



**CITY OF EDGEWOOD
COUNCIL STUDY SESSION AGENDA**

Tuesday, March 31, 2020 – 7:00 PM ♦ City Hall – 2224 104th Avenue East ♦ Edgewood, WA

1. CALL TO ORDER

Roll Call, Pledge of Allegiance

2. COUNCIL BUSINESS

A. Discussion - Website Logo

B. Discussion/Review - Ordinance - Lease of Public Property

3. OTHER COUNCIL ITEMS

4. ADJOURN

Study Sessions are meetings for Council to review upcoming and pertinent business of the City, no action is taken by the City Council. Study Sessions are open to the public, but public input is reserved for the regular Council meetings

This meeting is accessible to persons with disabilities. For individuals who may require special accommodations, please contact City Hall at (253) 952.3299, 24 hours in advance.



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion - Website Logo	Agenda Item #: 2.A
	For Agenda of: 3/31/2020
	Prepared by: Matthew Ray
Attachments (list): 1. Logo Options	
Approval of Materials: Matthew Ray Rachel Pitzel 3/26/2020 Dave Gray 3/26/2020 Daryl Eidingen 3/26/2020	Expenditure Required: N/A Amount Budgeted: N/A Timeline: 03/03/2020 – SS Discussion 03/31/2020 - SS Discussion

Summary Statement:

The City will be launching a redesign of the City's Website this year. The first step in the design process is to decide on a color pallet, appropriate fonts and a web friendly logo. All of these put together dictate the theme of the new site.

Item History:

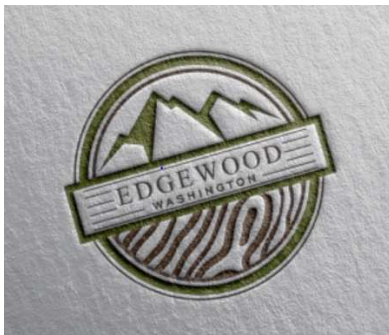
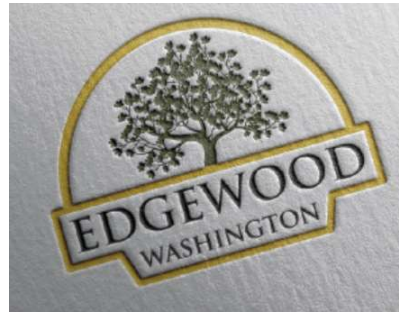
On 03/03/2020 staff brought forth the colors, fonts and logo recommendations. Council requested that staff bring back more of the top logo options for their consideration.

Recommended Action:

Presentation Only

Fiscal Note/Consideration:

N/A





City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion/Review - Ordinance - Lease of Public Property	Agenda Item #: 2.B
	For Agenda of: 3/31/2020
	Prepared by: Dave Gray
Attachments (list): 1. ORD - Adopting EMC Ch. 12.18 New Revised Version	
Approval of Materials: Dave Gray Rachel Pitzel 3/27/2020 Dave Gray 3/27/2020 Daryl Eidinger 3/27/2020	Expenditure Required: Other than the cost of producing the ordinance there should be no cost to the City. The fee schedule should be amended to incorporate the cost of negotiating and executing a lease of public lands for private use. Amount Budgeted: There is no budgeted expenditure other than the 2020 standing budget item for outside contract legal counsel. Timeline: 03/17/2020 SS 03/31/2020 SS

Summary Statement:

The City does not currently have code covering the leasing of public lands for private use such as siting telecommunications equipment on public property (excluding rights of way). This ordinance would make a provision, including a public hearing, for leasing public property for some public benefit private use. This ordinance simply calls out the process, which generally would require a resolution with an attached lease agreement. The lease agreement would address all contingencies such as abandonment, restoration upon termination, termination language, indemnity & insurance, in essence all the contractual needs the city would impose to ensure the public interest is served by any private use of public property.

Item History:

The community has long suffered poor cell service in large portions of the City. Recent interest by cellular companies has brought a possibility the city could greatly increase coverage. One of the primary sites selected is on City property.

This is the driving force for bringing this ordinance forward at this time. This ordinance would address any use, such as space for a food truck, use of our parks for non city functions on an ongoing basis, etc.

Recommended Action:

If the Council is of the mind to allow siting of communications equipment to improve citywide coverage of cellular coverage and traffic, recommend the Mayor bring the ordinance back to either further study session discussion or to a Regular Council meeting for action, depending on Councils sense staff has addressed concerns to broaden the original ordinance to cover all types of private use..

Passage of this ordinance does not enable any individual cellular company assurance they will be allowed to site their infrastructure on public lands within the City. It allows for a process to plan, review, negotiate and contract with the City for such an ability.

Fiscal Note/Consideration:

ORDINANCE NO. 20-xxxx

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, RELATING TO LEASES OF CITY PROPERTY; ADOPTING A NEW CHAPTER 12.18 OF THE EDGEWOOD MUNICIPAL CODE ENTITLED “LEASES OF CITY PROPERTY;” PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Edgewood (“City”) has received inquiries as to potential leasing of City property; and

WHEREAS, the City wishes to establish a process for application, evaluation, and negotiation of leases for City property; and

WHEREAS, pursuant to RCW 35A.11.020, the City Council of the City of Edgewood is vested with powers over the acquisition, ownership, improvement, maintenance and protection of public ways and real property of all kinds;

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

Section 1. New EMC Chapter 12.18 (Leases of City Property), Adopted. A new Edgewood Municipal Code (“EMC”) Chapter 12.18, entitled “Leases of City Property,” is hereby adopted as set forth in Exhibit A, attached hereto and by this reference fully incorporated herein.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 3. Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City. This Ordinance shall take effect and be in full force five (5) days after publication, as provided by law.

PASSED BY THE CITY COUNCIL ON THE __ DAY OF _____, 2020.

Mayor Daryl Eidinger

ATTEST/AUTHENTICATED:

Rachel Pitzel, CMC
City Clerk

APPROVED AS TO FORM:

Interim City Attorney, Ann Marie Soto

Date of Publication:

Effective Date:

Exhibit A

**CHAPTER 12.18
LEASES OF CITY PROPERTY**

Sections:

- 12.18.010 Definitions.**
- 12.18.020 City Owned Property Available for Leasing.**
- 12.18.030 Application for Lease Required.**
- 12.18.040 Negotiation of Proposed Lease Terms.**
- 12.18.050 Determination by the City.**
- 12.18.060 Rights Granted Under Lease.