote of the Commissioner(s) named in the claim or lawsuit unless the inclusion of such member or members is required for a quorum; provided, that if a claim or lawsuit affects a quorum or greater number of the members of the Commission, all such affected members shall retain their voting privileges under this Section.

Commented [CL20]: Edit made to highlight that this is a discretionary choice by Commission per RCW 4.96.041

18.8 Representation and Payment of Claims – Conditions. The payments authorized provisions of by this chapter shall apply only when all the following conditions are met:

18.8.1 In the event of any incident or course of conduct potentially giving rise to a claim for damages, or for the commencement of a lawsuit, the ~~e~~Official or ~~E~~Employee involved shall, as soon as practicable, give the ~~e~~Employee's department director and, if applicable, the Port ~~legal e~~legal ~~C~~ccounsel and the ~~Executive Director Chief Executive Officer~~ written notice thereof. The notice shall identify the Official or Employee involved, all information known to the ~~e~~Official or ~~e~~Employee involved with respect to the date, time, place and circumstances surrounding the incident or conduct giving rise to the potential claim or lawsuit, as well as the names and addresses of all persons allegedly injured or otherwise damaged thereby, and the names and addresses of all witnesses.

18.8.2 Upon receipt, the ~~e~~Official or ~~E~~Employee shall as soon as practicable deliver any claim, demand, notice or summons or other process relating to any such incident or conduct to the Port ~~legal e~~legal ~~C~~ccounsel and shall cooperate with the Port ~~legal e~~legal ~~C~~ccounsel, or if the ~~Executive Director Chief Executive Officer~~ authorizes or designates another legal counsel to handle the matter, shall cooperate with that legal counsel, and, upon request, shall assist in making settlement of any suit and enforcing any claim for any right of subrogation against any persons or organizations that may be liable to the Port because of any damage or claim of loss arising from said incident or course of conduct, including, but not limited to, rights of recovery for costs and legal counsel's fees arising out of state or federal statute upon a determination that the lawsuit brought was frivolous in nature. Failure to timely deliver any claim, demand, notice or summons to the Port ~~legal e~~legal ~~C~~ccounsel, and in which an adverse decision against the ~~e~~Official, the ~~E~~E-employee or Port results from such failure, shall operate to negate all indemnification and opportunity for defense under this chapter and the Port shall have no obligation to offer a defense to the named Official or Employee.

18.8.3 Such Official or Employee shall attend interviews, depositions, hearings and trials and shall assist in securing and giving evidence and obtaining assistance of witnesses all without any additional compensation to the Official or Employee, and, in the event that an ~~e~~Employee has left the employ of the Port, no fee or compensation shall be provided.

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18.8.4 Such ~~e~~Official or ~~E~~mployee shall not accept nor voluntarily make any payment, assume any obligation, or incur any expense related to said claim or lawsuit, other than for first aid to others at the time of any incident or course of conduct giving rise to any such claim, loss or damage. Nothing herein shall be deemed to preclude any ~~e~~Official or ~~E~~mployee from retaining legal counsel to represent his/her interests relating to such claim or lawsuit; however, all costs and expenses incurred thereby shall be paid by the ~~O~~fficial or the ~~E~~mployee.

18.8.5 Nothing herein shall modify existing procedures or requirements of law for processing and payment of claims against the Port.

18.9 Effect of Compliance With Conditions. If legal representation of an ~~O~~fficial or ~~E~~mployee is undertaken by the Port, whether by the Port ~~legal-c~~Counsel or by legal counsel obtained by the Port or through its insurance coverage, and all of the conditions of representation are met, and a judgment is entered against the ~~O~~fficial or ~~E~~mployee or a settlement is made, the Port shall pay ~~such-the nonpunitive damages portion of the~~ judgment or settlement according to the provisions herein; provided, that the Port may at its discretion appeal as necessary any such judgment. ~~In no event shall this Section be interpreted to provide for payment of an award of punitive damages.~~ The process for payment of punitive damages is discretionary ~~_under this chapter,~~ and is set forth in Section 18.16. The decision to appeal an award of damages will be made by the Commission upon the recommendation of the ~~Executive-Director-Chief Executive Officer~~ and the Port ~~legal-C~~counsel and/or outside legal counsel.

18.10 Failure to Comply With Conditions. In the event that any ~~e~~Official or ~~e~~Employee fails or refuses to comply with any of the conditions set forth in Section 18.8, or elects to provide his/her own representation with respect to any such claim or litigation, then all of the provisions of this chapter shall be inapplicable and shall have no force or effect with respect to any such claim or litigation.

~~18.10~~18.11 Reimbursement of Incurred Expenses.

~~18.10.1~~18.11.1 ~~If the Port's investigation under Section 18.3~~ If the Commission determines pursuant to the Port's investigation under Section 18.3, that an ~~O~~fficial or ~~E~~mployee was not acting in or in good faith purported to be within the scope of his or her official duties and thus is not eligible for Port payment of legal defense, does not come within the provisions of this chapter and a court of competent jurisdiction later determines that such ~~Officer or Employee~~ was acting within the scope of his or her official duties, claim does come within the provisions of this chapter, then the Port shall pay any non-punitive judgment, excepting punitive damages, rendered against the official or employee and reasonable legal counsel's fees incurred in defending against the claim, less any applicable insurance coverages. if said judgment is not covered by the Port's insurance provisions or by the official's or employee's insurance. The Port shall pay any costs and reasonable legal counsel's fees incurred by the employee or official in obtaining the determination that such claim is covered by the provisions of this chapter; provided, that if a court of competent jurisdiction determines that such claim does not come within the provisions of this chapter, then the official or employee shall pay the Port's costs and reasonable legal counsel's fees incurred in obtaining the determination that such claim is not covered under the provisions of this chapter.

Commented [CL21]: Duplicative of 18.11.2

~~18.10.2~~18.11.2 ~~If the Port determines that a claim arose against a a-claim against a Port ~~e~~Official or ~~E~~mployee who was acting within or inn good faith the scope of their employment does come within the provisions of this chapter and a court of competent jurisdiction later finds~~

8.01.22 DRAFT

that such claim does not come within the provisions of this chapter, then the Commission shall have the option of requiring reimbursement by the ~~an~~ Official or ~~an~~ Employee for defense fees, costs and or expenses incurred in obtaining the determination that such claim is not covered by the provisions of this chapter.

~~18.11~~18.12 Conflict With Provisions of Insurance Policies. The indemnification provisions of this chapter do not constitute a policy of insurance and nothing contained in this chapter shall be construed to modify or amend any provisions of any policy of insurance where the Port or any of its current or former ~~an~~ Officials or ~~an~~ Employees thereof is the named insured. In the event of any conflict between this chapter and the provisions of any such policy of insurance, the policy provisions shall be controlling; provided, however, that nothing contained in this chapter shall be deemed to limit or restrict any ~~an~~ Employee's or ~~an~~ Official's right to full coverage pursuant to this chapter, it being the intent of this chapter to provide the coverage detailed in this chapter only above and beyond insurance policies which may be in effect while not compromising the terms and conditions of such policies by any conflicting provisions contained in this chapter.

~~18.12~~18.13 Pending Claims. The provisions of this chapter shall apply retroactively to any pending claims or lawsuits against any ~~an~~ Official or ~~an~~ Employee at the time of adoption of this ordinance and to any such claims or lawsuits hereinafter filed within an applicable statute of limitations, irrespective of the date of the events or circumstances which are the basis of such claim or lawsuit.

~~18.13~~18.14 Modification of Chapter. The provisions of this chapter shall be subject to amendment, modification and repeal, at the sole discretion of the Commission, provided that unless explicitly set forth, any such amendment, modification or repeal shall apply prospectively only and shall have no effect on the obligation of the Port to indemnify and/or defend against any claim which is based, in whole or in part, upon any action or omission of an ~~an~~ Employee or ~~an~~ Official occurring prior to the effective date of the amendment, modification or repeal.

18.15 Bargaining Unit Contracts. If a union contract under chapter 41.56 RCW covers any of the provisions of this chapter, all ~~an~~ Employees under such contract shall be governed by the provisions thereof, rather than by the provisions of this chapter, and where any conflict exists between the provisions of any such contract and this chapter, such contract shall control.

~~18.14~~18.16 Punitive Damages. When ~~the Port has paid for claim defense fees costs and expense for an~~ Employee or ~~Official of the Port has been represented in a claim and/or litigation by the Port~~ pursuant to this chapter and ~~an~~ punitive judgment is rendered, ~~against such employee or official for punitive damages,~~ the ~~an~~ Employee or ~~an~~ Official may ~~make a request to the Commission that the Port pay the award of the punitive damages on behalf of the official or employee.~~ Upon ~~receiving a request made by or on behalf of a Port employee or official to pay punitive damages, such a request,~~ the Commission shall receive a report and recommendation from the ~~Executive Director-Chief Executive Officer~~ and the Port ~~legal~~ counsel shall transmit a report and recommendation for Commission consideration. ~~—If the requesting Official or Employee is the Executive Director-Chief Executive Officer or a Commission member, the Commission may in the alternative request a report and recommendation from outside legal counsel. from the Port legal counsel or may retain the services of another person or agency to provide a recommendation. Following receipt of the report and any recommendation, the Commission's shall decision on whether to pay the punitive damages award shall be based on determine whether the best interests of the Port and whether justice will be served by payment by the Port of the award for punitive damages. There shall be no appeal from such The Commission's determination is final and not~~

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~~subject to reconsideration or appeal. . The Executive Director-Chief Executive Officer shall communicate the Commission's council's determination with respect to the employee's or official's request for payment of punitive damages to said Employee or Official. Thereafter, the Port finance director shall prepare the payment of Commission-approved punitive damages. if the council authorized such payment.~~

~~18.15~~18.17 Application to Recall Proceedings.

~~18.15-18.17.1~~ Consistent with RCW 4.96.041(3), the necessary expenses of defending a Port Commissioner in a judicial hearing to determine the sufficiency of a recall charge as provided in RCW 29.82.023 shall be paid by the Port if the Commissioner requests such defense and approval is granted by both the Commission and the Port's ~~legal-c~~Counsel or attorney appointed by the ~~Executive Director-Chief Executive Officer~~to review the request. The expenses paid by the Port may include costs ~~of an appeal associated with an appeal of the decision rendered by the of the superior court's ruling on-e~~concerning the sufficiency of the recall charge.

~~18.15-218.17.2~~ ~~AsAlthough~~ authorized by the Supreme Court in the case of *In Recall of Olsen*, 154 Wn.2d 606 (2005), the ~~Supreme Court ruled that a Commission's Port's~~ decision to indemnify and pay the costs of a recall defense does not constitute a contract ~~from which a conflict of interest may be found under under~~ RCW 42.23.030, and, as a result, a Commissioner ~~requesting payment of such expenses may vote on that~~ Commissioner's ~~request for defense fees and costse~~consideration of the request, the Commissioner(s) subject of the recall ~~shall refrain from participating in such deliberations and vote.~~

19. GENERAL COMPLAINT RESOLUTION

19.1 Administrative Complaints Made Directly to Individual Commissioners. When administrative policy or administrative performance complaints are made directly to individual Commissioners, the Commissioner shall then refer the matter directly to the ~~Executive Director~~ Chief Executive Officer for review and/or action. The individual Commissioner may request to be informed of the action or response made to the complaint.

19.2 Administrative Complaints – “Best Practice”. Although citizen's direct access to elected officials is to be encouraged, Port Commissioners should be cautious in making statements or taking actions that may delay a timely customer service response. The best policy is to put the citizen into direct contact with the ~~Chief Executive Officer~~Director.

Ten Commandments for Staying out of Trouble as a Port Commissioner

[as presented in the WPPA Commissioner Resource Guide]

1. Thou shalt never spend the public's money in secret.
2. Thou shalt not accept personally more money or benefits than any other fellow commissioner.
3. Thou shalt not require the port staff to do more work than necessary to inform (please) you when they could be occupied in improving the business of the port.
4. Thou shalt not speak as the official spokesperson of the port without knowing officially that you have been so designated by the commission majority.
5. Thou shalt not use the press against your fellow commissioners.

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6. Thou shalt not use port property for unofficial business, not even a paper clip. Paper clips are cheap, buy your own. Use your own car too.
7. Thou shalt not argue with, grill, or embarrass port staffers in public. They'll hate you for it and get back at you in a thousand ways without your ever knowing it or leaving a scrap of evidence.
8. Thou shalt not depend on news media to keep the public informed of the activities and purposes of the port. Have your own PR program and carry it out.
9. Thou shalt not align yourself closely with a certain group of port tenants or users. Your motives will always be aligned with that group regardless of the issues. And the group will turn on you if you don't support them every single time.
10. Thou shalt not become involved in hiring anyone but the port manager and the port auditor.



AGENDA REPORT

TO: Port Commission

FROM: Larry Peterson, Director of Planning & Development
Carolyn Lake, Port Counsel

MEETING DATE: August 23, 2022

AGENDA ITEMS: Redistricting Port Commission Districts - Public Hearing

I. REFERENCE(S):

Map of existing Commission District Boundaries;
Maps (Overall & Enlarged area) of the 2022 Redistricting Scenario; and
Resolution 2022-22 and Exhibit A District Map

II. FISCAL IMPACT: None.

III. DISCUSSION:

State Law (RCW 29A.76.010) requires the Port of Kennewick along with all other counties, municipal corporations, and special purpose districts to periodically redistrict its governmental units, based on population information from the most recent federal decennial census. The current Port Commission district boundaries were set in 2011 following the 2010 Census. The 2020 Census data statically demonstrated the boundaries established in 2011 no longer reflect an equal division of population as required by State law, which then triggered the redistricting process.

Per the most recent Federal Census 151,124 persons resided within the Port district on April 1, 2012. Divided into three equal districts the ideal or target Commission district population would be 50,375 people. The Port utilized the computer mapping capabilities of JUB Engineering to create a draft boundary scenario which encompasses the criteria of state law; *(a) each commissioner district shall be as nearly equal in population as possible, (b) each district shall be as compact as possible, (c) each district shall consist of geographically contiguous, (d) Population data may not be used for purposes of favoring or disfavoring any racial group or political party, (e) To the extent feasible district boundaries shall coincide with existing recognized natural boundaries and shall, to the extent possible, preserve existing communities of related and mutual interest.* The concept “as compact as possible” translates to avoiding circuitous, meandering, finger like boundaries.

The draft district alignments follow natural boundaries (*rivers, major roads, a State Highway and an Interstate Freeways*) and preserves communities. The population allocation of the draft alignment is District #1: 50,543 persons; District #2: 50,579 persons; and District #3: 50,002 persons, which represents a deviation from ideal of -.33%, -.40% and +.74% respectively. *{all less than 1% from the target population}*

IV. ACTION REQUESTED OF COMMISSION:

Conduct the Public Hearing, and following Commission consideration, approve Resolution 2022-22, to adopt revised Port District boundaries as depicted in the Map, attached as Exhibit A.

***Motion:** I move approval of Resolution 2022-22 adopting the revised Port District boundaries as depicted in the Map, attached as Exhibit A; and further authorize that all action by port officers and employees in furtherance hereof is ratified and approved.*

PORT OF KENNEWICK
COMMISSIONERS DISTRICTS

District	2020 Population
1	51,961
2	45,780
3	53,383
Total	151,124

RURAL 3
Total Population: 53,383

Urban 2
Total Population: 45,780

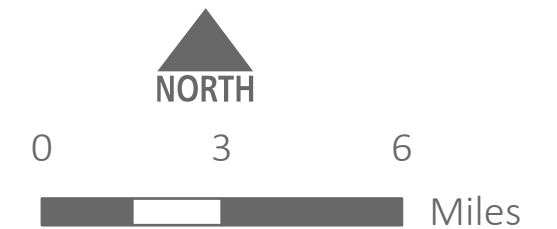
Suburban 1
Total Population: 51,961



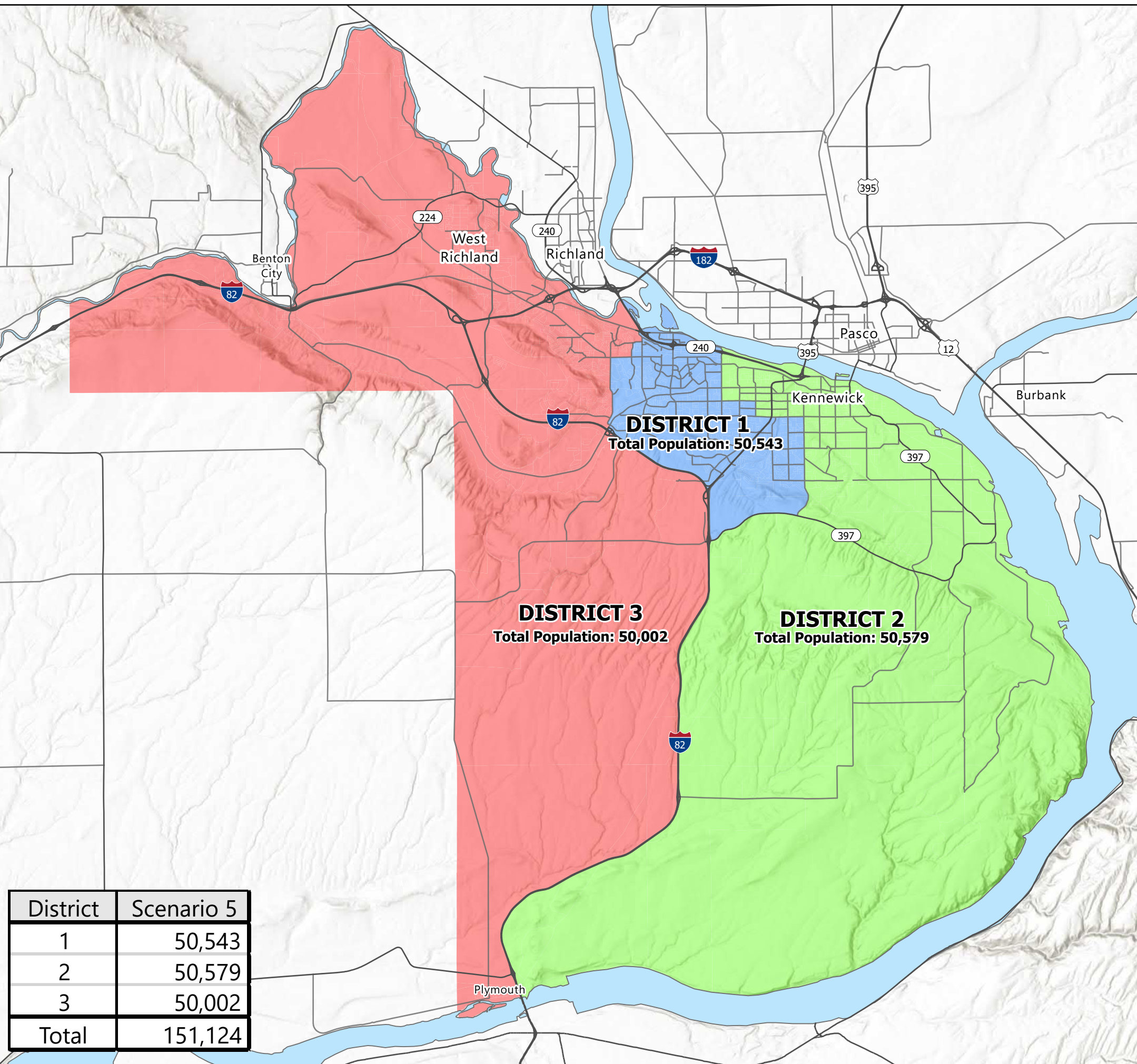
OTHER J-U-B COMPANIES

2022 PORT OF KENNEWICK COMMISSIONERS DISTRICTS

(based upon 2020 Census)



Port of Kennewick Resolution 2022-22
Exhibit A Approved August 23, 2022



District	Scenario 5
1	50,543
2	50,579
3	50,002
Total	151,124

2022 PORT OF KENNEWICK COMMISSIONERS DISTRICTS

(based upon 2020 Census)



0 0.8 1.6
Miles

Port of Kennewick
Revised Districts (Enlarged)

DISTRICT 1
Total Population: 50,543

DISTRICT 3
Total Population: 50,002

DISTRICT 2
Total Population: 50,579

District	Scenario 5
1	50,543
2	50,579
3	50,002
Total	151,124



Date: 8/2/2022

PORT OF KENNEWICK

RESOLUTION No. 2022-22

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PORT OF KENNEWICK ADOPTING REVISED PORT COMMISSIONER DISTRICT BOUNDARIES PURSUANT TO RCW 53.16.015 AND RCW 29A.76.010

WHEREAS, the Port of Kennewick utilizes Commissioner Districts for the purpose of the election of Port District Commissioners; and

WHEREAS, pursuant to RCW 29A.76.010, the Board of Commissioners of the Port of Kennewick is required to review the population balance within each internal district of the Kennewick Port District upon the release of new census data; and

WHEREAS, new 2020 census data has been provided to the Port of Kennewick by the Washington State Redistricting Commission, and this information has been provided to the Port Commission; and

WHEREAS, based on Port Commission review of the 2020 census data and the criteria provided in RCW 29A.76.010(4), the Port Commission has determined to that revisions to its existing District Boundaries are required in order to comply with the following statutory guidelines, that the Boundaries are:

- (a) as nearly equal in population as possible to each and every other such Port Commissioner District,
- (b) as compact as possible,
- (c) geographically contiguous areas which encompass substantially the same population; and
- (d) to the extent feasible, the District Boundaries coincide with existing recognized natural boundaries and preserves existing communities of related and mutual interest; and

WHEREAS, the appropriate public notice has been published as required by law and a public hearing has been held as required by the laws of the State of Washington, at which all members of the public were given an opportunity to be heard on the Commission's proposed Plan to revise the current District Boundaries and adopt a new District boundary map as set forth in this Resolution.

NOW, THEREFORE BE IT RESOLVED BY THE COMMISSION OF THE PORT OF KENNEWICK AS FOLLOWS:

1. Pursuant to Revised Code of Washington Section 53.16.015 and RCW 29A.76.010, the Port Commission of the Port of Kennewick hereby adopts the revised Port District boundaries as depicted in the Map, attached as **Exhibit A**.
2. Notice of the new Commissioner Districts shall be provided to the Benton County Auditor.

ADOPTED by the Board of Commissioners of Port of Kennewick on the 23rd day of August 2022.

***PORT of KENNEWICK
BOARD of COMMISSIONERS***

By: _____

SKIP NOVAKOVICH, President

By: _____

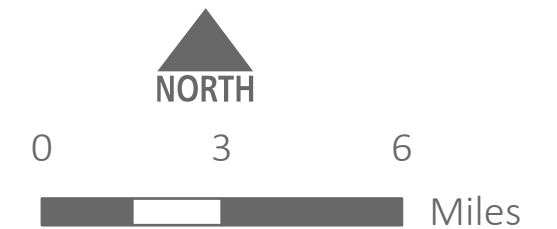
KENNETH HOHENBERG, Vice President

By: _____

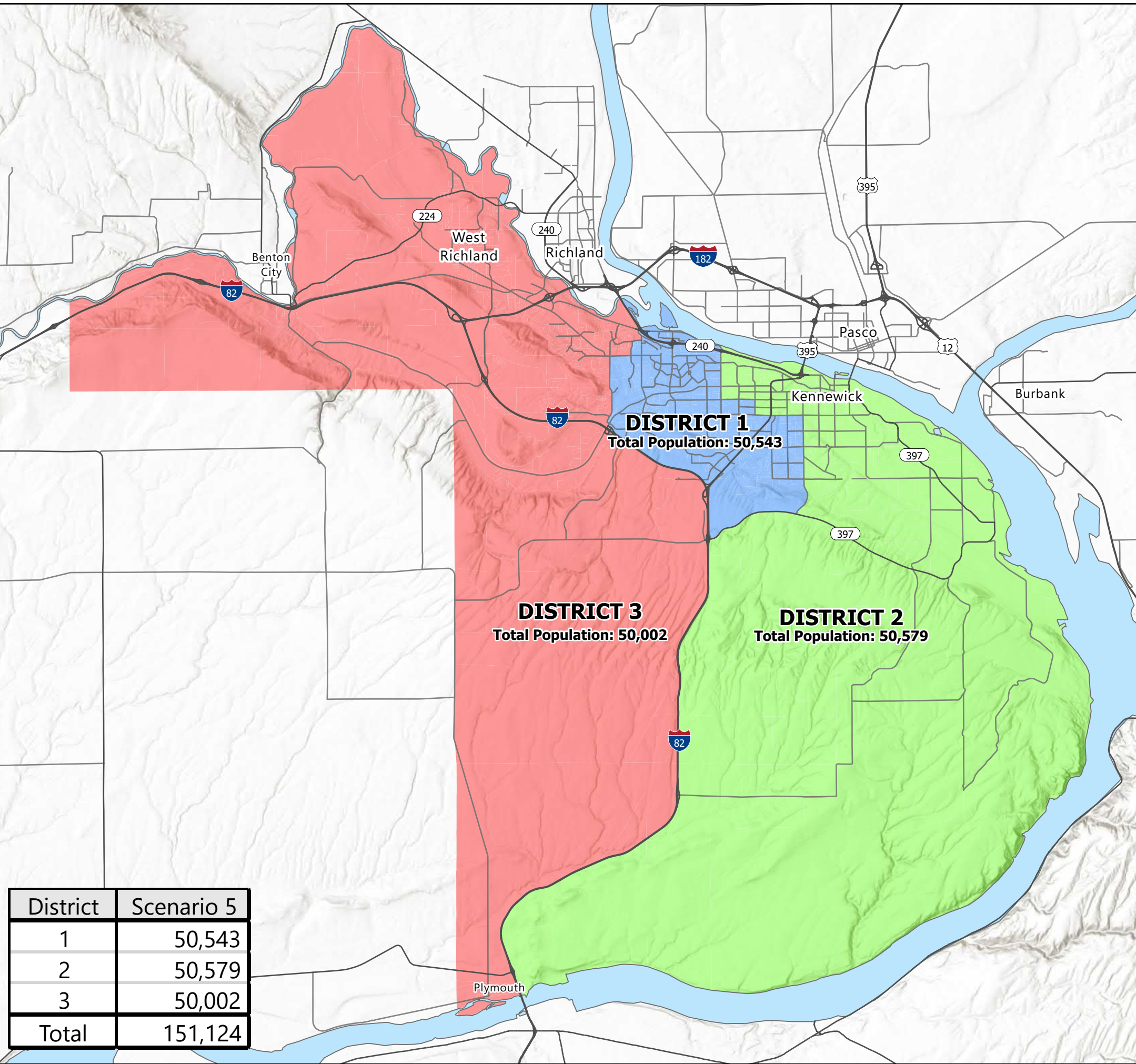
THOMAS MOAK, Secretary

2022 PORT OF KENNEWICK COMMISSIONERS DISTRICTS

(based upon 2020 Census)



Port of Kennewick Resolution 2022-22
Exhibit A Approved August 23, 2022



District	Scenario 5
1	50,543
2	50,579
3	50,002
Total	151,124



AGENDA REPORT

TO: Port Commission

FROM: Carolyn Lake and Tim Arntzen

MEETING DATE: August 23, 2022

AGENDA ITEM: Proposed Updates to the Commission's Rules of Policy and Procedures,
Commission Review & Discussion of Draft Updates-
Action Requested to Adopt Implementing.

I. REFERENCE(S):

Resolution 2022-23, approving updates to the Commission's Rules of Policy and Procedures
And Red-Lined Version of Commission's Rules of Policy and Procedures

II. RELATED HISTORY:

Resolution No. 2011-05 Original Commission's Rules of Policy and
Procedures adopted February 22, 2011
Resolution No. 2016-01- Revised and Amended Section 6 – Commission
Meetings
Resolution No. 2017-16- Revised Section 15 - Created CEO Committee
Evaluation Process
Resolution No. 2019-24- Revised Section 15 - Reversion of Committee
Evaluation Process
Resolution No. 2022-19- Revised Section 15 – Revised CEO Evaluation

III. FISCAL IMPACT: \$0

IV. DISCUSSION:

The Commission authorized the Port CEO to oversee an update to the Commission Rules of Policy & Procedure ("Rules") for Commission consideration. The Rules were initially adopted in 2011 and were last updated July 26, 2022 via Resolution 2022-19.

At the August 9, 2022 meeting, the Commission reviewed draft changes. Post meeting, individual Commissioners offered further revisions. Those additional changes are incorporated into this updated redlined version. A "clean" version of the draft Rules update is also provided to Commission. The Index below briefly explains the added changes since the August 9, 2022 meeting. Port Counsel is also available as an additional resource.

Revisions added since August 9, 2022

Page – Redlined version	Section	Brief Description
Page 2-3	2.4.1 thru 2.4.4	In order to follow the general organization of the Rules, the words “The Port shall” has been removed from 2.4.1 thru 2.4.4.
Page 3	3.3	A pledge will be drafted so that it’s uniform and languages specifies that the pledge will be accomplished on “the first meeting of each year” so that this is done and gotten out of the way.
Page 7	4.2.3 and 4.2.4	NEWLY RENUMBERED. Former 4.4 and 4.5 relate to quasi-judicial actions (rare) and so are renumbered to be a sub-set of 4.2, the section that addresses quasi-judicial actions.
Page 11	6.7.1, 6.7.2, 6.7.3, 6.7.4, 6.7.5	These sections add more detail to address proceedings in the absence of a Quorum.
Page 11	6.8	Typo corrected (“an” to “a”)
Page 12	6.10.5, 6.10.6, and 6.10.7	Several Sections have been added to “Remote/ Electronic Meeting Procedures”
Page 15	7.3	Typo corrected (“stive to “strive”)
Page 31-32	WPPA 10 Commandments	It is suggested that this “WPPA Ten Commandments” section is out of place and should be either taken out or formatted to match the Rules.
Pages 10,14, & 16	6.3.3, 6.16 and 8.2	References to Robert’s Rules of Order have been updated to refer to the “most recent addition of...”
Pages 2-3, 8, 14,23,24, 25,26,27, 28, 29 and 30	2.4.1, 2.4.4, 5.3, 5.4, 5.7, 6.16, 15.1.1, 17.1, 17.2, 18.3.2, 18.3.3, 18.3.4, 18.7, 18.8.1, 18.8.2, 18.9, 18.16	References throughout to Port Attorney and Port Counsel have been changed to “Port General Legal Counsel” for consistency

Changes Presented as of August 9, 2022

Page – Redlined version	Section	Brief Description
Page 1	1.4	Changes and strengthens purpose from acting as a “guide” to being “Rules” – The reference to “Framework” is discretionary, Rules are mandatory.
	1.5	References these Rules as a binding source of Commission policy
Page 2	2.4	Updates reference to Financial Policies adopted in Resolution 2018-27

Page – Redlined version	Section	Brief Description
Page 3	2.4.4-2.4.10	Updates reference to Financial Policies adopted in Resolution 2018-27
Page 4	3.5	Changes requirement that Commissioners file only the Report number of required PDC Reports
Page 5	3.13.3	Modifies process for Email between Commissioners for greater OPMA compliance and Commission protection
	3.13.5	Adds commitment to meet state law OPMA training requirements
Page 5	3.14.5	Strengthens commitment to PRA compliance
Page 7	5.2	Strengthens commitment to PRA compliance
Page 8	5.3	Modifies Complaint initial determination process to require concurrence of Port Counsel
	5.6-5.8	Updates per Resolution 2019-10 and streamlines wording
Page 9	5.9	Strengthens types of Commission-imposed sanctions
	5.11	Clarifies that misconduct must be found in order to forfeit indemnity and defense
	6.1.1	Adds that Commissioners may serve consecutive terms as Commission Officers
Page 10	6.1.4	Adds the sanction of removal from Board officer position
	6.5	Strengthens/Clarifies OPMA compliance: that no discussion, as well as no action, to be taken at a Special Meeting other than what's on agenda, and adds reference to posting and publication requirements for a special meeting
Page 10-11	6.7	Adds Adjournment language to comply with 2022 updates to the OPMA
Page 11	6.8	Adds language to comply with 2022 updates to the OPMA, re: posting and access to meeting recordings
	6.10	Adds provisions for Commission to continue remote meetings and complies with 2022 updates to the OPMA
Page 12	6.11	Clarifies wording and that participation by remote means constitutes attendance
	6.13	Clarifies that Commission meetings conducted pursuant to an agenda; word clarifications, and references new public comment requirements per 2022 OPMA
	6.14	Adds more detail regarding steps for OPMA compliance with Executive Session
Page 18	13.3.6	Adds CEO job description elements
Page 20	14.2.5 – 14.2.20	Adds Financial Policies adopted in Resolution 2018-27
Page 22	15	CEO Evaluation Processes – Includes the changes adopted by Resolution 2022-19
Page 23	16.1	Adds reference to other Port Auditor state law compliance requirements

Page – Redlined version	Section	Brief Description
Page 25	18.3.-18.7	Clarifies language throughout Legal Representation and Indemnification procedures
Page 29	18.16	Word clarification and adds that Commission action is final and not subject to reconsideration or appeal.
Page 30	18.17.1-2	Word clarification re: recall processes and clarifies participation rules for deliberation or vote on indemnification/ defense request ###

IV. ACTION REQUESTED OF COMMISSION: Adoption of Resolution 2022-23 approving modifications to the Commission Rules of Policy and Procedure at the August 23, 2022 Commission Meeting.

MOTION: I MOVE APPROVAL OF RESOLUTION 2022-23 APPROVING MODIFICATIONS TO THE COMMISSION RULES OF POLICY AND PROCEDURE

PORT OF KENNEWICK

Resolution No. 2022-23

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PORT OF KENNEWICK ADOPTING UPDATED PORT COMMISSION RULES OF POLICY AND PROCEDURE

WHEREAS, the Port of Kennewick Commission adopted Resolution 2011-05 on February 22, 2011 establishing a formal policy and procedures document to address the specific roles, expectations of conduct, knowledge, disclosures, prohibitions, legal requirements, and accountability of the elected officials who are responsible for the current operation and future direction of the Port of Kennewick; and

WHEREAS, the Commission approved several updates to the Rules of Policy and Procedure via Resolution No. 2016-01, Resolution No. 2017-16, Resolution No. 2019-24, and Resolution No. 2022-19; and

WHEREAS, the Commission has determined that further updates to the Rules of Policy and Procedure are warranted based on changes to various state law provisions and the need for greater clarity.

NOW, THEREFORE; BE IT HEREBY RESOLVED that the Board of Commissioners of the Port of Kennewick hereby adopts the revised Port Commission Rules of Policy and Procedure as attached, which shall remain in effect until further revised, and supersedes prior resolutions.

ADOPTED by the Board of Commissioners of the Port of Kennewick on the 23rd day of August 2022.

***PORT of KENNEWICK
BOARD of COMMISSIONERS***

By: _____

SKIP NOVAKOVICH, President

By: _____

KENNETH HOHENBERG, Vice President

By: _____

THOMAS MOAK, Secretary

PORT OF KENNEWICK, WASHINGTON

PORT COMMISSION

**RULES
OF
POLICY AND PROCEDURE**

**ADOPTED AT A REGULAR,
OPEN MEETING OF THE
PORT COMMISSION**

**AUGUST 23, 2022
Via Resolution 2022-23**

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1. INTRODUCTION AND PURPOSE

1.1 Port of Kennewick. The Port of Kennewick (“Port”) is a Washington port district, with authority to act under law, as they exist and or as they may be amended in the future including but not limited to Titles 14 and 53 RCW. The powers of a port district are exercised through a port commission. The Port Commission of the Port of Kennewick consists of three Port Commissioners.

1.2 Other Governing Law. In addition to enabling legislation, the Port is subject to Washington State laws, including but not limited to the Open Public Meetings Act, chapter 42.30 RCW; the Public Records Act, chapter 42.56 RCW; and, the Code of Ethics for Municipal Officers, chapter 42.23 RCW.

1.3 Port Managing Official. Consistent with its authority under RCW 53.12.270, the Port Commission has delegated to the office of Chief Executive Officer such administrative powers and duties as deemed proper for the efficient and proper management of the Port’s operations. See “Delegation of Authority to Executive Director,” Port Resolution 2009-06 (February 10, 2009 – the “Delegation Policy.”)

1.4 Purpose. It is the purpose of these Rules of Policy and Procedures to provide rules for governance, management and operation of the Port.

1.5 Reserved Rights. The adoption and maintenance of these Rules of Policy and Procedure (“Rules”) create no vested rights or entitlements. These Rules may be revised, suspended, amended or repealed by majority vote of the Port Commission when acting pursuant to and in compliance with applicable law and these Rules.

2. COMMISSION AND COMMISSIONERS

2.1 Purpose. The purpose of the Commission is to:

2.1.1 Identify and define the purpose, values and vision of the Port, along with the results the Port is to achieve, and to communicate those items in the form of policy;

2.1.2 Make certain decisions as are designated by law; and

2.1.3 Hire, evaluate, and terminate the Chief Executive Officer .

2.2 Governance. Commission governance addresses:

2.2.1 Strategic leadership more than administrative detail;

2.2.2 Encouragement of diversity in viewpoints;

2.2.3 Collaborative rather than individual decisions;

2.2.4 Future, rather than past or present, direction;

2.2.5 Proactive, rather than reactive, conduct; and

2.2.6 Full transparency to the public.

2.3 Actions. The Commission will:

2.3.1 Produce and maintain written policies that ensure a high quality of governance and clear roles in decision-making between Commission and staff;

2.3.2 Monitor, and not less than annually, evaluate the Chief Executive Officer's performance, based on the then-current adopted Commission policies and the Port's Work Plan, using the Evaluation Process and Procedures of Resolution 2022-19;

2.3.3 Adopt, and bi-annually review, the Port's Work Plan;

2.3.4 Adopt the Port's annual budget;

2.3.5 Adopt, regularly review, and modify as necessary the Delegation of Authority to the Chief Executive Officer; ;

2.3.6 Set the rates, rules and regulations for services provided by the Port;

2.3.7 Purchase or dispose of real estate or other property to the benefit of Port District taxpayers/citizens;

2.3.8 Establish Port positions on significant governmental legislation;

2.3.9 Reserve to the Chief Executive Officer management and direction of Port Staff, unless undertaken pursuant to the leadership of the Chief Executive Officer;

2.3.10 At all times maintain strict moral, ethical and honest conduct;

2.3.11 At all times treat the Chief Executive Officer, staff and public with respect;

2.3.12 Approve the annual budget of the Port and set the amount of the annual tax levy by December 1 of each calendar year, pursuant to RCW 53.35.045;

2.3.13 Reserve to itself if, how, and the degree to which the Port will use the governmental powers of taxation and eminent domain;

2.3.14 Establish financial policies, including capital formation and debt issuance;

2.3.15 On an bi-annual basis, affirm agreement to comply with these Rules and acknowledge and accept the consequences of failure to do so; and Take such other actions as may be required by law.

2.4 Port Financial Goals.

As specified in Port Resolution 2018-27, as may from time to time be amended, the Port Commission reiterates the following budgetary goals and acknowledges the importance thereof:

2.4.1 Work toward funding all operating expenses from revenues from Port operations;

2.4.2 Fund projects with available resources, not with bonds or loan financing

unless otherwise in the best interest of the Port and the communities' long term interest;

2.4.3 Pursue fewer projects while selecting projects with the greatest return to the Port and to taxpayers; and

2.4.5 2.4.4 Pursue projects with development partners who demonstrate support (e.g. matching funds, political/citizen/taxpayer support, leveraged investment, enthusiasm/goodwill). Produce and maintain a balanced budget.

2.4.6 Provide a fiscally sound approach to finances by ensuring that expenditures and debt repayments do not exceed available resources in current budget and future years impacted;

2.4.7 Promoting fiscal responsibility among departments.

2.4.8 Focusing on long-term financial planning.

2.4.9 Support intergovernmental cooperation by partnering with entities which demonstrate support; (e.g. matching funds; previous successes; political and taxpayer support; and enthusiasm).

2.4.10 Provide the public with high quality projects and services within a healthy work environment by encouraging efficiency, cooperation, honesty, integrity, and respect; and

2.4.11 Adhere to the additional Policies set forth in Chapter 14.2 herein below.

3. COMMISSION CODE OF CONDUCT

3.1 Purpose. The purpose of these Port of Kennewick Rules is to foster public transparency and public accountability concerning the transaction of Port business and to protect, and promote the efficiency of, the Port by prohibiting incidents and areas of conflict. Commissioners shall conduct themselves in accordance with all laws and applicable policies and further shall comply with the following:

3.2 Conflict Avoidance. Commissioners are strictly prohibited by law from entering into or engaging in any activity identified in chapter 42.23 RCW as a conflict of interest with their official duties as a Port of Kennewick Commissioner and shall further avoid conduct that may present an appearance of a conflict of interest.

3.3 Policy Acknowledged. On an annual basis at the first public meeting and in a public forum, each Commissioner shall acknowledge the obligation to disclose any conflicts of interest under chapter 42.23 RCW, and execute a written pledge to do so

3.4 Disclosure. On a case-by-case basis, each Commissioner will disclose to the other Commissioners in a public forum, any remote conflicts of interest under chapter 42.23 RCW. Disclosure will be noted in the Port's official minutes which are public record. As required by RCW 42.23.040, a Commissioner with such remote interest will not participate in any discussion and/or debate concerning such interest, will not vote on the matter, and will do nothing to influence any other Commissioner concerning their decision on the matter. The foregoing shall also apply to any business owned by a Commissioner's spouse, in the absence of a separate property

agreement.

3.5 Statement of Financial Affairs. On or before April 15 of each year, or within (14) days of taking oath of office, each Port Commissioner shall file with the Port the number of the Statement of Financial Affairs prepared in satisfaction of the requirements of RCW 42.17.240 -.241 and filed with the Public Disclosure Commission.

3.6 Conduct as Commissioner. Commissioners shall adhere to these Rules as adopted by the Commission and shall conduct themselves with civility and respect at all times with one another, with staff, and with members of the public. As fiduciaries of the Port, Commissioners shall make decisions on the basis of public policy and shall demonstrate undivided loyalty to the interests of Port and its taxpayers. This loyalty shall supersede any conflicting loyalty to advocacy or special interest groups.

3.7 Commissioner Knowledge of Policies. Commissioners will become familiar with their individual and joint obligations pertaining to the Port's directive on reporting alleged improper governmental action, including actions required of the Commission regarding complaints by Port employees and/or the public of alleged improper governmental actions and/or employee claims of retaliation for reporting alleged improper governmental actions.

3.8 Representation of Positions. Unless authorized by the Commission at an open meeting or as set forth in Port policy or plan (e.g., an approved plan), an individual Commissioner may not represent a position as being the position of the Port, either in private communications or in a public forum.

3.9 Shared Information and Advocacy. Recognizing that differences may exist among the Commissioners and that a collegial approach to issue resolution is preferred, Commissioner shall make available to fellow Commissioners all information related to Port activities. A Commissioner should make clear the foundation upon which an opinion stands; be candid about any philosophical or political preferences; and recognize and make clear the limits of expertise.

3.10 Representation of Port Position. No Commissioner is authorized, without Commission authorization, to represent the Port with special interest groups, Port tenants, suppliers, vendors, consultants, contractors or others that are or seek to do business with the Port. Unless otherwise authorized by the Commission, a Commissioner shall disclose that the Commissioner's position is not that of the Port or of the Commission when participating in discussions, debates, and forums where the sponsoring group(s) or other participants are identified with a particular perspective on an issue and the Commissioner's participation might put into question both the Commissioner's and the Commission's impartiality. Nothing in this Policy prevents an individual Commissioner from stating a position as that of the individual Commissioner, but not that of the Port or of the Commission.

3.11 Special Privileges Prohibited. RCW 42.23.070 prohibits, in part, Commissioners from using public office to secure special privileges or exemptions for a Commissioner or others.

3.11.1 Commissioners must conduct themselves at all times in a manner that leaves no grounds for belief, or even the appearance that information they have gathered on the job has been used for personal gain or for gain of any individual or special interest group, whether such gain is financial or otherwise.

3.11.2 Commissioners shall avoid any association with individuals or groups organized with an attempt to influence Port policy that will benefit themselves or their cause at the exclusion of the Port at large.

3.12 Commission-Staff Relations. Commissioners may not attempt to exercise individual authority over the Port or staff, except as explicitly set forth and authorized in Commission policies, including the Delegation Policy referenced in Section 1.3.

3.13 Open Meetings. In accordance with Chapter 43.20 RCW, Washington state's Open Public Meetings Act, Commissioners shall:

3.13.1 Not meet as a quorum outside of Commission-called public meetings to hold discussions or make decisions, as defined under Open Public Meetings Act, Chapter 42.30 RCW, regarding the business of the Port.

3.13.2 Not meet as a Commission quorum with staff outside of a Commission-called public meeting for the purpose of gathering information.

3.13.3 Understand that the requirements of the Washington Open Public Meetings Act apply to communications via telephone, e-mail, instant messaging or other forms of electronic communications. Any exchange of communication between any two Commissioners may constitute an official meeting of the Commission and be in violation of the Act. Commissioners may request that the Chief Executive Officer or his/her designee send information to other members of the Commission on an informational basis; however, replies and/or exchanges of Commissioner communications regarding Port business must not occur outside of an official public meeting of the Commission. Commissioners will not "reply" or "reply all" to any e-mail received by another member of the Commission.

3.13.4 Respect the confidentiality appropriate to issues, including personnel, real estate transactions, proprietary matters, and attorney-client privileged communications, including those requirements listed under RCW 42.30.110, Executive Sessions, and including any other confidential information gained by reason of the Commissioner's position. See also RCW 42.23.070(4) prohibiting disclosure of confidential Port information; and

3.13.5 Complete training on Open Public Meeting Act requirements no later than ninety days after taking office. Thereafter, each Commissioner shall maintain Open Public Meeting Act training at no less than every four years while a member of the Commission. Training may be completed remotely with technology including but not limited to internet-based training.

3.14 Commission Disclosure of Economic Associations. RCW 42.23.070 states in part that "[n]o municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his or her office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein." Port contracts made in violation of the law are void; and any Port officer violating the law is liable to the Port for a "penalty in the amount of five hundred dollars, in addition to such other civil or criminal liability or penalty." RCW 42.23.050. The law also prohibits a Commissioner from employment or engaging in any professional activity that may require disclosure of confidential Port information to non-Port interests. RCW 42.23.070. These statutory prohibitions are based on the principle that a Port official may not have divided loyalties.

The line between proper and improper conduct may not always be clear, and even unintentional conduct may expose the Port and Port officers and employees to liability. See *City of Raymond v. Runyon*, 93 Wn. App. 127 (1998) (“In spite of well-intentioned attempts to avoid a prohibited conflict of interest,” city commissioner found in violation of law). These Rules address a Commissioner’s responsibility under law and duty of loyalty to the Port, with other interests. See also, Section 3.2 herein.

3.14.1 Under Chapter 42.23 RCW, no Commissioner may have an economic association (affiliation, involvement, or interest), directly or indirectly, that may conflict with the Commissioner’s official duties as a Port Commissioner. However, Commissioners may engage in other employment or activity only so long as it does not interfere or conflict with their duties as a Commissioner.

3.14.2 In order to avoid inadvertent violation of law, and consistent with the Port’s policy for its officers and employees, on or before April 15 of each year, or within fourteen (14) days of taking office, each Port Commissioner, shall file with the Port a written statement identifying any current or prospective economic relationship, whether direct or indirect, which could be a conflict of interest, a remote interest or give rise to an appearance of a conflict of interest with the Port. In addition, each Port Commissioner shall in the written statement disclose other employment and/or business relationships in order that the Port may confirm that there are no Commissioner conflicts or potential conflicts of interest with current or prospective Port activities. The statement shall include the name of the employer or business, the nature of services rendered, the time commitments, the location of the performance of such services and the amount of compensation (and expense reimbursement) received for such services. This Section 3.14.2 shall also apply to any employment or business of a Commissioner’s spouse, in the absence of a separate property agreement.

3.14.3 Each Commissioner shall declare his or her intention to refrain from deliberations and voting on issues related to the person or entity in such relationship. This requirement may be extended by Commission action to any individual or entity that, in the judgment of the Commission, could represent the potential for or the appearance of a conflict of interest. Even with disclosure, chapter 42.23 RCW may prohibit the Commission from acting where a conflict of interest exists.

3.14.4 A Commissioner shall not receive reimbursement for expenses, per diem, or other Port payment for activities (e.g., travel, meals and other costs) when the Commissioner is engaged in or participating for both the Port and another entity.

3.14.5 Commissioners acknowledge that the Washington State Public Records Act, chapter 42.56 RCW, applies to all records pertaining to the business of the Port. Commissioners shall comply with all mandatory requirements of that law.

4. FULL TRANSPARENCY IN PORT ACTIONS

4.1 Compliance with these Rules shall ensure full, fair, and open discussion of matters of public importance, with opportunity for public participation and media coverage.

4.2 With respect to any quasi-judicial matter before the Commission, or reasonably expected to come before the Commission, no Commissioner shall:

4.2.1 Have contact with any person, either oral, written, electronic or otherwise communicated, except in an open, public Commission meeting; and

4.2.2 Receive any information or evidence except as a part of the public record at a Commission meeting.

4.2.3 If a Commissioner is not able to avoid contact with parties outside of an open public Commission meeting or receipt of information from parties outside of an open public Commission meeting, the Commissioner shall disclose at the next public meeting, the full content of the contact made or information received.

4.2.4 Commissioner avoidance of communications described above is preferred over relying on the public disclosure remedy because an incomplete or inaccurate conveyance of the contact, even if inadvertent, may bias the outcome and subject the Commission action to challenge.

4.3 The Commission shall facilitate that all information sought to be distributed to Commissioners by the public should be first provided to Port staff; staff will then consistently distribute the information to all Commissioners and file the information as appropriate.

5. REPORTING MISCONDUCT

5.1 General. The Port is committed to lawful and ethical behavior in all of its activities and requires its staff and Commissioners to conduct themselves in a manner that complies with all applicable laws, regulations and these Rules. Complaints against staff (other than the Chief Executive Officer) shall be resolved by the Chief Executive Officer, according to applicable law and the Port's Policies and Procedures manual. Complaints against the Chief Executive Officer shall be resolved by the Port Commission according to applicable contract, Delegation of Authority and these Commission Rules of Policies and Procedures. Complaints against Commissioners shall be resolved as set forth below.

5.2 Complaint. If any person believes that a Commissioner has engaged in misconduct, the Chief Executive Officer shall investigate consistent with Section 5.3 herein and report to the Commission. No employee will be discharged, threatened, or discriminated against in any manner for following up on any complaint or for reporting what they perceive to be misconduct. All complaints must include a description of the alleged misconduct. The proceedings shall be treated confidentially, including the name of the complainant, except to the extent required to complete any investigation or as required pursuant to the Public Records Act, and in the event that an action is taken.

5.3 Initial Determination. Based upon the complaint, and only following investigation and with the advice, counsel and concurrence of Port General Legal Counsel or special legal counsel ("Port General Legal Counsel"), the Chief Executive Officer shall determine whether sufficient evidence exists to proceed with an investigation. If the Chief Executive Officer determines that insufficient evidence exists and Port General Legal Counsel concurs, the complaint shall be dismissed. Otherwise, the Chief Executive Officer shall proceed as follows.

5.4 Investigation. If an investigation is deemed warranted, the Chief Executive Officer shall recuse himself from the process and delegate all further steps to Port Counsel, and/or an investigator retained for such purpose by Port General Legal Counsel ("Investigator"). Port

Counsel shall inform the party subject of the complaint (“Respondent”) in writing that a complaint has been filed and that an investigation will take place. Port Counsel shall provide a copy of the complaint to the Respondent and the Respondent shall have a reasonable time to prepare and submit a response in writing. Port General Legal Counsel or Investigator may seek additional information regarding the matter from the complainant, the Respondent and/or relevant third parties. In conducting the investigation and evaluating all evidence, the Port’s General Legal Counsel and or Investigator shall presume that the Respondent acted ethically and shall determine that an act of professional misconduct has occurred only upon a finding of substantial evidence of such misconduct.

5.5 Determination and Recommendation. Port General Legal Counsel and or Investigator, if one is retained, shall evaluate the complaint and issue a decision within thirty (30) days of receiving all relevant evidence, that the complaint is substantiated or unsubstantiated. If Port General Legal Counsel finds the complaint substantiated, Port General Legal Counsel shall prepare a report to Chief Executive Officer and the Commission which shall set forth the basis for the decision and a recommended action; otherwise, the complaint shall be dismissed.

5.6 Notification of Determination. The Complainant and Respondent(s) shall be notified in writing of the determination and recommended action; or, of the dismissal.

5.7 Hearing and Decision upon Recommended Action. The Complainant and Respondent(s) shall have the right to be heard before the Commission or, if pending before a Neutral as that term is defined below, to be heard before the Neutral. If the complaint is against one Commissioner, following receipt of the Port General Legal Counsel’s determination and recommended action, the remaining Commissioners who are not a party to the complaint shall promptly hear, consider and vote upon the recommended action. If the complaint is made by one or more of the Commissioners against one or more Commissioner, the determination and recommended action of Port General Legal Counsel shall be submitted to a mutually agreeable neutral selected from the panel of neutrals available at the Seattle office of Judicial Arbitration and Mediation Services (“JAMS”) or Judicial Dispute Resolution (“JDR”) (“Neutral”), or other similarly qualified third party Neutral as agreed upon by the Complainant and the Respondents. If the parties cannot agree upon the selection, the Port Counsel shall select a Neutral from the panel available at the Seattle office of JAMS or JDR. The Neutral shall determine the hearing process. The Neutral shall promptly hear, consider and issue a decision regarding the recommended action within 30 days of the hearing.

5.8 Reconsideration. A decision (whether by Commission vote or issued by a Neutral) is subject to reconsideration upon written request by Complainant or Respondent(s). The sole ground for reconsideration shall be that the party seeking reconsideration has new, relevant information which was not available for consideration by Port counsel. A party seeking Reconsideration based on new information shall file a written Reconsideration request within fifteen (15) days of the date of the notice of decision. The reconsideration request shall state the reasons in support and include the new information not previously available for Port Counsel consideration and explain why the new information was not previously available. Following review of the entire investigative file, the decision and recommendation of the Port Counsel and the new information, the Commission or, if applicable, the Neutral, shall, within fifteen (15) days of receipt of such new information, hear, consider and render a final decision which may not be further appealed. The parties shall be notified of the final decision, and any action required by the final decision shall be implemented immediately.

5.9 Sanctions. If a Complaint is upheld, the Commission may invoke censure and/or reprimand of the Respondent, forfeiture of officer position on the Commission and or removal from committee assignments and other actions allowed pursuant to state law.

5.10 Public Notification. Unless otherwise determined by the Commission in a particular matter, it shall be standard procedure to publish, in a manner deemed appropriate by the Commission, the fact of any sanction.

5.11 Other Remedies Reserved. Any action taken by the Commission or Neutral shall not prevent other legal action that may be available under law. The Port shall not indemnify or defend any Commissioner found to have committed misconduct, except as otherwise provided under Section 18.

6. COMMISSION MEETINGS

6.1 Officers. There shall be three Commission officers: a president, a vice president and a secretary.

6.1.1 Terms. The terms of office for each officer shall be two years or until his/her successor is elected. Commissioners may serve consecutive two-year terms

6.1.2 Election. The officers shall be elected at the first regularly scheduled Port Commission meeting in January in even years. Newly elected officers shall take office effective the next regularly scheduled meeting following the election, unless otherwise agreed by the Commission.

6.1.3 Special Elections. By affirmative vote of 2/3 of the Commission , a special election of officers may be held at any regularly scheduled Port Commission meeting.

6.1.4 Removal from Commission Officer Position. By affirmative vote of 2/3 of the Commission, and upon a showing of just cause, a Commissioner may be divested of his or her Commission officer position. "Just Cause" includes but is not limited to a violation of these Commission Rules.

6.2 Presiding Officer. The Presiding Officer at all meetings of the Commission is the President, and in the absence of the President, the Vice President will act in that capacity.

6.3 Presiding Officer Duties. The Presiding Officer shall:

6.3.1 Preserve order and decorum for Commission meetings;

6.3.2 Observe and enforce all rules adopted by the Commission;

6.3.3 Decide all questions on order raised, in accordance with these Rules and the most current edition of Robert's Rules of Order, subject to appeal by a Commissioner;

6.3.4 Recognize Commissioners in the order in which they request the floor.

Except as otherwise set forth herein, the Presiding Officer, as a Commissioner, shall have only those rights, and shall be governed in all matters and issues by the same rules and restrictions as other Commissioners; and

6.3.5 Have the authority to appoint Commissioners or the public to serve on ad hoc committees, task forces and any advisory boards, with input from fellow Commissioners.

6.4 Regular Meeting. Port meetings are held on the second and fourth Tuesdays of each month in the Commission Chambers, 350 Clover Island Drive, Suite 200, Kennewick, Washington at 2:00 p.m.

6.5 Special Commission Meetings. A special public meeting of the Commission may be called by the President or by any two Commissioners. Any request and subsequent special meeting notices shall state all agenda items to be considered at such special meeting. Commissioners shall not discuss, consider or take final action on any subject not appearing on the special meeting agenda. .

The Port Administrative Assistant shall carry out the required published and posted notice required for special Commission meetings pursuant to applicable law.

6.6 Quorum. At all meetings of the Commission, a majority of the Commission (two members) constitutes a quorum for the transaction of business.

6.7 Proceedings in the Absence of a Quorum. The Commission or less than a quorum may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. If all Commission members are absent from any regular or adjourned regular meeting the Port Administrative Assistant may declare the meeting adjourned to a stated time and place. He or she shall cause a written notice of the adjournment to be given in the same manner as provided in RCW 42.30.080 for special meetings, unless such notice is waived as provided for special meetings. Except in the case of remote meetings without a physical location as allowed by law, whenever any meeting is adjourned a copy of the order or notice of adjournment shall be conspicuously posted immediately after the time of the adjournment on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule.

6.7.1 In the absence of a quorum any business transacted is null and void.

6.7.2 Even in the absence of a quorum, the Commission may move to 1) fix the time to adjourn 2) adjourn, 3) recess the meeting, and/or 4) take measures to obtain a quorum. A motion that absent members be contacted during a recess would represent a measure to obtain a quorum.

6.7.3 The prohibition against transacting business in the absence of a quorum can not be waived even by unanimous consent. If there is important business that should not be delayed until the next regular meeting, the Commission should fix the time for an adjourned meeting and then adjourn.

6.7.4 If there is no quorum at the beginning of the meeting, the President may

wait a reasonable amount of time for a quorum to assemble. If a quorum cannot be obtained, the president calls the meeting to order, announces the absence of a quorum, and may take action as described in Section 6.7.2 herein above.

6.7.5 If the President notices the absence of a quorum, it is the President's duty to declare the fact before taking any further action.

6.8 Recording Proceedings. The Port Administrative Assistant shall maintain a recorded account of all open public proceedings of the Commission in accordance with statutory requirements, and all such records shall be available for public inspection. If feasible, the recording of the meetings should be available online for a minimum of six months. Port meeting minutes can be corrected but shall not be revised without a majority affirmative vote of the Commission at a regularly scheduled Commission meeting.

6.9 Call to Order. The Presiding Officer shall call each meeting to order. The Presiding Officer will announce the attendance of Commissioners and indicate any Commissioner who is not in attendance.

6.10 Remote /Electronic Meetings. The Commission notes that it has successfully held remote meetings after March 1, 2020 and believes that remote meetings have value by increasing transparency and allowing broader public participation and attendance. As allowed by state law, the Commission authorizes continued use of remote meetings, conditioned upon compliance with the requirements of this section.

6.10.1 During a remote meeting, Commissioners, the Chief Executive Officer, staff, and the public may appear or attend by phone or by other electronic means that allows real-time verbal communication without being in the same physical location and includes proper accommodation for public participation.

6.10.2 Remote meetings may be conducted through the use of Internet or telephonic meeting services that support voting and audio and or visible displays identifying those participating, identifying those seeking recognition to speak, showing (or permitting the retrieval of) text of pending motions, and showing the results of votes. Participation by such means shall constitute presence in a meeting for purposes of establishing a quorum, voting, attendance and for all other purposes.

6.10.3. In addition, for a remote meeting, Port must provide an option for the public to listen to the proceedings telephonically or by using a readily available alternative in real-time that does not require any additional cost for participation. Free readily available options include, but are not limited to, broadcast by the Port on a locally available cable television station that is available throughout the Port district or other electronic, internet, or other means of remote access that do not require any additional cost for access to the meeting, or via other electronic means of remote access.

6.10.4. The names of those wishing to address the Commission by any means of voice only must be announced and their presence noted in the minutes of the meeting.

6.10.5 Telephonic and Electronic meeting participation shall be limited to instances where a member, alternate, or staff member is unable to participate in person due to

adverse weather conditions, illness, unavoidable conflicts, inability to travel to the meeting location, or other similar situations.

6.10.6 Commission and staff members who are unable to be present in person at any meeting shall have the right to participate by telephonic or other internet service, subject to any limitations established in these Rules to govern such participation.

6.10.7. These electronic meetings of the Commission shall be subject to all rules adopted by the Commission to govern them, which may include reasonable limitations on, and requirements for Commission members' participation. Any such rules adopted by the Commission shall supersede any conflicting rules in parliamentary authority but may not otherwise conflict with or alter any rule or decision of the Commission.

6.11 Commissioner Attendance at Meetings. Commissioners shall inform the President or Chief Executive Officer if they are unable to attend any Commission meeting, or if they will be late to any meeting. A majority vote is required to excuse any Commissioner's absence. Unless excused, pursuant to RCW 53.12.140 a Commissioner forfeits office by nonattendance at meetings of the Commission for a period of sixty (60) days. The Chief Executive Officer shall maintain a record of Commissioner attendance at Commission, and other meetings, to which a Commissioner is assigned or scheduled to attend. Commissioner participation by remote means shall constitute attendance.

6.12 Commission Meeting Staffing. The Chief Executive Officer shall attend all meetings of the Commission, unless excused. At the discretion of the Chief Executive Officer, other staff members shall attend. The Chief Executive Officer may make recommendations to the Commission and shall have the right to take part in the discussions of the Commission but shall have no vote.

6.13 General Conduct of Business.

6.13.1 The Commission meeting shall be conducted pursuant to an agenda, which shall indicate items requiring Commission action.

6.13.2 President as Presiding Officer will introduce each agenda item, stating whether action will be taken on the item, whether the item is introduced for discussion only or whether other results are anticipated.

6.13.3 Port staff will briefly discuss the agenda item.

6.13.4 If a technical report by a consultant or other is to be presented, the presenter will provide a summary of the technical report, generally not to exceed 15 minutes.

6.13.5 At the conclusion of the technical report, staff will return the issue to the Presiding Officer for action. Any Commissioner may ask staff, any consultants or the public to briefly clarify any matter presented.

6.14 Public Comment. Public comment shall be permitted at Commission meetings in accordance with these Rules and as required by RCW 42.30.240, as it now exists or as may be amended in the future.. Comments shall be received at the beginning of each meeting, and at the

end of each meeting, as identified on the agenda. Either the President or staff may read the following guidelines into the record. The public comment required under this section may be taken orally at a public meeting, or by providing an opportunity for written testimony to be submitted before or at the meeting. When the Port receives written testimony intended for and accepted by the Commission, this testimony must be distributed to the full Commission. The deadline for the submission of written testimony is not less than 24 hours prior to the meeting at which Commission action will be taken. Upon the request of any individual who will have difficulty attending a Commission meeting by reason of disability, limited mobility, or for any other reason that makes physical attendance at a meeting difficult, the Commission shall, when feasible, provide an opportunity for that individual to provide oral comment at the meeting remotely if oral comment from other members of the public will be accepted at the meeting.

6.14.1 Speakers attending in person shall move to the lectern and shall comment only after being recognized by the Presiding Officer. ;At the conclusion of in-person public comments, the Presiding Officer will request comments from members of the public participating remotely.

6.14.2 Speakers shall state their names and addresses prior to addressing the Commission;

6.14.3 The President may allocate available time among individuals wishing to comment. Generally, the time shall be 3 minutes for each speaker;

6.14.4 Groups are encouraged to express their views through a single spokesperson rather than individually;

6.14.5 Speakers shall limit themselves to matters regarding the issue of concern;

6.14.6 Speakers shall not repeat remarks or points of view made by prior speakers;

6.14.7 The Presiding Officer may overrule impertinent, redundant or disruptive comments; Applause or other interruptions are discouraged;

6.14.8 All remarks should be directed to the Presiding Officer; and

6.14.9 Individuals should not expect the Commission, staff, consultants, other speakers or any other person, to respond to their comments. Instead, the Commission may direct the matter to staff for comment at a future meeting or for Commission consideration at a future meeting.

6.15 Executive Sessions. Executive Sessions shall be held in accordance with the provisions of the Washington State Open Public Meetings Act. An Executive Session is a Commission meeting that is closed to the public and is attended by the Commission, Chief Executive Officer and others that may be authorized.. Executive Sessions may be held during Regular or Special Commission meetings and will be announced by the President. Before convening an Executive Session, the President shall announce the purpose of the session, the specific section of RCW 42.30.110(1) by which the session is authorized, the anticipated time when the session will be concluded, and whether action is expected after and as a result of the Executive session. Should the session require more time, the Presiding Officer or his or her designee shall

announce that the executive session is being extended to a time certain. The purpose for the Executive Session shall be noted in the meeting minutes.

6.16 Commission Discussion. All Commission discussion shall be guided by the most current version of Robert's Rules of Order to guide meeting procedures in the absence of a governing Commission Bylaw or state law. The Port General Legal Counsel shall assume the additional duty of Parliamentarian.

6.17 Media Representation at Commission Meetings. All public meetings of the Port shall be open to the media, freely subject to recording by radio, television, electronic, and photographic services at any time, provided that such arrangements do not interfere with the orderly conduct of the meeting, as determined by the Presiding Officer.

7. AGENDA PLANNING

The work of the Commission is accomplished in public meetings and all proceedings of the Commission shall be by motion or resolution, recorded in its minute books, which shall be public records. The agenda of the public meeting identifies in general terms the topics to be considered by the Commission.

7.1 Placing Item on the Agenda. Items may be placed on either the business agenda or on the consent agenda. An item may be placed on the preliminary Commission meeting agenda by any Commissioner or by the Chief Executive Officer .

7.2 Agenda Preparation. The Chief Executive Officer shall prepare a preliminary agenda for each Commission meeting. The preliminary agenda shall set forth a brief general description of each item to be considered by the Commission. The Chief Executive Officer shall promptly forward the preliminary agenda to the Presiding Officer for review. The Presiding Officer shall have the option to delete any item from the preliminary agenda. The Presiding Officer shall, at the next commission meeting, report any deleted item to the full Commission and the full Commission shall determine whether the item shall be placed on a subsequent agenda.

7.3 Agenda Materials. Agenda materials will be available on the Friday prior to the Commission meeting. Agenda materials will be delivered to Commissioners by delivery or electronic means as preferred by each Commissioner. The Chief Executive Officer and his or her staff shall strive to provide to the Commissioners all subjects to be considered at the Commission meeting, including contracts, call for bids, and other items no later than the Friday preceding the Tuesday meeting, if reasonably possible. Each item for which action is requested of the Commission shall have a written explanation and full briefing of all information necessary for the Commission's review, discussion, and action on said business item.

7.4 Adding an Item to a Published Agenda. An item may be placed on a regular Commission meeting agenda after the agenda is closed and the notice published, if the Commissioner or Chief Executive Officer explains the necessity and receives a majority vote of the Commission at a public meeting.

7.5 Agenda Item Order. The Presiding Officer may, with the concurrence of the Commission, address agenda items out of order.

7.6 Consent Agenda. All matters listed under Consent Items have been distributed to each member of the Commission for review, are considered routine, and will be enacted by the motion of the Commission with no separate discussion. If separate discussion is desired, that item may be removed from the Consent Items and placed under Action Items or tabled for consideration at a future meeting upon a motion passed by the Commission during a Commission Meeting and prior to the vote to approve the consent agenda.

8. ROLE OF THE COMMISSION PRESIDENT

The President of the Commission shall:

8.1 Ensure that the Commission jointly and consistently adheres to its own rules and policies, and those imposed upon it by the laws of the State of Washington.

8.2 Ensure that deliberation is fair, open and thorough, but also timely, orderly and stays on topic. The President of the Commission shall preside over and facilitate all Commission Meetings in accordance with these governance principles and the most current version of Robert's Rules of Order, as needed.

8.3 Assume responsibility of the Commission that is not specifically assigned to another Commissioner.

8.4 Call Special Meetings of the Commission in the event of a business need as provided for by applicable law.

8.5 Establish ad hoc advisory and standing committees, and appoint members to same.

8.6 Schedule and coordinate the annual evaluation of the Chief Executive Officer .

8.7 Limit supervision and direction of the Chief Executive Officer or Port staff, solely to the authority expressly granted by the Commission.

8.8 Be the spokesperson for the Commission in expressing a view held jointly by the Port Commission, unless another spokesperson is named by the full Commission. However, individual Commissioners shall have the right to voice personal opinions differing from decisions taken or under review by the Port Commission as a whole as long as they are stated as such.

9. ROLE OF THE COMMISSION VICE-PRESIDENT

The Vice-President of the Commission shall:

9.1 Perform such duties as are assigned by the President.

9.2 Have all the power and duties of the President in the absence or inability of the President to act.

9.3 Have all the powers and duties of the Secretary in the absence or inability of the Secretary to act, when not acting as the President.

10. ROLE OF THE COMMISSION SECRETARY The Secretary of the Commission shall:

10.1 Attest all contracts, bonds, deeds, leases and other instruments and documents duly authorized by the Commission unless otherwise delegated by the Commission.

10.2 Perform all duties incident to the office of Secretary as may from time to time be required by law or assigned to such office by motion, rule or resolution of the Commission.

10.3 Have all of the powers and duties of the President in the absence or inability of both the President and the Vice President to act.

10.4 Have the option of delegating the obligations and duties of Secretary to the appropriate Port staff member for implementation.

11. COMMISSION COMMITTEES

11.1 General. All Commission committees should include designation of members, chair and a charter describing the committee's purpose. All Commission Committees serve in an advisory capacity only. The Commission President will review each committee at least annually to determine whether the committee should continue.

11.2 Committee Roles and Responsibilities.

11.2.1 Committees will assist the Commission by gaining education, considering alternatives and implications, and preparing policy alternatives.

11.2.2 Commission committees or any individual Commissioner may not speak or act for the Commission, except when formally given such authority for specific and time- limited purposes.

11.2.3 Commission committees cannot exercise authority over staff or interfere with the delegation from the Commission to the Chief Executive Officer .

11.2.4 Participation in committee meetings shall be in compliance with the provisions of the Open Public Meetings Act, when two or more Commissioners are present, or the committee is acting for the Commission. In such event, the committee meeting must be properly noticed as a public meeting.

11.2.5 These policies apply to any group which is formed by action of the Commission President, whether or not it is called a committee.

12. COMMISSION AND PORT ACTION

12.1 Only decisions of the Commission acting as a body are binding upon the Port and Port staff.

12.2 In the case of Commissioners requesting information or assistance without Commission authorization, the Chief Executive Officer and staff must refuse such requests that require, upon evaluation by the Chief Executive Officer , a material amount of staff time or funds, are disruptive to the Port, or which may involve a conflict of interest between the Port and the Commissioner requesting the information or assistance.

12.3 Commissioners individually may communicate directly with Port employees or contractors for the purpose of inquiry only. Commissioners shall, on business matters, deal with staff through the Chief Executive Officer . However, the Commission as a body and the Commissioners individually do not give direction to persons who report directly or indirectly to the Chief Executive Officer . If an individual Commissioner is dissatisfied with the response from the Chief Executive Officer or staff, the Commissioner may seek resolution through the Commission as a body.

12.4 The Commission as a body and the Commissioners individually will refrain from evaluating, either formally or informally, the job performance of any Port employee, other than the Chief Executive Officer , except when approving compensation and benefits in the course of budget or employment contract considerations.

13. PORT COMMISSION & STAFF ROLES AND RESPONSIBILITIES

13.1 General Roles. The Commission is the Port's governing authority. All authority not expressly delegated to the Chief Executive Officer is reserved to the Commission. The Commission sets Port policies and priorities. . The Chief Executive Officer and Port staff execute and administer the Commission's policies. The Port of Kennewick has a Commission-Chief Executive Officer form of governance. The Chief Executive Officer is hired by the Port Commission to enforce its directives, to direct the daily operations of Port governance, to prepare and monitor the budget, and to implement the policies and programs initiated by the Port Commission. The Chief Executive Officer is responsible to the Port Commission as a board, rather than to individual Commissioners, and directs and coordinates all other employees. The Port Commission authorizes priorities and projects through the budget process; based upon that authorization, the Chief Executive Officer is responsible for hiring all personnel.

13.2 Commissioner's Role. [See also, Section 2.] The Chief Executive Officer is authorized to make recommendations on policy matters to the Commission and the Commission retains the authority to accept, reject, or amend the recommendations. Individual Commissioners may not intervene in staff decision-making, scheduling of work, and executing department priorities. This is necessary to allow staff to execute priorities given by the Executive Director. All Commissioners with concerns affecting the Port of Kennewick should address those concerns with the full Commission or with the Chief Executive Officer .

No Commissioner shall direct the Chief Executive Officer to initiate any action, prepare any report, or initiate any project or study without the authorization of a majority of the Commission. Commissioner requests for information shall be made to the Chief Executive Officer , unless otherwise determined by the Chief Executive Officer. Commissioners needing staff assistance shall work through the Chief Executive Officer.

13.3 Chief Executive Officer's Role.

13.3.1 The Chief Executive Officer is the chief administrative officer of the Port. The Chief Executive Officer is directly accountable to the Port Commission for the execution of the Port Commission's policy directives as set forth in the Delegation Policy and for the administration and management of all Port activities and staff.

13.3.2 The Chief Executive Officer is the information liaison between Commission

and Port staff. Requests for information from Commissioners are to be directed to the Chief Executive Officer and will be responded to promptly. The information requested will be copied to all members of Commission so that each member may be equally informed. The Chief Executive Officer will provide staff support for Commissioners as appropriate in their official roles.

13.3.3 In addition to regular, comprehensive memoranda written by the Chief Executive Officer directly to the Port Commission concerning aspects of Port operations (exclusive of confidential personnel issues), all Commissioners shall receive copies of correspondence received by the Chief Executive Officer that will assist them in their policy-making role. The Chief Executive Officer also provides other documents to the Commission on a regular basis, such as status reports, executive summaries, and minutes of meetings.

13.3.4 The Chief Executive Officer shall have an open-door policy which allows individual Commissioners and the public to meet with the Chief Executive Officer on an impromptu, one-on-one basis. Such meetings are highly encouraged. No Commissioner, person or special interest group shall abuse the open-door policy.

13.3.5 In addition to the above, the Chief Executive Officer's job description includes the following:

13.3.6 The Chief Executive Officer reports to the Commission, with duties including but not limited to the responsibilities and specific duties described below, together with such other powers and duties as the Commission may specify via adopted work plans and Delegation of Authority. The Chief Executive Officer shall provide the services hereunder in accordance with his independent and professional judgment and in accordance with his own means and mode of performance. There shall be a presumption that the Chief Executive Officer acted on an informed basis, in good faith, and within the scope of his or her employment. The list below is a codification of existing duties, custom and practice.

13.3.7 The Chief Executive Officer should:

- Work with the Commission to ensure that the mechanisms for effective governance are in place and that the Commission is alert to its obligations to the Port, employees and the public.
- Assist the Commission in fostering ethical, transparent and responsible decision making.
- Work with the Commission and senior management to monitor progress on strategic planning and commission policy implementation, and regularly report on progress to the Commission.
- Take all reasonable steps to ensure that Commission policy is executed as effectively as possible.
- Participate in the development and implementation of strategic initiatives and provide oversight on strategic orientation of the Port.
- Ensure the quality, quantity and timeliness of the information that goes to the Commission and ensure that all Commissioners receive the information required for the proper performance of their duties.
- Take reasonable steps in consultation with the Commission President to ensure that business set out in the agendas of Commission meetings is discussed and brought to resolution, as required, and that sufficient time is allowed during

Commission meetings to fully discuss agenda items.

- In coordination with the Commission, Port Human Resources personnel and Port Counsel, actively participate in the annual Chief Executive Officer performance evaluation which will include a performance discussion with candid input and feedback.
- Work to ensure that the Port promotes equality and fairness for its staff and contract personnel.
- Foster ongoing formal and informal communication with and among Commission members.
- Ensure that Port employees work as a team, efficiently and productively.
- Foster strong relationships between the Port and key stakeholders in the community.
- Assist the Commission in the development of the Commission's knowledge and capabilities by playing a central role in orientation of new Commission members and providing continuing education opportunities for the entire Commission.
- Act as a spokesperson for the Port related to execution of established port policy.

13.4 Staff Role. The Commission recognizes the primary functions of staff as 1) executing the policies and actions taken by the Commission as a whole, and 2) keeping the Commission informed. Staff is obligated to take guidance and direction from the Chief Executive Officer or appropriate supervisor. This direction follows the policy guidance from the Port Commission to the Chief Executive Officer through the Delegation Policy. Port staff will, acting through the Chief Executive, make every effort to respond in a timely and professional manner to all individual Commissioner's requests for information or assistance; providing, in the judgment of the Chief Executive Officer, the request is not of such magnitude (in terms of workload, resources, or policy) that it should instead be assigned to the Chief Executive Officer through the direction of the full Port Commission.

13.5 Summary. The following is a brief summary from the Washington Public Port Association ("WPPA") Commissioner Resource Guide and identifies parallel leadership roles and responsibilities.

Port Commission

Governs:

Guides

Directs

Decides what

Requests information

Considers issues

Creates, reviews and adopts policy

Reviews and monitors plans

Monitors progress

Contracts with personnel

Approves evaluation criteria, procedures

Reviews and approves budget

Represents public interest

Executive Director

Administers:

Operates

Manages

Decides how

Seeks and provides information

Provides recommendations

Recommends and carries out policy

Implements plans

Reports progress

Supervises hiring process, practices

Supervises and evaluates personnel

Formulates budget

Acts in the public's interest

14. BUDGET AND PROCUREMENT AUTHORITY

14.1 General. By resolution, the Commission shall set forth the authority of the Chief

Executive Officer to manage and expend Port funds in accordance with financial policies and budgetary limits. Procurement of goods and services shall take place in accordance with applicable legal requirements in a fair, competitive and inclusive manner to maximize the benefit to the Port's taxpayers/customers.

14.2 Financial Policies. The Commission, by resolution, shall adopt financial policies that provide guidance to the Chief Executive Officer in managing the finances of the Port and in developing budgets, financial plans and rates. At a minimum, these policies shall:

- 14.2.1 Provide for sufficient liquidity relative to the Port's risk profile;
- 14.2.2 Provide for adequate coverage to meet debt covenants;
- 14.2.3 Establish criteria for debt and rate – financed capital expenditures;
- 14.2.4 Require that budgets be developed based on conservative and prudent assumptions consistent with standard industry practice;
- 14.2.5 Establish budgetary and procurement controls over expenditures;
- 14.2.6 Produce and maintain a balanced budget;
- 14.2.7 • Provide a fiscally sound approach to finances by ensuring that expenditures and debt repayments do not exceed available resources in current budget and future years impacted;
- 14.2.8 • Provide for financial stability by:
 - Funding projects that provide a positive return on investment or which provide important identifiable non-economic benefits to the port district at large;
 - Eliminating or transferring to private sector, holdings which provide minimal economic or community benefit;
 - Reducing costs and enhancing revenues when feasible while maintaining acceptable service levels;
 - Ensure the Port's portfolio includes diversity of revenue streams to offset risk adverse projects;
 - Accurately forecasting funding sources;
 - Creating successful strategies for capital acquisitions;
 - Closely monitoring and accurately reporting all revenues and expenditures;
 - Leveraging funds by seeking grants and matching funds from the public and private sectors;
 - Accurately and honestly identifying potential financial issues and providing feasible potential solutions;
 - Identifying and recommending potential improvements; and
 - Learning and sharing ideas for improvement.
- 14.2.9 Promoting fiscal responsibility among departments;
- 14.2.10 Focusing on long-term financial planning;
- 14.2.11 Support intergovernmental cooperation by partnering with entities which demonstrate support; (e.g. matching funds; previous successes; political and taxpayer support; and

enthusiasm);

14.2.12 Provide the public with high quality projects and services within a healthy work environment by encouraging efficiency, cooperation, honesty, integrity, and respect;

14.2.13 Evaluate economic development opportunities based on results to be derived districtwide versus project-specific or jurisdiction-specific results;

14.2.14 Acknowledge the Port's limited staff and financial resources;

14.2.15 Establish a project ranking and selection process which focuses on producing a limited number of projects in order to ensure successful and timely implementation;

14.2.16 Encourage open competition and equal project consideration, fostering a reputation for fairness with the local business community;

14.2.17 Seek to fund projects with available resources;

14.2.18 Incur debt only when both the level and rate of growth of public debt is fundamentally sustainable, can be serviced under appropriate circumstances while meeting cost and risk objectives, can withstand economic uncertainties, while identifying in advance any legal or commission-directed restrictions on its use; and

14.2.19 Maintain reserves of \$2.5M in order to ensure financial stability and mitigate any potential financial hardships. If reserve funds are utilized, funds must be replenished during the current or next budget cycle. The reserve fund may be used for the following:

- Debt service;
- Environmental pollution claims against the Port;
- Unemployment Claims;
- Paid Family & Medical Leave Claims; and
- Any other uses deemed necessary by the Commission.

14.2.20 Identify and report the return on investment (ROI) on projects as appropriate; and

14.2.21 Share with the public port audited financial and operating data through print and online resources.

14.3 Budgetary Authority. As required by and consistent with law, the Commission, by resolution, shall approve the Port's budget prior to the start of each calendar year. The Chief Executive Officer shall manage the Port's operations within the approved budget levels consistent with authority levels set forth in the financial policies.

14.4 Procurement Authority.

14.4.1 The Commission, by resolution, shall establish procurement authorities and guidelines for the Chief Executive Officer consistent with state laws and regulations. The Chief Executive Officer shall establish procurement controls that provide reasonable assurance that the procurement of goods and services are made for a valid business purpose and within authorized budget levels.

14.4.2 It is Port policy that procurement decisions shall be made free from actual

or perceived conflicts of interest consistent with these Rules of Policy and Procedure.

14.4.3 It is Port policy that due diligence and prudent judgment be exercised in the making of procurement decisions, including conducting a risk assessment. If the Chief Executive Officer reasonably determines that a procurement activity presents, regardless of the size of the financial commitment, either: (1) a unique and significant operational risk to the Port; or (2) a significant impact to customers, the Chief Executive Officer shall inform the Commission.

15. EVALUATING THE CHIEF EXECUTIVE OFFICER'S PERFORMANCE

15.1 Chief Executive Officer Evaluation Committee

15.1.1 The Port Commission shall appoint a Chief Executive Officer Evaluation Committee made up of the Port's Chief Financial Officer, Port General Legal Counsel, and one Commissioner to serve a 2-year term. Each member shall be unbiased.

15.1.2 The Chief Executive Officer Evaluation Committee will develop the Chief Executive Officer's goals and objectives for Port Commission review and approval. The goals and objectives developed by the Committee shall be specific, measurable, attainable, realistic, timely and in alignment with the Port's mission, budget, work plan, and comprehensive scheme of development.

15.1.3 The Commission accepts the following procedure for the Chief Executive Officer Evaluation Committee to evaluate the Chief Executive Officer's performance, which is attached hereto as **Exhibit "A"**, and the Chief Executive Officer Evaluation Committee has created the Chief Executive Officer Performance Evaluation Form Revised 2022, which is attached hereto as **Exhibit "B"**.

15.1.4 On an annual basis, the Chief Executive Officer Evaluation Committee will conduct Chief Executive Officer's performance evaluation.

15.1.5 On an annual basis, the Chief Executive Officer Evaluation Committee will present the results of its evaluation of the Chief Executive Officer's performance to the Port Commission for review and approval. Such results may include, among other things, recommendation for salary adjustment in accordance with Chief Executive Officer's employment agreement.

15.1.5 The Chief Executive Officer Evaluation Committee may use assistance from other staff members or consultants as necessary and appropriate.

15.1.6 The Port Commission shall address Chief Executive Officer performance issues as they arise by timely referring them to the Chief Executive Officer Evaluation Committee. The Chief Executive Officer Evaluation Committee will develop a procedure for handling performance issues that may arise between annual evaluations. As part of that procedure, any performance related item must be communicated to the CEO in writing within 14 business days following the date any such alleged action or inaction occurred. If the Chief Executive Officer Evaluation Committee fails to notify the Chief Executive Officer of a matter of which the Commission members are aware, the performance related item shall not be relied upon or addressed in a performance

review. Prior to issuing such a written notice, the Chief Executive Officer Evaluation Committee shall undertake an appropriate inquiry, which generally will include discussion with the Chief Executive Officer, in accordance with applicable laws, policies and contracts. Once notified, the Chief Executive Officer shall be provided a reasonable period of time to cure the concern or deficiency._

16. COMMISSION-AUDITOR RELATIONSHIP

16.1 General. The Port Auditor (“Auditor”) serves the Port to assist in the Port’s compliance with the RCW 53.36.010, RCW 53.36.140, RCW 42.24.080 and the Local Government Accounting Act, RCW 43.09.200 – 43.09.2855.

16.2 Hiring and Reporting.

16.2.1 The Chief Executive Officer shall hire the Auditor. The Auditor shall perform those duties specified in RCW 53.36.010, RCW 53.36.140, RCW 42.24.080, RCW 43.09.240, Port Policy and job description and shall be granted direct access to the Commission as necessary in the performance of these duties.

16.2.2 The Auditor shall report to the Commission through the Chief Executive Officer or designee for all administrative matters, including hiring, performance evaluations, salary administration, employee benefits, and terminations. The Chief Executive Officer may assign additional duties to the Auditor as long as these duties do not interfere with the Auditor’s duties as specified by law.

17. COMMISSION-PORT GENERAL LEGAL COUNSEL RELATIONSHIP

17.1 Port General Legal Counsel Role. The Chief Executive Officer is responsible for hiring and terminating the Port’s General Legal Counsel. The Chief Executive Officer shall make provision for and appoint legal counsel for the Port by any reasonable contractual arrangement for such professional services. The Port General Legal Counsel is the legal advisor to the Port, the Commission, its committees, commissions and boards, the Chief Executive Officer, and all Port officers and employees with respect to any legal question involving an official duty or any legal matter pertaining to the affairs of the Port. It is important to note that the Port General Legal Counsel does not represent individual members of Commission, but rather the Port Commission as a whole. The Port General Legal Counsel reports to the Chief Executive Officer. The Chief Executive Officer is responsible for evaluating the Port’s General Legal Counsel’s performance.

17.2 Port General Legal Counsel’s Responsibilities.

The general legal responsibilities of the Port General Legal Counsel are to:

17.2.1 Provide legal assistance necessary for formulation and implementation of the Commission’s legislative policies and projects.

17.2.2 Represent the Port’s interest, as determined by the Chief Executive Officer, in litigation, administrative hearings, negotiations, and similar proceedings.

17.2.3 Prepare or approve as to form resolutions, contracts, and other legal

documents to best reflect and implement the purposes of the Port.

17.2.4 Keep the Port Commission and staff apprised of court rulings and legislation affecting the legal interest of the port.

17.2.5 Shall advise the Commissioners regarding potential conflict of interest issues or ethical matters. Port General Legal Counsel shall provide assistance to individual Commissioners in complying with applicable statutes and laws only when such advice does not conflict with the Port's General Legal Counsel's obligations to the Port or to specific direction of the Commission.

17.2.6 Give advice or opinion when required, and when requested by the Commission or Chief Executive Officer.

17.2.7 Inform the Commission of material legal issues impacting the Port or the Commission.

17.2.8 Assist the Commissioners and staff in complying with applicable statutes and laws.

17.2.9 Serve as the parliamentarian at all commission meetings and other port-related meetings as requested by the Chief Executive Officer.

17.2.10 Other matters as designated by the Chief Executive Officer .

18. INDEMNIFICATION AND DEFENSE POLICY

18.1 Policy Stated. As authorized by RCW 4.96.041, there is hereby created a procedure to provide for indemnification and defense of claims of liability arising from acts or omissions of officials and employees of the Port, including volunteers, while performed or in good faith purported to have been performed in the scope of their official duties.

18.2 Definitions. Unless the context indicates otherwise, the words and phrases used in this chapter shall have the following meaning:

18.2.1 "Employee" means any person who is or has been employed by the Port, including volunteers and appointed members of advisory boards and commissions. "Employee" does not include independent contractors. "Employee" also includes an employee's spouse when an employee's marital community is named in any action subject to this policy.

18.2.2 "Official" means any person who is serving or has served as an elected Port Commissioner, and any person who is serving or who has served as an appointed officer of the Port as defined by RCW 42.23.020(2), as written or hereafter amended. "Official" does not include independent contractors performing the duties of appointed positions.

18.3 Legal Representation.

18.3.1 Upon request by the Official or Employee, and upon a finding by the Commission that the acts or omissions of the Official or Employee were or in good faith purported to be within the scope of his or her official duties, the Port shall provide to an Official or Employee, subject to the conditions and requirements of this chapter, and notwithstanding the fact that such

Official or Employee may have concluded service or employment with the Port, such legal representation as may be reasonably necessary to defend a claim or lawsuit filed against such Official or Employee resulting from any conduct, act or omission of such Official or Employee performed or omitted were or in good faith purported to be within the scope of his or her service or employment as a Port Official or Employee. The provisions of this chapter shall not operate to provide legal representation to defend a claim or lawsuit for any conduct, act, or omission resulting in the termination for cause of any Official or Employee.

18.3.2 The legal representation shall be provided by the office of the Port's General Legal Counsel and may include the Chief Executive Officer engaging the services of outside legal counsel, with Port General Legal Counsel oversight. If any provision of an applicable policy of insurance provides legal counsel for the employee or official, the Port General Legal Counsel will work with the policy holder for purposes of obtaining legal representation under the existing insurance policy.

18.3.3 In the event that the Port retains outside counsel under Section 18.3.2, the Port shall pay the reasonable costs of defense; provided, that in no event shall payment exceed the hourly rates established by the Port's contract with general legal counsel selected by the Port.

18.3.4 The determination whether the Official or Employee was acting in or in good faith purported to be within the scope of his or her official duties shall be made by the Commission in consultation with the Port General Legal Counsel and/or outside legal counsel, if retained. This determination shall be based on an investigation of the facts and circumstances surrounding the incident and shall be made as early in the proceedings as is reasonably possible. In making the determination, the Commission shall presume that the Official or Employee acted in good faith within the scope of his or her official duties and shall determine that the Employee was not acting in good faith within the scope of his or her official duties only upon a finding or findings supported by substantial evidence. Once the determination is made, the Official or Employee involved shall be notified by the Chief Executive Officer in writing. If the Employee or Official involved is the Chief Executive Officer, the determination shall be made by the Commission in consultation with the Port General Legal Counsel and/or outside legal counsel based on an investigation of the facts and circumstances surrounding the incident and shall be made as early in the proceedings as is reasonably possible. Once the determination is made, the Chief Executive Officer shall be notified by the Port General Legal Counsel, in writing. In any claim involving an allegation of criminal conduct, no investigation by the Port will occur prior to a determination of guilt, or prior to a dismissal of the criminal charge with prejudice, so as not to compromise the Official's or Employee's Fifth Amendment right against self-incrimination. Any determination made under this Section shall not be subject to appeal or reconsideration.

18.4 Exclusions. Except as otherwise determined pursuant to Section 18.3, in no event shall protection be offered under this chapter by the Port to:

18.4.1 Any dishonest, fraudulent, criminal, willful, intentional or malicious act or course of conduct of an Official or an Employee;

18.4.2 Any act or course of conduct which is outside the scope of an Official's or Employee's service or employment with the Port; and/or,

18.4.3 Any lawsuit brought against an Official or Employee by or on behalf of the Port;

18.4.4 Any action or omission contrary to or not in furtherance of any adopted Port policy.

18.5 Reserved Rights. Nothing herein shall be construed to waive or impair the right of the Port neither to institute suit or counterclaim against any Official or Employee nor to limit its ability to discipline or terminate an employee.

18.6 Policy Secondary to Insurance. The Port's payment of defense fees and costs and any resulting non-punitive judgement are secondary to any insurance coverages from whatever source for defense, loss or damage; excluding deductible or exclusion(s) of the applicable insurance policy. The Port shall have the right to require an Employee to fully utilize insurance coverages prior to requesting payment under this Chapter.

18.7 Determination of Exclusion. Whether an Official or Employee was acting in or in good faith purported to be acting within the scope of an Official's or Employee's service or employment with the Port and thus eligible for Port payment of defense costs under this chapter shall be determined by the Commission The Chief Executive Officer and Port general legal counsel shall prepare a recommendation to the Commission. The Commission's decision shall be final as a legislative determination and shall be based upon a finding that an official or employee meets or does not meet the criteria of this chapter. Nothing herein shall preclude the Port from undertaking an Official's or Employee's defense under a reservation of rights. The determination as to whether a defense is to be furnished as provided under this chapter to Commissioner or Commissioners shall be made without the vote of the Commissioner(s) named in the claim or lawsuit unless the inclusion of such member or members is required for a quorum; provided, that if a claim or lawsuit affects a quorum or greater number of the members of the Commission, all such affected members shall retain their voting privileges under this Section.

18.8 Representation and Payment of Claims – Conditions. The payments authorized by this chapter shall apply only when all the following conditions are met:

18.8.1 In the event of any incident or course of conduct potentially giving rise to a claim for damages, or for the commencement of a lawsuit, the Official or Employee involved shall, as soon as practicable, give the Employee's department director and, if applicable, the Port General Legal Counsel and the Chief Executive Officer written notice thereof. The notice shall identify the Official or Employee involved, all information known to the Official or Employee involved with respect to the date, time, place and circumstances surrounding the incident or conduct giving rise to the potential claim or lawsuit, as well as the names and addresses of all persons allegedly injured or otherwise damaged thereby, and the names and addresses of all witnesses.

18.8.2 Upon receipt, the Official or Employee shall as soon as practicable deliver any claim, demand, notice or summons or other process relating to any such incident or conduct to the Port General Legal Counsel and shall cooperate with the Port General Legal Counsel, or if the Chief Executive Officer authorizes or designates another legal counsel to handle the matter, shall cooperate with that legal counsel, and, upon request, shall assist in making settlement of any suit and enforcing any claim for any right of subrogation against any persons or organizations that may be liable to the Port because of any damage or claim of loss arising from said incident or course of conduct, including, but not limited to, rights of recovery for costs and legal counsel's fees arising out of state or federal statute upon a determination that the lawsuit brought was frivolous in nature. Failure to timely deliver any claim, demand, notice or summons to the Port General Legal Counsel, and in which an adverse decision against the Official, the Employee or

Port results from such failure, shall operate to negate all indemnification and opportunity for defense under this chapter and the Port shall have no obligation to offer a defense to the named Official or Employee.

18.8.3 Such Official or Employee shall attend interviews, depositions, hearings and trials and shall assist in securing and giving evidence and obtaining assistance of witnesses all without any additional compensation to the Official or Employee, and, in the event that an Employee has left the employ of the Port, no fee or compensation shall be provided.

18.8.4 Such Official or Employee shall not accept nor voluntarily make any payment, assume any obligation, or incur any expense related to said claim or lawsuit, other than for first aid to others at the time of any incident or course of conduct giving rise to any such claim, loss or damage. Nothing herein shall be deemed to preclude any Official or Employee from retaining legal counsel to represent his/her interests relating to such claim or lawsuit; however, all costs and expenses incurred thereby shall be paid by the Official or the Employee.

18.8.5 Nothing herein shall modify existing procedures or requirements of law for processing and payment of claims against the Port.

18.9 Effect of Compliance With Conditions. If legal representation of an Official or Employee is undertaken by the Port, whether by the Port General Legal Counsel or by legal counsel obtained by the Port or through its insurance coverage, and all of the conditions of representation are met, and a judgment is entered against the Official or Employee or a settlement is made, the Port shall pay the nonpunitive damages portion of the judgment or settlement according to the provisions herein; provided, that the Port may at its discretion appeal as necessary any such judgment. The process for payment of punitive damages is discretionary and is set forth in Section 18.16. The decision to appeal an award of damages will be made by the Commission upon the recommendation of the Chief Executive Officer and the Port General Legal Counsel and/or outside legal counsel.

18.10 Failure to Comply With Conditions. In the event that any Official or Employee fails or refuses to comply with any of the conditions set forth in Section 18.8, or elects to provide his/her own representation with respect to any such claim or litigation, then all of the provisions of this chapter shall be inapplicable and shall have no force or effect with respect to any such claim or litigation.

18.11 Reimbursement of Incurred Expenses.

18.11.1 If the Commission determines pursuant to the Port's investigation under Section 18.3, that an Official or Employee was not acting in or in good faith purported to be within the scope of his or her official duties and thus is not eligible for Port payment of legal defense, and a court of competent jurisdiction later determines that such Officer or Employee was acting within the scope of his or her official duties, , then the Port shall pay any non-punitive judgment, and reasonable legal counsel's fees incurred in defending against the claim, less any applicable insurance coverages.

18.11.2 If the Port determines that a claim arose against a Port Official or Employee who was acting within or in good faith the scope of their employment and a court of competent jurisdiction later finds that such claim does not come within the provisions of this chapter, then the Commission shall have the option of requiring reimbursement by the Official or Employee for

defense fees, costs and expenses.

18.12 Conflict With Provisions of Insurance Policies. The indemnification provisions of this chapter do not constitute a policy of insurance and nothing contained in this chapter shall be construed to modify or amend any provisions of any policy of insurance where the Port or any of its current or former Officials or Employees thereof is the named insured. In the event of any conflict between this chapter and the provisions of any such policy of insurance, the policy provisions shall be controlling; provided, however, that nothing contained in this chapter shall be deemed to limit or restrict any Employee's or Official's right to full coverage pursuant to this chapter, it being the intent of this chapter to provide the coverage detailed in this chapter only above and beyond insurance policies which may be in effect while not compromising the terms and conditions of such policies by any conflicting provisions contained in this chapter.

18.13 Pending Claims. The provisions of this chapter shall apply retroactively to any pending claims or lawsuits against any Official or Employee at the time of adoption of this ordinance and to any such claims or lawsuits hereinafter filed within an applicable statute of limitations, irrespective of the date of the events or circumstances which are the basis of such claim or lawsuit.

18.14 Modification of Chapter. The provisions of this chapter shall be subject to amendment, modification and repeal, at the sole discretion of the Commission, provided that unless explicitly set forth, any such amendment, modification or repeal shall apply prospectively only and shall have no effect on the obligation of the Port to indemnify and/or defend against any claim which is based, in whole or in part, upon any action or omission of an Employee or Official occurring prior to the effective date of the amendment, modification or repeal.

18.15 Bargaining Unit Contracts. If a union contract under chapter 41.56 RCW covers any of the provisions of this chapter, all Employees under such contract shall be governed by the provisions thereof, rather than by the provisions of this chapter, and where any conflict exists between the provisions of any such contract and this chapter, such contract shall control.

18.16 Punitive Damages. When the Port has paid for claim defense fees costs and expense for an Employee or Official pursuant to this chapter and a punitive judgment is rendered, the Employee or Official may request the Commission that the Port pay the punitive damages. Upon such a request, the Commission shall receive a report and recommendation from the Chief Executive Officer and the Port General Legal Counsel shall transmit a report and recommendation for Commission consideration. If the requesting Official or Employee is the Chief Executive Officer or a Commission member, the Commission may in the alternative request a report and recommendation from outside legal counsel. . The Commission's decision on whether to pay the punitive damages award shall be based on the best interests of the Port and whether justice will be served The Commission's determination is final and not subject to reconsideration or appeal. . The Chief Executive Officer shall communicate the Commission's determination to said Employee or Official. Thereafter, the Port finance director shall prepare the payment of Commission-approved punitive damages.

18.17 Application to Recall Proceedings.

18.17.1 Consistent with RCW 4.96.041(3), the necessary expenses of defending a Port Commissioner in a judicial hearing to determine the sufficiency of a recall charge as provided in RCW 29.82.023 shall be paid by the Port if the Commissioner requests such defense and approval is granted by both the Commission and the Port's General Legal Counsel or attorney

appointed by the Chief Executive Officer. The expenses paid by the Port may include costs of an appeal of the superior court's ruling on the sufficiency of the recall charge.

18.17.2 Although in the case of *In Recall of Olsen*, 154 Wn.2d 606 (2005), the Supreme Court ruled that a Commission's decision to indemnify and pay the costs of a recall defense does not constitute a contract from which a conflict of interest may be found under RCW 42.23.030, and, as a result, a Commissioner may vote on that Commissioner's request for defense fees and costs, the Commissioner(s) subject of the recall shall refrain from participating in such deliberations and vote.

19. GENERAL COMPLAINT RESOLUTION

19.1 Administrative Complaints Made Directly to Individual Commissioners. When administrative policy or administrative performance complaints are made directly to individual Commissioners, the Commissioner shall then refer the matter directly to the Chief Executive Officer for review and/or action. The individual Commissioner may request to be informed of the action or response made to the complaint.

19.2 Administrative Complaints – "Best Practice". Although citizen's direct access to elected officials is to be encouraged, Port Commissioners should be cautious in making statements or taking actions that may delay a timely customer service response. The best policy is to put the citizen into direct contact with the Chief Executive Officer.

Ten Commandments for Staying out of Trouble as a Port Commissioner

[as presented in the WPPA Commissioner Resource Guide]

1. Thou shalt never spend the public's money in secret.
2. Thou shalt not accept personally more money or benefits than any other fellow commissioner.
3. Thou shalt not require the port staff to do more work than necessary to inform (please) you when they could be occupied in improving the business of the port.
4. Thou shalt not speak as the official spokesperson of the port without knowing officially that you have been so designated by the commission majority.
5. Thou shalt not use the press against your fellow commissioners.
6. Thou shalt not use port property for unofficial business, not even a paper clip. Paper clips are cheap, buy your own. Use your own car too.
7. Thou shalt not argue with, grill, or embarrass port staffers in public. They'll hate you for it and get back at you in a thousand ways without your ever knowing it or leaving a scrap of evidence.
8. Thou shalt not depend on news media to keep the public informed of the activities and purposes of the port. Have your own PR program and carry it out.
9. Thou shalt not align yourself closely with a certain group of port tenants or users. Your motives will always be aligned with that group regardless of the issues. And the group will turn on you if you don't support them every single time.
10. Thou shalt not become involved in hiring anyone but the port manager and the port auditor.

RESOLUTION 2022-19
EXHIBIT “A” TO SECTION 15,
COMMISSION RULES OF PROCEDURES

1. CEO EVALUATION PROCESS

1.1 CEO Evaluation Committee

- 1.1.1 *COMMITTEE AUTHORITY:* Resolution 2022-19 authorized the creation of the CEO Evaluation Committee (Committee). Furthermore, it established the members of the Committee are: Port’s Chief Financial Officer; Port Attorney; and one Commissioner to be appointed by the Commission.
- 1.1.2 *COMMISSION DIRECTION:* The Commission direction for the Committee is as follows:
- Develop a process for evaluating CEO’s performance.
 - Perform the CEO evaluation using the Chief Executive Officer Performance Evaluation Form revised 2022.
 - Develop the CEO’s goals and objectives for Commission review and approval.
 - Present the CEO evaluation to the Commission for review and approval annually. This will include a recommendation for salary adjustment in accordance with CEO’s employment agreement.
 - Use assistance from other staff members or consultants as necessary and appropriate.
 - Develop a process for handling performance issues as they arise between annual evaluations if performance issues are brought forth by the Port Commission.
- 1.1.3 *COMMITTEE MEETINGS:* The Committee will meet at least annually, conducting its first meeting for CEO’s performance review no later than September 15th. The Commission typically will need to approve the CEO’s evaluation at their first meeting in November, so the ideal time to present to Commission is at the second meeting in October. The deadline for final Commission approval is November 15th.
- 1.1.4 *CHANGES TO THIS PROCESS:* Changes to this process must be approved by the majority of the Committee members, and with the consent of the CEO, which consent shall not be unreasonably withheld.

1.2 CEO Annual Evaluation Process

- 1.2.1 The Committee will evaluate the goals & objectives set by the Commission as part of the evaluation process.
- 1.2.2 The Committee will also consider additional work either directed or performed for the Port's benefit that was not included in the initial goals and objectives approved by Commission.
- 1.2.3 The Committee will also consider the overall operational success at the Port (including but not limited to: marina and building occupancy, land sales, property maintenance, contract management, financial oversight, strategic alliances/partnerships, communications, positive publicity, brand reputation, and strategic leadership including personnel management and development).
- 1.2.4 The Committee will include resolved or unresolved performance issues addressed by the Commission in the CEO's evaluation.
- 1.2.5 The Committee will present the CEO evaluation to the CEO and allow the CEO to draft a formal response before the evaluation is presented to the Commission.
- 1.2.6 The Committee will present the evaluation to the Commission as allowed by law.
- 1.2.7 The Committee will provide the Commission a CEO performance recommendation of "unsatisfactory," "satisfactory," "above satisfactory," or "exceptional" in accordance with the CEO Employment Agreement.

Performance Appraisal Ratings:

- Exceptional – The individual is making a significant contribution to the organization. This person constantly accepts responsibilities beyond those of the job held and continuously exceeds expectations regarding completion of work assignments. There are few areas regarding performance of job responsibilities in which he/she could improve.
- Above Satisfactory – The individual is a steady and consistent performer and carries out duties in a fully responsible and effective manner. Meets and occasionally exceeds expectations regarding job responsibilities and completion of work assignments. Even though present performance is acceptable, there may be areas regarding performance of job responsibilities in which the person should improve.

- Satisfactory – The individual generally meets standards or expectations. It is expected that with the appropriate improvement plan, performance will reach a fully satisfactory level within a specified time period.
- Unsatisfactory – The individual generally does not meet standards or expectations. It is expected that with the appropriate improvement plan, performance will reach a satisfactory level within a reasonable specified time period in keeping with part 10 of the CEO's employment agreement and prior to the imposition of any disciplinary action.

1.2.8 The Committee shall maintain confidentiality around its deliberations and evaluation results.

1.3 CEO Goals and Objectives

- 1.3.1 In order to promote creativity & collaboration, the CEO can recommend goals and objectives for the Committee's consideration.
- 1.3.2 The Committee will review the CEO's recommended goals and objectives in order to determine if the goals are specific, measurable, attainable, realistic, timely and in alignment with the Port's mission, budget, work plan, and comprehensive scheme of development.
- 1.3.3 The Committee will involve the CEO during the goal setting process in order to allow feedback. In addition, this ensures the goals are specific, measurable, attainable, realistic, timely and in alignment with the Port's mission, budget, work plan, and comprehensive scheme of development.
- 1.3.4 The Committee will also consider one goal that is open to allow flexibility (example: Identify and present additional mutually beneficial or ROI partnering opportunities to Commissioners).
- 1.3.5 The CEO and committee will work to the best of their abilities to reach agreement on goals and objectives before presenting to the Commission for approval.
- 1.3.6 The Committee will present the final goals and objectives to the Commission for approval.
- 1.3.7 The Committee, with CEO feedback, may also present to the Commission recommendations on amending the goals and objectives (example: Commission directive change, or goal may be modified due to budget changes).

- 1.3.8 The Committee will perform review of the CEO goals and objectives and present this update to the Commission at least annually for the evaluation process.

1.4 Performance Issues Process

- 1.4.1 The Port Attorney will perform legal review of the performance related item and gather information or documents. Port Attorney may use assistance from other staff members or consultants as deemed appropriate and within the approved budget.
- 1.4.2 The Port Attorney will present to the Committee the performance related items and findings.
- 1.4.3 If the Committee determines the performance related item is a finding that needs Commission discussion, the Committee will add the performance item to the agenda for the Commission to discuss as allowed in executive session, upon consent from the CEO.
- 1.4.4 Performance evaluations shall be made a part of the CEO's personnel file. The CEO has the right to review this file and to make a written request that information and documentation be removed that the CEO believes is inaccurate, incredible, unsubstantiated, or unwarranted. Upon review, the Employer shall remove all information identified by the CEO which is found to be inaccurate, not credible, or unsubstantiated, or where any discipline was not warranted.

RESOLUTION 2022-19
EXHIBIT “B” TO SECTION 15,
COMMISSION RULES OF PROCEDURES

ANNUAL PERFORMANCE EVALUATION

CEO Evaluation Committee Evaluations of the CEO’s Performance

IMPORTANT DUTIES & EXPECTATIONS	PERFORMANCE APPRAISAL		COMMENTS/EXAMPLES:
	Met	Not met	Attach pages/documentation as needed
I. Vision and Purpose: A. Assists the Commission in defining its shared vision. Communicates that direction to the organization. B. Collaborates with the Commission to advance the Port’s vision and purpose. C. Advocates the vision by strategic resource allocation toward attainment.			Click or tap here to enter text.
II. Strategic Agility: Is proactive; anticipates future trends, benefits, and consequences; has broad knowledge and perspective; can objectively state possibilities and probabilities.			
III. Operating Plans/Financial Plans: A. Develops, maintains, and implements strategic plans and operational goals that effectively brings the Port’s vision to fruition. B. Administers the Port’s financial affairs consistent with state law and adopted policies, budget, and financial guidelines.			

IV. Integrity: Sets the tone for the Port by exemplifying consistent values and high ethical awareness, honesty, and fairness.			
V. Political and Institutional Sensitivity: A. Maneuvers through complex political and institutional situations effectively; anticipates potentially negative reactions, recommends, and plans a course of action; views politics as a necessary part of organizational and public sector life and works to be effective within that reality. Unless otherwise not practical, obtains Commission concurrence prior to publicly stating position. B. Develops solutions to complex issues that challenge the Port's ability to recognize its vision and purpose. Demonstrates sensitivity to resource availability when developing solutions. C. Leads the Port in building effective relationships with tenants, customers, jurisdictional partners, and community.			
VI. Knowledge/Decision Quality: A. Knows how successful public ports work; knowledgeable in current and possible future practices, trends, and information affecting port management, the port industry, and our Port; knows the competition; is aware of how strategies and tactics			

<p>work in the marketplace.</p> <p>B. Makes good decisions based on analysis, wisdom, experience, and judgment; most solutions and suggestions turn out to be correct when judged over time.</p>			
<p>VII. Leadership/Management:</p> <p>A. Demonstrates an entrepreneurial spirit by identifying ways to generate revenue, investment capital and maximizes the financial potential of existing port assets.</p> <p>B. Rallies support behind the vision and strategic plan; can inspire and motivate staff and community.</p> <p>C. Creates an environment where employees at all levels contribute their knowledge, skills, abilities, and ideas in a way that maximizes their potential. Employee potential is not limited by divisional walls or job title. Appropriately delegates to others. Is a good judge of talent; hires the best people available inside or outside the organization.</p> <p>D. Creates a climate in which people want to do and can do their best; can motivate team or project members; empowers others; invites input and shares ownership and visibility. Makes each person feel his/her work is important.</p>			

VIII. Initiative/ Courage/ Adaptability: A. Self-starting ability. Promptly takes hold and follows through with minimum direction. B. Willingness to state opinions and reasons without concern about the popularity of the views. Forthrightness in dealing with Commission, customers, suppliers, and others in the organization. C. Ability to adjust to changing conditions or unusual assignments. Flexibility in undertaking a variety of assignments, acceptance of decisions which go counter to own opinion.			
IX. Loyalty: Understanding and accepting of goals and policies of the organization. Willingness to support organization and management.			
X. Communications: Effectiveness of exchanging significant information throughout all levels of the organization; with clients, vendors, and the public.			

PERFORMANCE APPRAISAL OVERALL RATING				
The CEO's performance for the year 2022 is found to be:	Exceptional	Above Satisfactory	Satisfactory	Unsatisfactory

Additional Evaluator Comments:

Tim Arntzen
Date

PORT OF KENNEWICK, WASHINGTON

PORT COMMISSION

**RULES
OF
POLICY AND PROCEDURE**

**ADOPTED AT A REGULAR, OPEN
MEETING OF THE PORT COMMISSION**

FEBRUARY 22, 2011

Section 6 Revised and Adopted January 12, 2016

Draft of 8.01.22

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[WILL BE UPDATED IN FINAL DRAFT]

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1. INTRODUCTION AND PURPOSE

1.1 Port of Kennewick. The Port of Kennewick (“Port”) is a Washington port district, with authority to act under law, as they exist and or as they may be amended in the future including but not limited to Titles 14 and 53 RCW. The powers of a port district are exercised through a port commission. The Port Commission of the Port of Kennewick consists of three Port Commissioners.

1.2 Other Governing Law. In addition to enabling legislation, the Port is subject to Washington State laws, including but not limited to the Open Public Meetings Act, chapter 42.30 RCW; the Public Records Act, chapter 42.56 RCW; and, the Code of Ethics for Municipal Officers, chapter 42.23 RCW.

1.3 Port Managing Official. Consistent with its authority under RCW 53.12.270, the Port Commission has delegated to the office of Chief Executive Officer such administrative powers and duties as deemed proper for the efficient and proper management of the Port’s operations. See “Delegation of Authority to Executive Director,” Port Resolution 2009-06 (February 10, 2009 – the “Delegation Policy.”)

1.4 Purpose. It is the purpose of these Rules of Policy and Procedures to provide a framework and rules guide for governance, management and operation of the Port.

Commented [CL1]: Framework is discretionary, Rules are mandatory, so opting for Rules

1.5 Reserved Rights. The adoption and maintenance of these Rules of Policy and Procedure (“Rules”) create no vested rights or entitlements. These Rules may be revised, suspended, amended or repealed by majority vote of the Port Commission when acting pursuant to and in compliance with applicable law and these Rules.

2. COMMISSION AND COMMISSIONERS

2.1 Purpose. The purpose of the Commission is to:

2.1.1 Identify and define the purpose, values and vision of the Port, along with the results the Port is to achieve, and to communicate those items in the form of policy;

2.1.2 Make certain decisions as are designated by law; and

2.1.3 Hire, evaluate, and terminate the Chief Executive Officer ~~Executive Director~~.

2.2 Governance. Commission governance addresses:

2.2.1 Strategic leadership more than administrative detail;

2.2.2 Encouragement of diversity in viewpoints;

2.2.3 Collaborative rather than individual decisions;

2.2.4 Future, rather than past or present, direction;

2.2.5 Proactive, rather than reactive, conduct; and

2.2.6 Full transparency to the public.

2.3 Actions. The Commission will:

2.3.1 Produce and maintain written policies that ensure a high quality of governance and clear roles in decision-making between Commission and staff;

2.3.2 ~~Regularly~~ Monitor, and ~~not less than annually~~, evaluate the Chief Executive Officer's Executive Director's performance, based on the then-current adopted Commission policies and the Port's Work Plan, using the Evaluation Process and Procedures of Resolution 2022-19;

Commented [CL2]: References the proposed CEO evaluation updated process in Resolution 202-19.

2.3.3 Adopt, and ~~bi~~-annually review, the Port's Strategic Work Plan;

Commented [CL3]: Confirm name of Plan - Strategic Work Plan or Work Plan

2.3.4 Adopt the Port's annual budget;

2.3.5 Adopt, regularly review, and modify as necessary the Delegation of Authority to the Chief Executive Officer~~Executive Director~~;

2.3.6 Set the rates, rules and regulations for services provided by the Port;

2.3.7 Purchase or dispose of real estate or other property to the benefit of Port District taxpayers/citizens;

2.3.8 Establish Port positions on significant governmental legislation;

2.3.9 ~~Reserve to the Chief Executive Officer management and direction of Port Staff, unless undertaken pursuant to the leadership of the Chief Executive Officer;~~

2.3.10 At all times maintain strict moral, ethical and honest conduct;

2.3.11 At all times treat the Chief Executive Officer, staff and public with respect; and

Commented [CL4]: Note - see 3.6 below - existing language: " and shall conduct themselves with civility and respect at all times with one another, with staff, and with members of the public"

2.3.12 Approve the annual budget of the Port and set the amount of the annual tax levy by December 1 of each calendar year, pursuant to RCW 53.35.045;

2.3.13 Reserve to itself if, how, and the degree to which the Port will use the governmental powers of taxation and eminent domain;

2.3.14 Establish financial policies, including capital formation and debt issuance;

2.3.7 ~~On an bi-annual basis, affirm agreement to comply with these Rules and acknowledge and accept the consequences of failure to do so; and~~

~~2.3.8~~

2.3.92.3.15 Take such other actions as may be required by law.

2.4 Port Financial Goals.

As specified in Port Resolution 2018-27, ~~40-41~~, as may from time to time be amended, the Port Commission reiterates the following budgetary goals and acknowledges the importance thereof:

2.4.1 The Port shall wWork toward funding all operating expenses from revenues from Port operations;

2.4.2 ~~The Port shall fund~~ Fund projects with available resources, not with bonds or loan financing unless otherwise in the best interest of the Port and the communities' long term interest;

2.4.3 ~~The Port shall pursue~~ Pursue fewer projects while selecting projects with the greatest return to the Port and to taxpayers; and

~~2.4.4 The Port shall~~ 2.4.4 Pursue projects with development partners who demonstrate support (e.g. matching funds, political/citizen/taxpayer support, leveraged investment, enthusiasm/goodwill).

2.4.5 Produce and maintain a balanced budget.

2.4.6 Provide a fiscally sound approach to finances by ensuring that expenditures and debt repayments do not exceed available resources in current budget and future years impacted;

2.4.7 Promoting fiscal responsibility among departments.

2.4.8 Focusing on long-term financial planning.

2.4.9 Support intergovernmental cooperation by partnering with entities which demonstrate support; (e.g. matching funds; previous successes; political and taxpayer support; and enthusiasm).

2.4.10 Provide the public with high quality projects and services within a healthy work environment by encouraging efficiency, cooperation, honesty, integrity, and respect; and

~~2.4.5~~ 2.4.11 Adhere to the additional Policies set forth in Chapter 14.2 herein below.

3. COMMISSION CODE OF CONDUCT

3.1 Purpose. The purpose of these Port of Kennewick Rules is to foster public transparency and public accountability concerning the transaction of Port business and to protect, and promote the efficiency of, the Port by prohibiting incidents and areas of conflict. Commissioners shall conduct themselves in accordance with all laws and applicable policies and further shall comply with the following:

~~2.53.2~~ Conflict Avoidance. Commissioners are strictly prohibited by law from entering into or engaging in any activity identified in chapter 42.23 RCW as a conflict of interest with their official duties as a Port of Kennewick Commissioner and shall further avoid conduct that may present an appearance of a conflict of interest.

~~2.63.3~~ Policy Acknowledged. On an annual basis at the first public meeting and in a public forum, each Commissioner shall acknowledge the obligation to disclose any conflicts of interest under chapter 42.23 RCW, and execute a written pledge to do so.

~~2.73.4~~ Disclosure. On a case-by-case basis, each Commissioner will disclose to the other Commissioners in a public forum, any remote conflicts of interest under chapter 42.23 RCW. Disclosure will be noted in the Port's official minutes which are public record. As required by

Commented [CL5]: NEWLY Revised. To match formatting

Commented [CL6]: 2.4.4 through 2.4.10 are from Reso 2018-27

Commented [CL7]: NEW. We will draft a uniform pledge to be taken at the first meeting of each year.

RCW 42.23.040, a Commissioner with such remote interest will not participate in any discussion and/or debate concerning such interest, will not vote on the matter, and will do nothing to influence any other Commissioner concerning their decision on the matter. The foregoing shall also apply to any business owned by a Commissioner's spouse, in the absence of a separate property agreement.

~~2.8—3.5~~ Statement of Financial Affairs. On or before April 15 of each year, or within (14) days of taking oath of office, each Port Commissioner shall file with the Port the number of the Statement of Financial Affairs prepared in satisfaction of the requirements of RCW 42.17.240-.241 and filed with the a copy of a Public Disclosure Commission. Statement of Financial Affairs prepared in satisfaction of the requirements of RCW 42.17.240—
~~2.9—~~.241, which shall be available for public inspection at the first regular Commission meeting after the above referenced dates.

3.6 Conduct as Commissioner. Commissioners shall adhere to these Rules of Policy and Procedure as adopted by the Commission; and shall conduct themselves with civility and respect at all times with one another, with staff, and with members of the public. As fiduciaries of the Port, Commissioners shall make decisions on the basis of public policy and shall demonstrate undivided loyalty to the interests of Port and its taxpayers. This loyalty shall supersede any conflicting loyalty to advocacy or special interest groups.

3.7 Commissioner Knowledge of Policies. Commissioners will become familiar with their individual and joint obligations pertaining to the Port's directive on reporting alleged improper governmental action, including actions required of the Commission regarding complaints by Port employees and/or the public of alleged improper governmental actions and/or employee claims of retaliation for reporting alleged improper governmental actions.

3.8 Representation of Positions. Unless authorized by the Commission at an open meeting or as set forth in Port policy or plan (e.g., an approved plan), an individual Commissioner may not represent a position as being the position of the Port, either in private communications or in a public forum.

3.9 Shared Information and Advocacy. Recognizing that differences may exist among the Commissioners and that a collegial approach to issue resolution is preferred, Commissioner shall make available to fellow Commissioners all information related to Port activities. A Commissioner should make clear the foundation upon which an opinion stands; be candid about any philosophical or political preferences; and recognize and make clear the limits of expertise.

3.10 Representation of Port Position. No Commissioner is authorized, without Commission authorization, to represent the Port with special interest groups, Port tenants, suppliers, vendors, consultants, contractors or others that are or seek to do business with the Port. Unless otherwise authorized by the Commission, a Commissioner shall disclose that the Commissioner's position is not that of the Port or of the Commission when participating in discussions, debates, and forums where the sponsoring group(s) or other participants are identified with a particular perspective on an issue and the Commissioner's participation might put into question both the Commissioner's and the Commission's impartiality. Nothing in this Policy prevents an individual Commissioner from stating a position as that of the individual Commissioner, but not that of the Port or of the Commission.

3.40.3.11 Special Privileges Prohibited. RCW 42.23.070 prohibits, in part, Commissioners from using public office to secure special privileges or exemptions for a Commissioner or others.

3.40.43.11.1 Commissioners must conduct themselves at all times in a manner that leaves no grounds for belief, or even the appearance that information they have gathered on the job has been used for personal gain or for gain of any individual or special interest group, whether such gain is financial or otherwise.

3.40.23.11.2 Commissioners shall avoid any association with individuals or groups organized with an attempt to influence Port policy that will benefit themselves or their cause at the exclusion of the Port at large.

3.44.3.12 Commission-Staff Relations. Commissioners may not attempt to exercise individual authority over the Port or staff, except as explicitly set forth and authorized in Commission policies, including the Delegation Policy referenced in Section 1.3.

3.42.3.13 Open Meetings. In accordance with Chapter 43.20 RCW, Washington state's Open Public Meetings Act, Commissioners shall:

3.42.43.13.1 Not meet as a quorum outside of Commission-called public meetings to hold discussions or make decisions, as defined under Open Public Meetings Act, Chapter 42.30 RCW, regarding the business of the Port.

3.42.23.13.2 Not meet as a Commission quorum with staff outside of a Commission-called public meeting for the purpose of gathering information.

3.12.33.13.3 Understand that the requirements of the Washington Open Public Meetings Act apply to communications via telephone, e-mail, instant messaging or other forms of electronic communications. Any exchange of communication between any two Commissioners may constitute an official meeting of the Commission and be in violation of the Act. Commissioners may request that the Chief Executive Officer or his/her designee send ~~send~~ information to other members of the Commission on an informational basis; however, replies and/or exchanges of Commissioner communications regarding Port business must not occur outside of an official public meeting of the Commission. ~~Any such e-mail sent for informational purposes as described above, by any member of the Commission, shall be sent individually, not as group e-mail.~~ Commissioners will not "reply" or "reply all" to any e-mail received by another member of the Commission.

3.42.43.13.4 Respect the confidentiality appropriate to issues, including personnel, real estate transactions, proprietary matters, and attorney-client privileged communications, including those requirements listed under RCW 42.30.110, Executive Sessions, and including any other confidential information gained by reason of the Commissioner's position. See also RCW 42.23.070(4) prohibiting disclosure of confidential Port information; ~~and.~~

3.13.5 Complete training on Open Public Meeting Act requirements no later than ninety days after taking office. Thereafter, each Commissioner shall maintain Open Public Meeting Act training at no less than every four years while a member of the Commission. Training may be completed remotely with technology including but not limited to internet-based training.

~~3.13.14~~ 3.14 **Commission Disclosure of Economic Associations.** RCW 42.23.070 states in part that “[n]o municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his or her office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein.” Port contracts made in violation of the law are void; and any Port officer violating the law is liable to the Port for a “penalty in the amount of five hundred dollars, in addition to such other civil or criminal liability or penalty.” RCW 42.23.050. The law also prohibits a Commissioner from employment or engaging in any professional activity that may require disclosure of confidential Port information to non-Port interests. RCW 42.23.070. These statutory prohibitions are based on the principle that a Port official may not have divided loyalties. The line between proper and improper conduct may not always be clear, and even unintentional conduct may expose the Port and Port officers and employees to liability. See *City of Raymond v. Runyon*, 93 Wn. App. 127 (1998) (“In spite of well-intentioned attempts to avoid a prohibited conflict of interest,” city commissioner found in violation of law). These Rules ~~attempt to~~ address a Commissioner’s responsibility under law and duty of loyalty to the Port, with other interests. See also, Section 3.2 herein.

~~3.13.14.1~~ 3.14.1 Under ~~e~~Chapter 42.23 RCW, no Commissioner may have an economic association (affiliation, involvement, or interest), directly or indirectly, that may conflict with the Commissioner’s official duties as a Port Commissioner. However, Commissioners may engage in other employment or activity only so long as it does not interfere or conflict with their duties as a Commissioner.

~~3.13.23.14.2~~ 3.14.2 In order to avoid inadvertent violation of law, and consistent with the Port’s policy for its officers and employees, on or before April 15 of each year, or within fourteen (14) days of taking office, each Port Commissioner, shall file with the Port a written statement identifying any current or prospective economic relationship, whether direct or indirect, which could be a conflict of interest, a remote interest or give rise to an appearance of a conflict of interest with the Port. In addition, each Port Commissioner shall in the written statement disclose other employment and/or business relationships in order that the Port may confirm that there are no Commissioner conflicts or potential conflicts of interest with current or prospective Port activities. The statement shall include the name of the employer~~ing~~ or business, the nature of services rendered, the time commitments, the location of the performance of such services and the amount of compensation (and expense reimbursement) received for such services. This Section 3.14.2 shall also apply to any employment or business of a Commissioner’s spouse, in the absence of a separate property agreement.

~~3.13.33.14.3~~ 3.14.3 ~~Each~~The Commissioner shall declare his or her intention to refrain from deliberations and voting on issues related to the person or entity in such relationship. This requirement may be extended by Commission action to any individual or entity that, in the judgment of the Commission, could represent the potential for or the appearance of a conflict of interest. Even with disclosure, chapter 42.23 RCW may prohibit the Commission from acting where in the face of a conflict of interest ~~exists.~~

3.14.4 A Commissioner shall not receive reimbursement for expenses, per diem, or other Port payment for activities (e.g., travel, meals and other costs) when the Commissioner is

engaged in or participating for both the Port and another ~~Entity~~.

~~3.13.43.14.5~~ Commissioners acknowledge that the Washington State Public Records Act, chapter 42.56 RCW, applies to all records pertaining to the business of the Port. Commissioners shall comply with all mandatory requirements of that law.

4. FULL TRANSPARENCY IN PORT ACTIONS

4.1 ~~Compliance with These Rules is policy~~ shall ensure full, fair, and open discussion of matters of public importance, with opportunity for public participation and media coverage.

4.2 With respect to any quasi-judicial matter before the Commission, or reasonably expected to come before the Commission, ~~it is the policy of the Port Commission that no~~ Commissioner shall:

4.2.1 Have contact with any person, either oral, written, electronic or otherwise communicated, except in an open, public Commission meeting; and

4.2.2 Receive any information or evidence except as a part of the public record at a Commission meeting.

4.2.3 If a Commissioner is not able to avoid contact with parties outside of an open public Commission meeting or receipt of information from parties outside of an open public Commission meeting, the Commissioner shall disclose at the next public meeting, the full content of the contact made or information received.

4.2.4 ~~Commissioner~~ Aavoidance of communications described above is preferred over relying on the public disclosure remedy because an incomplete or inaccurate conveyance of the contact, even if inadvertent, may bias the outcome and subject the Commission action to challenge.

4.3 ~~The Commission shall facilitate that A~~all information ~~sought to be any person or entity would like~~ distributed to Commissioners by the public should be first provided to Port staff; staff will then consistently distribute the information to all Commissioners and file the information as appropriate.

5. REPORTING MISCONDUCT

5.1 General. The Port is committed to lawful and ethical behavior in all of its activities and requires its staff and Commissioners to conduct themselves in a manner that complies with all applicable laws, regulations and ~~these Rules is policy~~. Complaints against staff (other than the ~~Chief Executive Officer Executive Director~~) shall be resolved by the Chief Executive Officer~~Executive Director~~, according to applicable law and the Port's Policies and Procedures manual. Complaints against the ~~Chief Executive Officer~~Director shall be resolved by the Port Commission according to applicable contract, Delegation of Authority and ~~these Commission Rules of Port Policies and Procedures, manual~~. Complaints against Commissioners shall be resolved as set forth below.

5.2 Complaint. If any person believes that a Commissioner has engaged in misconduct, the ~~Chief Executive Officer Executive Director~~ shall investigate consistent with Section 5.3 herein and report to the Commission. No employee will be discharged, threatened, or discriminated

Commented [CL8]: NEWLY RENUMBERED. Former 4.4 and 4.5 relate to quasi-judicial actions (rare) and so are renumbered to be a sub set of 4.2.

against in any manner for following up on any complaint or for reporting what they perceive to be misconduct. All complaints must include a description of the alleged misconduct. The proceedings shall be treated confidentially, including the name of the complainant, except to the extent required to complete any investigation or as required pursuant to the Public Records Act, and in the event that an action is taken.

5.3 Initial Determination. Based upon the complaint, and only following investigation and with the advice, ~~and counsel~~ and concurrence of Port ~~eGeneral Legal Counsel~~ or special legal counsel ("Port General Legal Ceounsel"), the Chief Executive Officer ~~Executive Director~~ shall determine whether sufficient evidence exists to proceed with an investigation. If the Chief Executive Officer ~~Executive Director~~ determines that insufficient evidence exists and Port General Legal Counsel concurs, the complaint shall be dismissed. Otherwise, the Chief Executive Officer shall proceed as follows.

5.4 Investigation. If an investigation is deemed warranted, the Chief Executive Officer ~~Executive Director~~ shall recuse himself from the process and delegate all further steps to Port Counsel, and/or an investigator retained for such purpose by Port General Legal Ceounsel ("Investigator"). Port eCounsel shall inform the party subject of the complaint ("Respondent") in writing that a complaint has been filed and that an investigation will take place. Port Counsel shall provide a copy of the complaint to the Respondent and the Respondent shall have a reasonable time to prepare and submit a response in writing. Port General Legal -Ceounsel or Investigator may seek additional information regarding the matter from the complainant, the Respondent and/or relevant third parties. In conducting the investigation and evaluating all evidence, the Port's eGeneral Legal Counsel and or Investigator shall presume that the Respondent acted ethically and shall determine that an act of professional misconduct has occurred only upon a finding of substantial evidence of such misconduct.

5.5 Determination and Recommendation. Port General Legal Ceounsel and or Investigator, if one is retained, shall evaluate the complaint and issue a decision within thirty (30) days of receiving all relevant evidence, that the complaint is substantiated or unsubstantiated. If Port eGeneral Legal Counsel finds misconduct and the complaint substantiated, Port General Legal Counsel shall prepare a report to Chief Executive Officer ~~Executive Director~~ and the Commission which shall set forth the basis for the decision and a recommended action; otherwise, the complaint shall be dismissed.

5.6 Notification of Determination. ~~Following receipt of the decision and recommendation of Port counsel, the Commissioners shall promptly hear, consider and vote upon the recommended action. The complainant and Respondent shall be notified of the action in writing and shall have the right to be heard before the Commission. The Complainant and Respondent(s) shall be notified in writing of the determination and recommended action; or, of the dismissal.~~

Commented [CL9]: Updated from Resolution 2019-10, and further revised

5.7 Hearing and Decision upon Recommended Action. The Complainant and Respondent(s) shall have the right to be heard before the Commission or, if pending before a Neutral as that term is defined below, to be heard before the Neutral. If the complaint received is against one Commissioner, following receipt of the Port General Legal Counsel's determination and recommended action from Port counsel, the remaining Commissioners who are not a party to the complaint shall promptly hear, consider and vote upon the recommended action. If the complaint received is made by one or more of the Commissioners against one or more Commissioner, the determination and recommended action of Port General Legal Counsel shall be

submitted to a mutually agreeable neutral selected from the panel of neutrals available at the Seattle office of Judicial Arbitration and Mediation Services (“JAMS”) or Judicial Dispute Resolution (“JDR”) (“Neutral”), or other similarly qualified third party Neutral as agreed upon by the Complainant and the Respondents. If the parties cannot agree upon the selection, the Port Counsel presiding judge for Benton County Superior Court shall select a Neutral from the panel available at the Seattle office of JAMS or JDR. The Neutral shall determine the hearing process. The Neutral shall promptly hear, consider and issue a decision regarding the recommended action within 30 days of the hearing.

5.8 Reconsideration. A decision (whether by Commission vote or issued by a Neutral) is subject to reconsideration upon written request by Complainant or Respondent(s). The sole ground for reconsideration shall be that the party seeking reconsideration has new, relevant information which was not available for consideration by Port counsel. A party seeking Reconsideration based on new information shall file a written Reconsideration request within fifteen (15) days of the date of the notice of decision. The reconsideration request shall state the reasons in support and include the new information not previously available for Port Counsel consideration and explain why the new information was not previously available. Following review of the entire investigative file, the decision and recommendation of the Port Counsel and the new information, the Commission or, if applicable, the Neutral, shall, within fifteen (15) days of receipt of such new information, hear, consider and render a final decision which may not be further appealed. The parties shall be notified of the final decision, and any action required by the final decision shall be implemented immediately.

~~Reconsideration. A decision is subject to reconsideration upon written request by a respondent. But the sole ground for reconsideration shall be that the Respondent has new, relevant information which was not considered by Port counsel. Reconsideration A respondent having new information to submit to the Commissioners may, within fifteen (15) days of receipt of the written notice of determination, file with the Commission a written request for reconsideration stating the reason and including the new information not considered by the Port counsel. Following review of the entire investigative file, the decision and recommendation of the Port~~

5.9 Sanctions. If a Complaint is upheld, the Commission may invoke Censure and/or reprimand of the Respondent, forfeiture of officer position on the Commission and or removal from may be invoked with respect to Commissioner misconduct, in addition to reassignment of committee assignments and other actions allowed pursuant to state law.

5.10 Public Notification. Unless otherwise determined by the Commission in a particular matter, it shall be standard procedure to publish, in a manner deemed appropriate by the Commission, the fact of any sanction.

5.11 Other Remedies Reserved. Any action taken by the Commission or Neutral shall not prevent other legal action that may be available under law. The Port shall not indemnify or defend any Commissioner found to have committed charged with misconduct, except as otherwise provided under Section 18.

6. COMMISSION MEETINGS

6.1 Officers. There shall be three Commission officers: a president, a vice president and a secretary.

6.1.1 Terms. The terms of office for each officer shall be two years or until his/her successor is elected. Commissioners may serve consecutive two-year terms

6.1.2 Election. The officers shall be elected at the first regularly scheduled Port Commission meeting in January in even years. Newly elected officers shall take office effective the next regularly scheduled meeting following the election, unless otherwise agreed by the Commission.

6.1.3 Special Elections. By affirmative vote of 2/3 of the Commission officers, a special election of officers may be held at any regularly scheduled Port Commission meeting.

~~6.1.3.1.4~~ Removal from Commission Officer Position. By affirmative vote of 2/3 of the Commission, and upon a showing of just cause, a Commissioner may be divested of his or her Commission officer position. "Just Cause" includes but is not limited to a violation of these Commission Rules.

6.2 Presiding Officer. The Presiding Officer at all meetings of the Commission is the President, and in the absence of the President, the Vice President will act in that capacity.

6.3 Presiding Officer Duties. The Presiding Officer shall:

6.3.1 Preserve order and decorum for in the Commission meeting chambers;

6.3.2 Observe and enforce all rules adopted by the Commission;

6.3.3 Decide all questions on order raised, in accordance with these Rules and the most current edition of Robert's Rules of Order, subject to appeal by a Commissioner;

Commented [CL10]: NEW - added reference to the most current version of Roberts Rules of Order

6.3.4 Recognize Commissioners in the order in which they request the floor. Except as otherwise set forth herein, the Presiding Officer, as a Commissioner, shall have only those rights, and shall be governed in all matters and issues by the same rules and restrictions as other Commissioners; and

6.3.5 Have the authority to appoint Commissioners or the public to serve on ad hoc committees, task forces and any advisory boards, with input from fellow Commissioners.

6.4 Regular Meeting. Port meetings are held on the second and fourth Tuesdays of each month in the Commission Chambers, 350 Clover Island Drive, Suite 200, Kennewick, Washington at 2:00 p.m.

6.5 Special Commission Meetings. A special public meeting of the Commission may be called by the President or by any two Commissioners. Any request and subsequent special meeting notices shall state all agenda items the subjects (e.g., agenda items) to be considered at such special meeting. and Commissioners shall not discuss, consider or take final action upon any other subject not appearing on the special meeting agenda. shall be acted upon.

The Port Administrative Assistant shall carry out provide the required published and posted notice required for of special Commission meetings pursuant to applicable law.

6.6 Quorum. At all meetings of the Commission, a majority of the Commission (two members) constitutes a quorum for the transaction of business.

6.7 Proceedings in the Absence of a Quorum. ~~The Commission or less than a quorum may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. If all Commission members are absent from any regular or adjourned regular meeting the Port Administrative Assistant may declare the meeting adjourned to a stated time and place. He or she shall cause a written notice of the adjournment to be given in the same manner as provided in RCW 42.30.080 for special meetings, unless such notice is waived as provided for special meetings. Except in the case of remote meetings without a physical location as allowed by law, whenever any meeting is adjourned a copy of the order or notice of adjournment shall be conspicuously posted immediately after the time of the adjournment on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule. but a lesser number may adjourn from day to day or until the time of the next regular meeting.~~

6.5.16.7.1 In the absence of a quorum any business transacted is null and void.

6.7.2 Even in the absence of a quorum, the Commission may move to 1) fix the time to adjourn 2) adjourn, 3) recess the meeting, and/or 4) take measures to obtain a quorum. A motion that absent members be contacted during a recess would represent a measure to obtain a quorum.

6.5.26.7.3 The prohibition against transacting business in the absence of a quorum can not be waived even by unanimous consent. If there is important business that should not be delayed until the next regular meeting, the Commission should fix the time for an adjourned meeting and then adjourn.

6.5.36.7.4 If there is no quorum at the beginning of the meeting, the President may wait a reasonable amount of time for a quorum to assemble. If a quorum cannot be obtained, the president calls the meeting to order, announces the absence of a quorum, and may take action as described in Section 6.7.2 herein above.

6.5.46.7.5 If the President notices the absence of a quorum, it is the President's duty to declare the fact before taking any further action.

6.66.8 Recording Proceedings. The Port Administrative Assistant shall maintain ~~a~~ recorded account of all open public proceedings of the Commission in accordance with statutory requirements, and all such records shall be available for public inspection. If feasible, the recording of the meetings should be available online for a minimum of six months. Port meeting minutes can be corrected but shall not be revised without a majority affirmative vote of the Commission at a regularly scheduled Commission meeting.

6.76.9 Call to Order. The Presiding Officer shall call each meeting to order. The Presiding Officer will announce the attendance of Commissioners and indicate any Commissioner who is not in attendance.

Commented [CL11]: Per 2022 updates to OPMA

Commented [CL12R11]: RCW [42.30.090](#)

Commented [CL13]: NEW

Commented [CL14R13]: 6.7.1 through 6.7.5 are new additions

Commented [CL15]: RCW [42.30.035](#)

Commented [CL16R15]: And RCW 42.30.220 - New for 2022

Commented [CL17]: NEW typo corrected.

6.10 Remote /Electronic Meetings. Participation by Telephone. The Commission notes that it has successfully held remote meetings after March 1, 2020 and believes that remote meetings have value by increasing transparency and allowing broader public participation and attendance. As allowed by state law, the Commission authorizes continued use of remote meetings, conditioned upon compliance with the requirements of this section.

Commented [CL18]: New law as of 2022 RCW 42.30.230(6).

6.10.1 During a remote meeting, Commissioners, the Chief Executive Officer, staff, and the public may appear or attend by phone or by other electronic means that allows real-time verbal communication without being in the same physical location and includes proper accommodation for public participation.

6.10.2 Remote meetings may be conducted through the use of Internet or telephonic meeting services that support voting and audio and or visible displays identifying those participating, identifying those seeking recognition to speak, showing (or permitting the retrieval of) text of pending motions, and showing the results of votes. Participation by such means shall constitute presence in a meeting for purposes of establishing a quorum, voting, attendance and for all other purposes.

6.10.3. In addition, for a remote meeting, Port must provide an option for the public to listen to the proceedings telephonically or by using a readily available alternative in real-time that does not require any additional cost for participation. Free readily available options include, but are not limited to, broadcast by the Port on a locally available cable television station that is available throughout the Port district or other electronic, internet, or other means of remote access that do not require any additional cost for access to the meeting, or via other electronic means of remote access.

6.10.4. The names of those wishing to address the Commission by any means of voice only must be announced and their presence noted in the minutes of the meeting.

Commented [CL19]: Most of suggested text was added here, some modifications made to conform to OPMA. (See RCW 42/30.040).

6.10.5 Telephonic and Electronic meeting participation shall be limited to instances where a member, alternate, or staff member is unable to participate in person due to adverse weather conditions, illness, unavoidable conflicts, inability to travel to the meeting location, or other similar situations.

Commented [CL20]: NEW

6.10.6 Commission and staff members who are unable to be present in person at any meeting shall have the right to participate by telephonic or other internet service, subject to any limitations established in these Rules to govern such participation.

Commented [CL21]: NEW

6.10.7. These electronic meetings of the Commission shall be subject to all rules adopted by the Commission to govern them, which may include reasonable limitations on, and requirements for Commission members' participation. Any such rules adopted by the Commission shall supersede any conflicting rules in parliamentary authority but may not otherwise conflict with or alter any rule or decision of the Commission.

Commented [CL22]: NEW

6.8 strongly believes that a Commissioner's first priority shall be to the District's constituents as a whole and that this obligation is best fulfilled by direct, face to face participation in public meetings rather than via telephone or other medium. Such policy provides access by the public to the Commission, provides for better understanding by the public of the deliberative process, minimizes miscommunication, ensures that each Commissioner sees all applicable

~~documents and sees all in attendance. Therefore, the Commission, in furtherance of its long-standing policy of transparency in governance, hereby prohibits the use of attendance at Commission meetings via telephone or other media.~~

6.11 Commissioner Attendance at Meetings. Commissioners shall inform the President or ~~Executive Director~~ Chief Executive Officer if they are unable to attend any Commission meeting, or if they will be late to any meeting. A majority vote is required to excuse any Commissioner's absence. Unless excused, pursuant to RCW 53.12.140 a Commissioner forfeits office by nonattendance at meetings of the Commission for a period of sixty (60) days. The ~~Executive Director~~ Chief Executive Officer shall maintain a record of Commissioner attendance at Commission, and other meetings, to which a Commissioner is assigned or scheduled to attend. Commissioner participation by remote means shall constitute attendance.

6.12 Commission Meeting Staffing. The ~~Executive Director~~ Chief Executive Officer shall attend all meetings of the Commission, unless excused. At the discretion of the Chief Executive Officer ~~Executive Director~~, other staff members shall attend. The ~~Executive Director~~ Chief Executive Officer may make recommendations to the Commission and shall have the right to take part in the discussions of the Commission; but shall have no vote.

6.13 General Conduct of Business.

6.13.1 The Commission meeting shall be conducted pursuant to an agenda, which shall indicate items requiring Commission action.

6.13.2 President ~~as Presiding Officer of the Port Commission~~ will introduce each agenda item, the issue, stating whether action will be taken on the ~~item~~ issue, whether the ~~item~~ issue is introduced for discussion only or whether other results are anticipated.

6.13.3 Port staff will briefly discuss the agenda item ~~issue~~.

6.13.4 If a technical report by a consultant or other is to be presented, the presenter will provide a summary of the technical report, generally not to exceed 15 minutes.

6.13.5 At the conclusion of the technical report, staff will return the issue to the ~~Presiding Officer of the Commission~~ ent of the Commission for action. ~~A n y~~ The Commissioners may ask staff, any consultants or the public to briefly clarify any matter presented.

6.14 Public Comment. Public comment shall be permitted at Commission meetings ~~only~~ in accordance with these Rules and as required by RCW 42.30.240, as it now exists or as may be amended in the future ~~established procedures~~. Comments shall be received at the beginning of each meeting, and at the end of each meeting, as identified on the agenda. Either the President or staff may read the following guidelines into the record: The public comment required under this section may be taken orally at a public meeting, or by providing an opportunity for written testimony to be submitted before or at the meeting. When the Port receives written testimony intended for and accepted by the Commission, this testimony must be distributed to the full Commission. The deadline for the submission of written testimony is not less than 24 hours prior to the meeting at which Commission action will be taken. Upon the request of any individual who will have difficulty attending a Commission meeting by reason of disability, limited mobility, or for any other reason that makes physical attendance at a meeting difficult, the Commission shall, when feasible, provide an opportunity for that individual to provide oral comment at the meeting

Commented [CL23]: New 2022 requirement RCW 42.30.240

remotely if oral comment from other members of the public will be accepted at the meeting.

6.14.1 Speakers attending in person shall move to the lectern and shall comment only after being recognized by the Presiding Officer. ~~ent;At the conclusion of in-person public comments, the Presiding Officer will request comments from members of the public participating remotely.~~

6.14.2 Speakers shall state their names and addresses prior to addressing the Commission;

6.14.3 The President may allocate available time among individuals wishing to comment. Generally, the time shall be 3 minutes for each speaker;

6.14.4 Groups are encouraged to express their views through a single spokesperson rather than individually;

6.14.5 Speakers shall limit themselves to matters regarding the issue of concern;

6.14.6 Speakers shall not repeat remarks or points of view made by prior speakers;

6.14.7 The ~~Presiding Officer ent~~ may overrule impertinent, redundant or disruptive comments; Applause or other interruptions disturbances are discouraged;

6.14.8 All remarks should be directed to the Presiding Officer~~ent~~; and

6.14.9 Individuals should not expect the Commission, staff, consultants, other speakers or any other person, to respond to their comments. Instead, the Commission may direct the matter to staff for comment at a future meeting or for Commission consideration at a future meeting.

6.15 Executive Sessions. Executive Sessions shall be held in accordance with the provisions of the Washington State Open Public Meetings Act. An Executive Session is a Commission meeting that is closed to the public and is attended by ~~except to~~ the Commission, ~~Executive Director~~ Chief Executive Officer and others that may be authorized. ~~The public is restricted from attendance.~~ Executive Sessions may be held during Regular or Special Commission meetings and will be announced by the President. Before convening an Executive Session, the President shall announce the purpose of the session, the specific section of RCW 42.30.110(1) by which the session is authorized, meeting and the anticipated time when the session will be concluded, and whether actin is expected after and as a result of the Executive session. Should the session require more time, the Presiding Officer or his or her designee a publicshall announce announcement shall be made that the executive session is being extended to a time certain. The purpose for the Executive Session shall be noted in the meeting minutes.

6.16 Commission Discussion. All Commission discussion shall be guided by the most current version of -Robert's Rules of Order to guide meeting procedures in the absence of a governing Commission Bylaw or state law. Robert's Rules of Order, Newly Revised. The The Port General Legal Counsel Attorney shall assume the additional duty of Parliamentarian.

6.17 Media Representation at Commission Meetings. All public meetings of the Port shall be open to the media, freely subject to recording by radio, television, electronic, and

Commented [CL24]: RCW 43.20.110

Commented [CL25]: NEW reference is added to the most current version of Roberts Rules of Order

photographic services at any time, provided that such arrangements do not interfere with the orderly conduct of the meeting, as determined by the Presiding Officer.

7. AGENDA PLANNING

The work of the Commission is accomplished in public meetings and all proceedings of the Commission shall be by motion or resolution, recorded in its minute books, which shall be public records. The agenda of the public meeting identifies in general terms the topics to be considered by the Commission.

7.1 Placing Item on the Agenda. Items may be placed on either the business agenda or on the consent agenda. An item may be placed on the preliminary Commission meeting agenda by any Commissioner or by the Chief Executive Officer ~~Executive Director~~.

7.2 Agenda Preparation. The ~~Executive Director~~ Chief Executive Officer shall prepare a preliminary agenda for each Commission meeting. The preliminary agenda shall set forth a brief general description of each item to be considered by the Commission. The ~~Executive Director~~ Chief Executive Officer shall promptly forward the preliminary agenda to the Presiding Officer for review. The Presiding Officer shall have the option to delete any item from the preliminary agenda. The Presiding Officer shall, at the next commission meeting, report any deleted item to the full Commission and the full Commission shall determine whether the item shall be placed on a subsequent agenda.

7.3 Agenda Materials. Agenda materials will be available on the Friday prior to the Commission meeting. Agenda materials will be delivered to Commissioners by delivery or electronic means as preferred by each Commissioner. The Chief Executive Officer and his or her staff shall strive to provide to the Commissioners all subjects to be considered at the Commission meeting, including contracts, call for bids, and other items no later than the Friday preceding the Tuesday meeting, if reasonably possible. Each item for which action is requested of the Commission shall have a written explanation and full briefing of all information necessary for the Commission's review, discussion, and action on said business item.

Commented [CL26]: NEW - Typo corrected

7.4 Adding an Item to a Published Agenda. An item may be placed on a regular Commission meeting agenda after the agenda is closed and the notice published, if the Commissioner or ~~Executive Director~~ Chief Executive Officer explains the necessity and receives a majority vote of the Commission at a public meeting.

7.5 Agenda Item Order. The Presiding Officer may, with the concurrence of the Commission, address agenda items out of order.

7.6 Consent Agenda. All matters listed under Consent Items have been distributed to each member of the Commission for review, are considered routine, and will be enacted by the motion of the Commission with no separate discussion. If separate discussion is desired, that item may be removed from the Consent Items and placed under Action Items or tabled for consideration at a future meeting. Items placed on the consent agenda may be moved to the business agenda upon a motion passed by the Commission during a Commission Meeting and prior to the vote to approve the consent agenda. The moved item will be placed on the business agenda for further discussion.

8. ROLE OF THE COMMISSION PRESIDENT

The President of the Commission shall:

8.1 Ensure that the Commission jointly and consistently adheres to its own rules and policies, and those imposed upon it by the laws of the State of Washington.

8.2 Ensure that deliberation is fair, open and thorough, but also timely, orderly and stays on topic. The President of the Commission shall preside over and facilitate all Commission Meetings in accordance with these governance principles and the most current version of Robert's Rules of Order, as needed.

8.3 Assume responsibility of the Commission that is not specifically assigned to another Commissioner.

8.4 Call Special Meetings of the Commission in the event of a business need as provided for by applicable law.

8.5 Establish ad hoc advisory and standing committees, and appoint members to same.

8.6 Schedule and coordinate the annual ~~process of evaluation of~~ the Chief Executive Officer ~~Executive Director~~.

8.7 Limit Have no authority to supervise or administratively and direction of the Executive Director-Chief Executive Officer or Port staff, solely to the apart from authority expressly granted by the Commission.

8.8 Be the spokesperson for the Commission in expressing a view held jointly by the Port Commission, unless another spokesperson is named by the full Commission. However, individual Commissioners shall have the right to voice personal opinions differing from decisions taken or under review by the Port Commission as a whole as long as they are stated as such.

9. ROLE OF THE COMMISSION VICE-PRESIDENT

The Vice-President of the Commission shall:

9.1 Perform such duties as are assigned by the President.

9.2 Have all the power and duties of the President in the absence or inability of the President to act.

9.3 Have all the powers and duties of the Secretary in the absence or inability of the Secretary to act, when not acting as the President.

10. ROLE OF THE COMMISSION SECRETARY The Secretary of the Commission shall:

10.1 Attest all contracts, bonds, deeds, leases and other instruments and documents duly authorized by the Commission unless otherwise delegated by the Commission.

Commented [CL27]: NEW reference is added to the most current version of Roberts Rules of Order

10.2 Perform all duties incident to the office of Secretary as may from time to time be required by law or assigned to such office by motion, rule or resolution of the Commission.

10.3 Have all of the powers and duties of the President in the absence or inability of both the President and the Vice President to act.

10.4 Have the option of delegating the obligations and duties of Secretary to the appropriate Port staff member for implementation.

11. COMMISSION COMMITTEES

11.1 General. ~~The Commission President may establish ad hoc advisory and standing committees.~~ All Commission committees should include designation of members, chair and a charter describing the committee's purpose. All Commission Committees serve in an advisory capacity only. The Commission President will review each committee at least annually to determine whether the committee should continue.

11.2 Committee Roles and Responsibilities.

11.2.1 Committees will assist the Commission by gaining education, considering alternatives and implications, and preparing policy alternatives.

11.2.2 Commission committees or any individual Commissioner may not speak or act for the Commission, except when formally given such authority for specific and time- limited purposes.

11.2.3 Commission committees cannot exercise authority over staff or interfere with the delegation from the Commission to the Chief Executive Officer ~~Director~~.

11.2.4 Participation in committee meetings shall be in compliance with the provisions of the Open Public Meetings Act, when two or more Commissioners are present, or the committee is acting for the Commission. In such event, the committee meeting must be properly noticed as a public meeting.

11.2.5 These policies apply to any group which is formed by action of the Commission President, whether or not it is called a committee.

12. COMMISSION AND PORT ACTION

12.1 Only decisions of the Commission acting as a body are binding upon the Port and Port staff.

12.2 In the case of Commissioners requesting information or assistance without Commission authorization, the ~~Executive Director~~ Chief Executive Officer and staff must refuse such requests that require, upon evaluation by the Chief Executive Officer ~~Director~~, a material amount of staff time or funds, are disruptive to the Port, or which may involve a conflict of interest between the Port and the Commissioner requesting the information or assistance.

12.3 Commissioners individually may communicate directly with Port employees or contractors for the purpose of inquiry only. Commissioners shall, on business matters, deal with staff through the Chief Executive Officer ~~Director~~. However, the Commission as a body and the

Commissioners individually do not give direction to persons who report directly or indirectly to the Chief Executive Officer Director. If an individual Commissioner is dissatisfied with the response from the Executive Director Chief Executive Officer or staff, the Commissioner may seek resolution through the Commission as a body.

12.4 The Commission as a body and the Commissioners individually will refrain from evaluating, either formally or informally, the job performance of any Port employee, other than the Chief Executive Officer Director, except when approving compensation and benefits in the course of budget or employment contract considerations.

13. PORT COMMISSION & STAFF ROLES AND RESPONSIBILITIES

13.1 General Roles. The Commission is the Port's governing authority. All authority not expressly delegated to the Chief Executive Officer is reserved to the Commission. The Commission sets Port policies and priorities. -and policy maker. The Chief Executive Officer Director and Port staff execute implement and administer the Commission's policies. The Port of Kennewick has a Commission-Executive Director Chief Executive Officer form of governance. With this structure, the Port Commission's role is to establish port policies and priorities. The Commission hires an Executive Director to implement those policies and undertake the administration of the organization. The Executive Director Chief Executive Officer is hired by the Port Commission to enforce its directives, to direct the daily operations of Port governance, to prepare and monitor the budget, and to implement the policies and programs initiated by the Port Commission. The Executive Director Chief Executive Officer is responsible to the Port Commission as a board, rather than to individual Commissioners, and directs and coordinates all other employees. The Port Commission authorizes priorities and projects positions through the budget process; based upon that authorization, the Executive Director Chief Executive Officer is responsible for hiring all personnel.

13.2 Commissioner's Role. [See also, Section 2.] The Executive Director Chief Executive Officer is authorized to make recommendations on policy matters to the Commission and the Commission retains the authority to accept, reject, or amend the recommendations. Individual Commissioners may not intervene in staff decision-making, scheduling of work, and executing department priorities. This is necessary to allow staff to execute priorities given by the Executive Director. All Commissioners with concerns affecting the Port of Kennewick should address those concerns with the full Commission or with the Chief Executive Officer Executive Director.

No Commissioner shall direct the Executive Director Chief Executive Officer to initiate any action, prepare any report, or initiate any project or study without the authorization of a majority of the Commission. Commissioner requests for information shall be made to the Chief Executive Officer Director, unless otherwise determined by the Chief Executive Officer Director. Commissioners needing staff assistance shall work through the Chief Executive Officer Executive Director.

13.3 Chief Executive Officer's Director's Role.

13.3.1 The Executive Director Chief Executive Officer is the chief administrative officer of the Port. The Executive Director Chief Executive Officer is directly accountable to the Port Commission for the execution of the Port Commission's policy directives as set forth in the Delegation Policy and for the administration and management of all Port activities and staff.

13.3.2 The ~~Executive Director~~ Chief Executive Officer is ~~the administrator and manager of all Port activities and staff, and~~ the information liaison between Commission and Port staff. Requests for information from Commissioners are to be directed to the ~~Executive Director~~ Chief Executive Officer and will be responded to promptly. The information requested will be copied to all members of Commission so that each member may be equally informed. The ~~Executive Director~~ Chief Executive Officer will provide staff support for Commissioners as appropriate in their official roles.

13.3.3 In addition to regular, comprehensive memoranda written by the ~~Executive Director~~ Chief Executive Officer directly to the Port Commission concerning aspects of Port operations (exclusive of confidential personnel issues), all Commissioners shall receive copies of correspondence received by the ~~Executive Director~~ Chief Executive Officer that will assist them in their policy-making role. The ~~Executive Director~~ Chief Executive Officer also provides other documents to the Commission on a regular basis, such as status reports, executive summaries, and minutes of meetings.

13.3.4 The ~~Executive Director~~ Chief Executive Officer shall have an open-door policy which allows individual Commissioners and the public to meet with the ~~Executive Director~~ Chief Executive Officer on an impromptu, one-on-one basis. Such meetings are highly encouraged. No Commissioner, person or special interest group shall abuse the open-door policy.

13.3.5 In addition to the above, the Chief Executive Officer's job description includes the following:

13.3.6 The Chief Executive Officer reports to the Commission, with duties including but not limited to the responsibilities and specific duties described below, together with such other powers and duties as the Commission may specify via adopted work plans and Delegation of Authority. The Chief Executive Officer shall provide the services hereunder in accordance with his independent and professional judgment and in accordance with his own means and mode of performance. There shall be a presumption that the Chief Executive Officer acted on an informed basis, in good faith, and within the scope of his or her employment. The list below is a codification of existing duties, custom and practice.

13.3.7 The Chief Executive Officer should:

- Work with the Commission to ensure that the mechanisms for effective governance are in place and that the Commission is alert to its obligations to the Port, employees and the public.
- Assist the Commission in fostering ethical, transparent and responsible decision making.
- Work with the Commission and senior management to monitor progress on strategic planning and commission policy implementation, and regularly report on progress to the Commission.
- Take all reasonable steps to ensure that Commission policy is executed as effectively as possible.
- Participate in the development and implementation of strategic initiatives and provide oversight on strategic orientation of the Port.
- Ensure the quality, quantity and timeliness of the information that goes to the Commission and ensure that all Commissioners receive the information

Commented [CL28]: In the absence of a job description, this provides a codification of existing duties, custom and practice

- required for the proper performance of their duties.
- Take reasonable steps in consultation with the Commission President to ensure that business set out in the agendas of Commission meetings is discussed and brought to resolution, as required, and that sufficient time is allowed during Commission meetings to fully discuss agenda items.
 - In coordination with the Commission, Port Human Resources personnel and Port Counsel, actively participate in the annual Chief Executive Officer performance evaluation which will include a performance discussion with candid input and feedback.
 - Work to ensure that the Port promotes equality and fairness for its staff and contract personnel.
 - Foster ongoing formal and informal communication with and among Commission members.
 - Ensure that Port employees work as a team, efficiently and productively.
 - Foster strong relationships between the Port and key stakeholders in the community.
 - Assist the Commission in the development of the Commission's knowledge and capabilities by playing a central role in orientation of new Commission members and providing continuing education opportunities for the entire Commission.
 - Act as a spokesperson for the Port related to execution of established port policy.

13.4 **Staff Role.** The Commission recognizes the primary functions of staff as 1) executing the policies and actions taken by the Commission as a whole, and 2) keeping the Commission informed. Staff is obligated to take guidance and direction from the ~~Executive Director~~ Chief Executive Officer or appropriate supervisor. This direction follows the policy guidance from the Port Commission to the ~~Executive Director~~ Chief Executive Officer through the Delegation Policy. Port staff will, acting through the ~~Chief Executive~~ Executive Director, make every effort to respond in a timely and professional manner to all individual Commissioner's requests for information or assistance; providing, in the judgment of the ~~Chief Executive Officer~~ Director, the request is not of such magnitude (in terms of workload, resources, or policy) that it should instead be assigned to the ~~Executive Director~~ Chief Executive Officer through the direction of the full Port Commission.

13.5 **Summary.** The following is a brief summary from the Washington Public Port Association ("WPPA") Commissioner Resource ~~Guide, and~~ Guide and identifies parallel leadership roles and responsibilities.

Port Commission

Governs:
 Guides
 Directs
 Decides what
 Requests information
 Considers issues
 Creates, reviews and adopts policy
 Reviews and monitors plans
 Monitors progress
 Contracts with personnel
 Approves evaluation criteria, procedures

Executive Director

Administers:
 Operates
 Manages
 Decides how
 Seeks and provides information
 Provides recommendations
 Recommends and carries out policy
 Implements plans
 Reports progress
 Supervises hiring process, practices
 Supervises and evaluates personnel

Reviews and approves budget
Represents public interest

Formulates budget
Acts in the public's interest

14. BUDGET AND PROCUREMENT AUTHORITY

14.1 General. By resolution, the Commission shall set forth the authority of the ~~Executive Director~~ Chief Executive Officer to manage and expend Port funds in accordance with financial policies and budgetary limits. Procurement of goods and services shall take place in accordance with applicable legal requirements in a fair, competitive and inclusive manner to maximize the benefit to the Port's taxpayers/customers.

14.2 Financial Policies. The Commission, by resolution, shall adopt financial policies that provide guidance to the ~~Executive Director~~ Chief Executive Officer in managing the finances of the Port and in developing budgets, financial plans and rates. At a minimum, these policies shall:

14.2.1 Provide for sufficient liquidity relative to the Port's risk profile;

14.2.2 Provide for adequate coverage to meet debt covenants;

14.2.3 Establish criteria for debt and rate – financed capital expenditures;

14.2.4 Require that budgets be developed based on conservative and prudent assumptions consistent with standard industry practice; ~~and~~

14.2.5 Establish budgetary and procurement controls over expenditures;

14.2.6 Produce and maintain a balanced budget;

~~14.2.5~~14.2.7 • Provide a fiscally sound approach to finances by ensuring that expenditures and debt repayments do not exceed available resources in current budget and future years impacted;

~~14.2.6~~14.2.8 • Provide for financial stability by:

- Funding projects that provide a positive return on investment or which provide important identifiable non-economic benefits to the port district at large;
- Eliminating or transferring to private sector, holdings which provide minimal economic or community benefit;
- Reducing costs and enhancing revenues when feasible while maintaining acceptable service levels;
- Ensure the Port's portfolio includes diversity of revenue streams to offset risk adverse projects;
- Accurately forecasting funding sources;
- Creating successful strategies for capital acquisitions;
- Closely monitoring and accurately reporting all revenues and expenditures;
- Leveraging funds by seeking grants and matching funds from the public and private sectors;
- Accurately and honestly identifying potential financial issues and providing feasible potential solutions;
- Identifying and recommending potential improvements; and

- Learning and sharing ideas for improvement.

14.2.9 Promoting fiscal responsibility among departments;

14.2.10 Focusing on long-term financial planning;

14.2.11 Support intergovernmental cooperation by partnering with entities which demonstrate support; (e.g. matching funds; previous successes; political and taxpayer support; and enthusiasm);

14.2.12 Provide the public with high quality projects and services within a healthy work environment by encouraging efficiency, cooperation, honesty, integrity, and respect;

14.2.13 Evaluate economic development opportunities based on results to be derived districtwide versus project-specific or jurisdiction-specific results;

14.2.14 Acknowledge the Port's limited staff and financial resources;

14.2.15 Establish a project ranking and selection process which focuses on producing a limited number of projects in order to ensure successful and timely implementation;

14.2.16 Encourage open competition and equal project consideration, fostering a reputation for fairness with the local business community;

14.2.17 Seek to fund projects with available resources;

14.2.18 Incur debt only when both the level and rate of growth of public debt is fundamentally sustainable, can be serviced under appropriate circumstances while meeting cost and risk objectives, can withstand economic uncertainties, while identifying in advance any legal or commission-directed restrictions on its use; and

14.2.19 Maintain reserves of \$2.5M in order to ensure financial stability and mitigate any potential financial hardships. If reserve funds are utilized, funds must be replenished during the current or next budget cycle. The reserve fund may be used for the following:

- Debt service;
- Environmental pollution claims against the Port;
- Unemployment Claims;
- Paid Family & Medical Leave Claims; and
- Any other uses deemed necessary by the Commission.

14.2.20 Identify and report the return on investment (ROI) on projects as appropriate; and

~~14.2.7~~14.2.21 Share with the public port audited financial and operating data through print and online resources.;

14.3 Budgetary Authority. As required by and consistent with law, the Commission, by resolution, shall approve the Port's budget prior to the start of each calendar year. The ~~Executive Director~~ Chief Executive Officer shall manage the Port's operations within the approved budget levels consistent with authority levels set forth in the financial policies.

14.4 Procurement Authority.

14.4.1 The Commission, by resolution, shall establish procurement authorities and guidelines for the ~~Executive Director~~ Chief Executive Officer consistent with state laws and regulations. The ~~Executive Director~~ Chief Executive Officer shall establish procurement controls that provide reasonable assurance that the procurement of goods and services are made for a valid business purpose and within authorized budget levels.

14.4.2 It is Port policy that procurement decisions shall be made free from actual or perceived conflicts of interest consistent with these Rules of Policy and Procedure.

14.4.3 It is Port policy that due diligence and prudent judgment be exercised in the making of procurement decisions, including conducting a risk assessment. If the ~~Executive Director~~ Chief Executive Officer reasonably determines that a procurement activity presents, regardless of the size of the financial commitment, either: (1) a unique and significant operational risk to the Port; or (2) a significant impact to customers, the ~~Executive Director~~ Chief Executive Officer shall inform the Commission.

15. EVALUATING THE CHIEF EXECUTIVE OFFICER'S PERFORMANCE

~~15.1 General. The Executive Director's job performance shall be evaluated by comparing the organization's operations and results and the Executive Director's performance to the policies established by the Commission.~~

~~15.2~~

~~15.3 Process.~~

~~15.4~~

~~15.5 The Commission shall evaluate the Executive Director's performance on an annual basis.~~

~~15.6~~

~~15.7 The evaluation will be based on an evaluation of the organization's performance and the Executive Director's personal performance against the evaluation criteria previously established by the Commission and the Executive Director.~~

15.1 Chief Executive Officer Evaluation Committee

15.1.1 The Port Commission shall appoint a Chief Executive Officer Evaluation Committee made up of the Port's Chief Financial Officer, Port General Legal Counsel, and one Commissioner to serve a 2-year term. Each member shall be unbiased.

15.1.2 The Chief Executive Officer Evaluation Committee will develop the Chief Executive Officer's goals and objectives for Port Commission review and approval. The goals and objectives developed by the Committee shall be specific, measurable, attainable, realistic, timely and in alignment with the Port's mission, budget, work plan, and comprehensive scheme of development.

15.1.3 The Commission accepts the following procedure for the Chief Executive Officer Evaluation Committee to evaluate the Chief Executive Officer's performance, which is attached hereto as **Exhibit "A"**, and the Chief Executive Officer Evaluation Committee has created the Chief Executive Officer Performance Evaluation Form Revised 2022, which is attached hereto as **Exhibit "B"**.

Commented [CL29]: Updated to include the new Section 15 provisions of Resolution 2022-19 as adopted 7/26/2022.

15.1.4 On an annual basis, the Chief Executive Officer Evaluation Committee will conduct Chief Executive Officer's performance evaluation.

15.1.5 On an annual basis, the Chief Executive Officer Evaluation Committee will present the results of its evaluation of the Chief Executive Officer's performance to the Port Commission for review and approval. Such results may include, among other things, recommendation for salary adjustment in accordance with Chief Executive Officer's employment agreement.

15.1.5 The Chief Executive Officer Evaluation Committee may use assistance from other staff members or consultants as necessary and appropriate.

15.1.6 The Port Commission shall address Chief Executive Officer performance issues as they arise by timely referring them to the Chief Executive Officer Evaluation Committee. The Chief Executive Officer Evaluation Committee will develop a procedure for handling performance issues that may arise between annual evaluations. As part of that procedure, any performance related item must be communicated to the CEO in writing within 14 business days following the date any such alleged action or inaction occurred. If the Chief Executive Officer Evaluation Committee fails to notify the Chief Executive Officer of a matter of which the Commission members are aware, the performance related item shall not be relied upon or addressed in a performance review. Prior to issuing such a written notice, the Chief Executive Officer Evaluation Committee shall undertake an appropriate inquiry, which generally will include discussion with the Chief Executive Officer, in accordance with applicable laws, policies and contracts. Once notified, the Chief Executive Officer shall be provided a reasonable period of time to cure the concern or deficiency.

16. COMMISSION-AUDITOR RELATIONSHIP

16.1 General. The Port Auditor ("Auditor") serves the Port to assist in the Port's compliance with the RCW 53.36.010, RCW 53.36.140, RCW 42.24.080 and the Local Government Accounting Act, RCW 43.09.200 – 43.09.2855.

16.2 Hiring and Reporting.

16.2.1 The ~~Executive Director~~ Chief Executive Officer shall hire the Auditor. The Auditor shall perform those duties specified in RCW 53.36.010, RCW 53.36.140, RCW 42.24.080, RCW 43.09.240, Port Policy and ~~or~~ job description and shall be granted direct access to the Commission as necessary in the performance of these duties.

16.2.2 The Auditor shall report to the Commission through the ~~Executive Director~~ Chief Executive Officer or designee for all administrative matters, including hiring, performance evaluations, salary administration, employee benefits, and terminations. The ~~Executive Director~~ Chief Executive Officer may assign additional duties to the Auditor as long as these duties do not interfere with the Auditor's duties as specified by law.

17. COMMISSION-PORT GENERAL LEGAL COUNSEL ~~ATTORNEY~~ RELATIONSHIP

Commented [CL30]: RCW 53.36.010 requires that all port district funds shall be paid to the treasurer and be disbursed by him or her upon warrants signed by a port auditor appointed by the port commission, upon vouchers approved by the commission.

RCW 53.36.140 requires that Port commissions shall adopt, in writing, rules and regulations governing promotional hosting expenditures by port employees or agents and that such rules identify officials and agents authorized to make such expenditures and the approved objectives of such spending. RCW 53.36.140 also requires that all payments and reimbursements be identified and supported on vouchers approved by the port's auditor.

RCW 42.24.080 requires that all claims presented against any political subdivision by officers and employees of that subdivision or by persons furnishing materials, rendering services or performing labor, or for any other contractual purpose, shall be audited, before payment, by an auditing officer and the audit form shall provide for authentication and certification by such auditing officer that the materials have been furnished, the services rendered, the labor performed as described, or that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due and unpaid obligation political subdivision. No claim shall be paid without such authentication and certification.

17.1 Port General Legal Counsel~~Attorney~~ Role. The ~~Executive Director~~ Chief Executive Officer is responsible for hiring and terminating the Port's General Legal Counsel~~Attorney~~. The ~~Executive Director~~ Chief Executive Officer shall make provision for and appoint legal counsel for the Port by any reasonable contractual arrangement for such professional services. The Port General Legal Counsel ~~Attorney~~ is the legal advisor to the Port, the Commission, its committees, commissions and boards, the Chief Executive Officer ~~Executive Director~~, and all Port officers and employees with respect to any legal question involving an official duty or any legal matter pertaining to the affairs of the Port. It is important to note that the Port General Legal Counsel ~~Attorney~~ does not represent individual members of Commission, but rather the Port Commission as a whole. The Port General Legal Counsel ~~Attorney~~ reports to the Chief Executive Officer ~~Executive Director~~. The ~~Executive Director~~ Chief Executive Officer is responsible for evaluating the Port's General Legal Counsel~~Attorney~~'s performance.

17.2 Port General Legal Counsel's~~Attorney~~ Responsibilities.

The general legal responsibilities of the Port General Legal Counsel~~Attorney~~ are to:

17.2.1 Provide legal assistance necessary for formulation and implementation of the Commission's legislative policies and projects.

17.2.2 Represent the Port's interest, as determined by the Chief Executive Officer ~~Director~~, in litigation, administrative hearings, negotiations, and similar proceedings.

17.2.3 Prepare or approve as to form resolutions, contracts, and other legal documents to best reflect and implement the purposes of the Port.

17.2.4 Keep the Port Commission and staff apprised of court rulings and legislation affecting the legal interest of the port.

17.2.5 Shall advise the Commissioners regarding potential conflict of interest issues or ethical matters. Port General Legal Counsel ~~Attorney~~ shall provide assistance to individual Commissioners in complying with applicable statutes and laws only when such advice does not conflict with the Port's General Legal Counsel's~~Attorney's~~ obligations to the Port or to specific direction of the Commission.

17.2.6 Give advice or opinion when required, and when requested -by the Commission or Chief Executive Officer ~~Director~~.

17.2.7 Inform the Commission of material legal issues impacting the Port or the Commission.

17.2.8 Assist the Commissioners and staff in complying with applicable statutes and laws.

17.2.9 Serve as the parliamentarian at all commission meetings and other port-related meetings as requested by the Chief Executive Officer ~~Director~~.

17.2.10 Other matters as designated by the Chief Executive Officer ~~Director~~.

18. INDEMNIFICATION AND DEFENSE POLICY

18.1 Policy Stated. As authorized by RCW 4.96.041, there is hereby created a procedure to provide for indemnification and defense of claims of liability arising from acts or omissions of officials and employees of the Port, including volunteers, while performed or in good faith purported to have been performed in the scope of their official duties.

18.2 Definitions. Unless the context indicates otherwise, the words and phrases used in this chapter shall have the following meaning:

18.2.1 “Employee” means any person who is or has been employed by the Port, including volunteers and appointed members of advisory boards and commissions. “Employee” does not include independent contractors. “Employee” also includes an employee’s spouse when an employee’s marital community is named in any action subject to this policy.

18.2.2 “Official” means any person who is serving or has served as an elected Port Commissioner, and any person who is serving or who has served as an appointed officer of the Port as defined by RCW 42.23.020(2), as written or hereafter amended. “Official” does not include independent contractors performing the duties of appointed positions.

18.3 Legal Representation.

18.3.1 Upon request by the Official or Employee, and upon a finding by the Commission that the acts or omissions of the Official or Employee were or in good faith purported to be within the scope of his or her official duties, ~~t~~The Port shall provide to an ~~o~~Official or ~~e~~Employee, subject to the conditions and requirements of this chapter, and notwithstanding the fact that such ~~O~~official or ~~E~~mployee may have concluded service or employment with the Port, such legal representation as may be reasonably necessary to defend a claim or lawsuit filed against such ~~o~~Official or ~~E~~mployee resulting from any conduct, act or omission of such ~~o~~Official or ~~e~~Employee performed or omitted ~~on behalf of the Port were or in good faith purported to be within the scope of his or her service or employment in his/her capacity as a Port O~~Official or ~~E~~Employee, ~~, which act or omission is within the scope of his/her service or employment with the Port.~~ The provisions of this chapter shall not operate to provide legal representation to defend a claim or lawsuit for any conduct, act, or omission resulting in the termination for cause of any ~~o~~Official or ~~E~~mployee.

18.3.2 The legal representation shall be provided by the office of the Port’s General Legal Counsel ~~legal counsel~~ and may include the ~~Executive Director~~ Chief Executive Officer engaging the services of outside legal counsel, with Port General Legal Counsel oversight. If any provision of an applicable policy of insurance provides legal counsel for the employee or official, the Port General Legal ~~legal e~~Counsel will work with the policy holder for purposes of obtaining legal representation under the existing insurance policy.

18.3.3 In the event that the Port retains outside counsel ~~is retained~~ under Section 18.3.2, the Port shall pay the ~~indemnify the employee or official from the~~ reasonable costs of defense; provided, that in no event shall payment ~~the official or employee be indemnified for legal counsel’s fees in exceed excess of~~ the hourly rates established by the Port’s contract with general legal counsel selected by the Port. ~~The official or employee shall be liable for all hourly rates charged in excess of said rate.~~

18.3.4 The determination whether the Official or eEmployee was acting in or in good faith purported to be good faith within the scope of his or her official duties shall be made

by the Commission ~~Executive Director~~ in consultation with the Port ~~legal attorney~~ General Legal Counsel and/or outside legal counsel, if retained. This determination shall be based on an investigation of the facts and circumstances surrounding the incident and shall be made as early in the proceedings as is reasonably possible. In making the determination, the Commission shall presume that the Official or Employee acted in good faith within the scope of his or her official duties and shall determine that the Employee was not acting in good faith within the scope of his or her official duties only upon a finding or findings supported by substantial evidence. ~~Once the determination is made, the Official or Employee involved shall be notified by the Executive Director/Chief Executive Officer in writing. If the Employee or Official involved is the Chief Executive Officer, Executive Director, the determination shall be made by the Commission in consultation with the Port General Legal Counsel and/or outside legal counsel based on an investigation of the facts and circumstances surrounding the incident and shall be made as early in the proceedings as is reasonably possible. Once the determination is made, the Executive Director/Chief Executive Officer shall be notified by the Port legal General Legal Counsel, in writing. In any claim involving an allegation of criminal conduct, no investigation by the Port will occur prior to a determination of guilt, or prior to a dismissal of the criminal charge with prejudice, so as not to compromise the Official's or Employee's Fifth Amendment right against self-incrimination. Any determination made under this Section shall not be subject to appeal or reconsideration.~~

Commented [CL31]: Changed to Commission to be consistent with RCW 4.96.041(2) and 18.7 herein.

Commented [CL32]: Standards were added to aid the Commission in making the determination. The standard is consistent with Section 5.4.

~~18.3.5~~

18.4 Exclusions. Except as otherwise determined pursuant to Section 18.3, in no event shall protection be offered under this chapter by the Port to:

18.4.1 Any dishonest, fraudulent, criminal, willful, intentional or malicious act or course of conduct of an Official or an Employee;

~~18.4.2 Any act or course of conduct of an official or employee which is not performed on behalf of the Port;~~

~~18.4.3~~ 18.4.2 Any act or course of conduct which is outside the scope of an Official's or Employee's service or employment with the Port; and/or,

~~18.4.4~~ 18.4.3 Any lawsuit brought against an Official or Employee by or on behalf of the Port;

~~18.4.5~~ 18.4.4 Any action or omission contrary to or not in furtherance of any adopted Port policy.

18.5 Reserved Rights. Nothing herein shall be construed to waive or impair the right of the Port neither to institute suit or counterclaim against any ~~of~~ Official or Employee nor to limit its ability to discipline or terminate an employee.

18.6 Policy Secondary to Insurance. The Port's payment of defense fees and costs and any resulting non-punitive judgement are secondary to any insurance coverages provisions of this chapter shall have no force or effect with respect to any accident, occurrence or circumstance for the which the Port or the official or employee is insured from whatever source for defense, against loss or damage; provided that the provisions of this chapter shall apply in the event the loss or damages fall within the excluding deductible or exclusion(s) of the Port's applicable insurance policy. The provisions of this chapter are intended to be secondary to any contract or policy of insurance whether owned by or otherwise applicable to any official or employee. The Port shall have the right to require an Employee to fully utilize insurance coverages any such policy

~~protection~~ prior to requesting ~~payment the protection afforded by~~ under this Chapter.

18.7 **Determination of Exclusion.** ~~The determination w~~Whether an ~~O~~Official or ~~E~~mployee was acting in or in good faith purported to be acting within the scope of an Official's or Employee's service or employment with the Port and thus eligible for ~~shall be afforded a defense by the Port~~ payment of defense costs under the terms of this chapter shall be ~~determined made by the Commission after a determination pursuant to Section 18.3 as to whether the official or employee was acting within the scope of his or her duties. The Executive Director~~ ~~The Chief Executive Officer~~ and Port ~~general~~ legal counsel shall prepare a recommendation to the Commission. The ~~decision of the Commission's decision~~ shall be final as a legislative determination and shall be based upon a finding that an official or employee meets or does not meet the criteria of this chapter. Nothing herein shall preclude the Port from undertaking an ~~O~~Official's or ~~E~~mployee's defense under a reservation of rights. The determination as to whether a defense is to be furnished as provided under this chapter to ~~a member or to members of the Commissioner or Commissioners~~ shall be made without the vote of the Commissioner(s) named in the claim or lawsuit unless the inclusion of such member or members is required for a quorum; provided, that if a claim or lawsuit affects a quorum or greater number of the members of the Commission, all such affected members shall retain their voting privileges under this Section.

Commented [CL33]: Edit made to highlight that this is a discretionary choice by Commission per RCW 4.96.041

18.8 **Representation and Payment of Claims – Conditions.** The ~~payments authorized provisions of by~~ this chapter shall apply only when all the following conditions are met:

18.8.1 In the event of any incident or course of conduct potentially giving rise to a claim for damages, or for the commencement of a lawsuit, the ~~e~~Official or ~~E~~mployee involved shall, as soon as practicable, give the ~~e~~Employee's department director and, if applicable, the Port ~~legal~~ ~~General Legal Counsel~~ and the ~~Executive Director~~ ~~Chief Executive Officer~~ written notice thereof. The notice shall identify the ~~O~~Official or ~~e~~Employee involved, all information known to the ~~e~~Official or ~~e~~Employee involved with respect to the date, time, place and circumstances surrounding the incident or conduct giving rise to the potential claim or lawsuit, as well as the names and addresses of all persons allegedly injured or otherwise damaged thereby, and the names and addresses of all witnesses.

18.8.2 Upon receipt, the ~~e~~Official or ~~E~~mployee shall as soon as practicable deliver any claim, demand, notice or summons or other process relating to any such incident or conduct to the Port ~~legal~~ ~~General Legal Ce~~counsel and shall cooperate with the Port ~~legal~~ ~~e~~General ~~Legal~~ Counsel, or if the ~~Executive Director~~ ~~Chief Executive Officer~~ authorizes or designates another legal counsel to handle the matter, shall cooperate with that legal counsel, and, upon request, shall assist in making settlement of any suit and enforcing any claim for any right of subrogation against any persons or organizations that may be liable to the Port because of any damage or claim of loss arising from said incident or course of conduct, including, but not limited to, rights of recovery for costs and legal counsel's fees arising out of state or federal statute upon a determination that the lawsuit brought was frivolous in nature. Failure to timely deliver any claim, demand, notice or summons to the Port ~~General Legal legal~~ ~~e~~Counsel, and in which an adverse decision against the ~~e~~Official, the ~~E~~mployee or Port results from such failure, shall operate to negate all indemnification and opportunity for defense under this chapter and the Port shall have no obligation to offer a defense to the named ~~O~~Official or ~~E~~mployee.

18.8.3 Such ~~O~~Official or ~~e~~Employee shall attend interviews, depositions, hearings and trials and shall assist in securing and giving evidence and obtaining assistance of witnesses all without any additional compensation to the ~~O~~Official or ~~E~~mployee, and, in the event that an

~~e~~Employee has left the employ of the Port, no fee or compensation shall be provided.

18.8.4 Such ~~e~~Official or ~~E~~mployee shall not accept nor voluntarily make any payment, assume any obligation, or incur any expense related to said claim or lawsuit, other than for first aid to others at the time of any incident or course of conduct giving rise to any such claim, loss or damage. Nothing herein shall be deemed to preclude any ~~e~~Official or ~~E~~mployee from retaining legal counsel to represent his/her interests relating to such claim or lawsuit; however, all costs and expenses incurred thereby shall be paid by the ~~O~~fficial or the ~~E~~mployee.

18.8.5 Nothing herein shall modify existing procedures or requirements of law for processing and payment of claims against the Port.

18.9 Effect of Compliance With Conditions. If legal representation of an ~~O~~fficial or ~~e~~Employee is undertaken by the Port, whether by the Port ~~legal~~General Legal Counsel or by legal counsel obtained by the Port or through its insurance coverage, and all of the conditions of representation are met, and a judgment is entered against the ~~O~~fficial or ~~E~~mployee or a settlement is made, the Port shall pay ~~such the nonpunitive damages portion of the~~ judgment or settlement according to the provisions herein; provided, that the Port may at its discretion appeal as necessary any such judgment. ~~In no event shall this Section be interpreted to provide for payment of an award of punitive damages.~~ The process for payment of punitive damages is discretionary ~~under this chapter~~, and is set forth in Section 18.16. The decision to appeal an award of damages will be made by the Commission upon the recommendation of the ~~Executive Director~~ Chief Executive Officer and the Port ~~legal~~General Legal Counsel and/or outside legal counsel.

18.10 Failure to Comply With Conditions. In the event that any ~~e~~Official or ~~e~~Employee fails or refuses to comply with any of the conditions set forth in Section 18.8, or elects to provide his/her own representation with respect to any such claim or litigation, then all of the provisions of this chapter shall be inapplicable and shall have no force or effect with respect to any such claim or litigation.

~~18.10~~18.11 Reimbursement of Incurred Expenses.

~~18.10.1~~18.11.1 ~~If the Port's investigation under Section 18.3~~ If the Commission determines pursuant to the Port's investigation under Section 18.3, that an ~~Official or Employee was not acting in or in good faith purported to be within the scope of his or her official duties and thus is not eligible for Port payment of legal defense, does not come within the provisions of this chapter and a court of competent jurisdiction later determines that such~~ Officer or Employee was acting within the scope of his or her official duties, claim does come within the provisions of this chapter, then the Port shall pay any non-punitive judgment, excepting punitive damages, rendered against the official or employee and reasonable legal counsel's fees incurred in defending against the claim, less any applicable insurance coverages. if said judgment is not covered by the Port's insurance provisions or by the official's or employee's insurance. The Port shall pay any costs and reasonable legal counsel's fees incurred by the employee or official in obtaining the determination that such claim is covered by the provisions of this chapter; provided, that if a court of competent jurisdiction determines that such claim does not come within the provisions of this chapter, then the official or employee shall pay the Port's costs and reasonable legal counsel's fees incurred in obtaining the determination that such claim is not covered under the provisions of this chapter.

Commented [CL34]: Duplicative of 18.11.2

~~18.10.2~~18.11.2 If the Port determines that a claim arose against a ~~a claim against a~~

Port ~~Official or Employee who was acting within or in good faith the scope of their employment does come within the provisions of this chapter~~ and a court of competent jurisdiction later finds that such claim does not come within the provisions of this chapter, then the Commission shall have the option of requiring reimbursement by the ~~Official or Employee for defense fees, costs and or expenses incurred in obtaining the determination that such claim is not covered by the provisions of this chapter.~~

~~18.42~~18.12 Conflict With Provisions of Insurance Policies. The indemnification provisions of this chapter do not constitute a policy of insurance and nothing contained in this chapter shall be construed to modify or amend any provisions of any policy of insurance where the Port or any of its current or former ~~Officials or Employees~~ thereof is the named insured. In the event of any conflict between this chapter and the provisions of any such policy of insurance, the policy provisions shall be controlling; provided, however, that nothing contained in this chapter shall be deemed to limit or restrict any ~~Employee's or Official's~~ right to full coverage pursuant to this chapter, it being the intent of this chapter to provide the coverage detailed in this chapter only above and beyond insurance policies which may be in effect while not compromising the terms and conditions of such policies by any conflicting provisions contained in this chapter.

~~18.42~~18.13 Pending Claims. The provisions of this chapter shall apply retroactively to any pending claims or lawsuits against any ~~Official or Employee~~ at the time of adoption of this ordinance and to any such claims or lawsuits hereinafter filed within an applicable statute of limitations, irrespective of the date of the events or circumstances which are the basis of such claim or lawsuit.

~~18.43~~18.14 Modification of Chapter. The provisions of this chapter shall be subject to amendment, modification and repeal, at the sole discretion of the Commission, provided that unless explicitly set forth, any such amendment, modification or repeal shall apply prospectively only and shall have no effect on the obligation of the Port to indemnify and/or defend against any claim which is based, in whole or in part, upon any action or omission of an ~~Employee or Official~~ occurring prior to the effective date of the amendment, modification or repeal.

18.15 Bargaining Unit Contracts. If a union contract under chapter 41.56 RCW covers any of the provisions of this chapter, all ~~Employees~~ under such contract shall be governed by the provisions thereof, rather than by the provisions of this chapter, and where any conflict exists between the provisions of any such contract and this chapter, such contract shall control.

~~18.44~~18.16 Punitive Damages. When ~~the Port has paid for claim defense fees costs and expense for an Employee or Official of the Port has been represented in a claim and/or litigation by the Port pursuant to this chapter and an punitive judgment is rendered, against such employee or official for punitive damages,~~ the ~~Employee or Official~~ may ~~make a request to the Commission that the Port pay the award of the punitive damages, on behalf of the official or employee.~~ Upon ~~receiving a request made by or on behalf of a Port employee or official to pay punitive damages, such a request,~~ the Commission shall receive a report and recommendation from the ~~Executive Director-Chief Executive Officer and the Port legal eGeneral Legal Counsel shall transmit a report and recommendation for Commission consideration.~~ If the ~~requesting Official or Employee is the Executive Director-Chief Executive Officer or a Commission member,~~ the Commission may ~~in the alternative request a report and recommendation- from outside legal counsel, from the Port legal counsel or may retain the services of another person or agency to provide a recommendation.~~ Following receipt of the report and any recommendation, ~~the Commission's shall decision on whether to pay the punitive damages award shall be based on~~

~~determine whether~~ the best interests of the Port and ~~whether~~ justice will be served ~~by payment by the Port of the award for punitive damages. There shall be no appeal from such~~ The Commission's determination ~~is final and not subject to reconsideration or appeal.~~ The ~~Executive Director~~ Chief Executive Officer shall communicate the Commission's ~~council's~~ determination ~~with respect to the employee's or official's request for payment of punitive damages to said Employee or Official.~~ Thereafter, the Port finance director shall prepare the payment of Commission-approved punitive damages ~~if the council authorized such payment.~~

~~18.15~~18.17 Application to Recall Proceedings.

~~18.15.1~~18.17.1 Consistent with RCW 4.96.041(3), the necessary expenses of defending a Port Commissioner in a judicial hearing to determine the sufficiency of a recall charge as provided in RCW 29.82.023 shall be paid by the Port if the Commissioner requests such defense and approval is granted by both the Commission and the Port's ~~legal~~ General Legal Counsel or attorney appointed by the ~~Executive Director~~ Chief Executive Officer ~~to review the request.~~ The expenses paid by the Port may include costs ~~of an appeal associated with an appeal of the decision rendered by the~~ of the superior court's ruling on ~~concerning~~ the sufficiency of the recall charge.

~~18.15.2~~18.17.2 ~~As~~Although authorized by the ~~Supreme Court~~ in the case of *In Recall of Olsen*, 154 Wn.2d 606 (2005), the ~~Supreme Court ruled that a Commission's~~ Port's decision to indemnify and pay the costs of a recall defense does not constitute a contract ~~from which a conflict of interest may be found under~~ under RCW 42.23.030, and, as a result, a Commissioner ~~requesting payment of such expenses may vote on that~~ Commissioner's request for defense fees and cost ~~consideration of the request, the Commissioner(s) subject of the recall shall refrain from participating in such deliberations and vote.~~

19. GENERAL COMPLAINT RESOLUTION

19.1 Administrative Complaints Made Directly to Individual Commissioners. When administrative policy or administrative performance complaints are made directly to individual Commissioners, the Commissioner shall then refer the matter directly to the ~~Executive Director~~ Chief Executive Officer for review and/or action. The individual Commissioner may request to be informed of the action or response made to the complaint.

19.2 Administrative Complaints – "Best Practice". Although citizen's direct access to elected officials is to be encouraged, Port Commissioners should be cautious in making statements or taking actions that may delay a timely customer service response. The best policy is to put the citizen into direct contact with the Chief Executive Officer ~~Director~~.

Ten Commandments for Staying out of Trouble as a Port Commissioner

[as presented in the WPPA Commissioner Resource Guide]

1. Thou shalt never spend the public's money in secret.
2. Thou shalt not accept personally more money or benefits than any other fellow commissioner.
3. Thou shalt not require the port staff to do more work than necessary to inform (please) you when they could be occupied in improving the business of the port.
4. Thou shalt not speak as the official spokesperson of the port without knowing officially that you have been so designated by the commission

Commented [CL35]: There was a suggestion that this is out of place and should be either taken out or formatted to match the Rules. Thoughts?

majority.

5. Thou shalt not use the press against your fellow commissioners.
6. Thou shalt not use port property for unofficial business, not even a paper clip. Paper clips are cheap, buy your own. Use your own car too.
7. Thou shalt not argue with, grill, or embarrass port staffers in public. They'll hate you for it and get back at you in a thousand ways without your ever knowing it or leaving a scrap of evidence.
8. Thou shalt not depend on news media to keep the public informed of the activities and purposes of the port. Have your own PR program and carry it out.
9. Thou shalt not align yourself closely with a certain group of port tenants or users. Your motives will always be aligned with that group regardless of the issues. And the group will turn on you if you don't support them every single time.
10. Thou shalt not become involved in hiring anyone but the port manager and the port auditor.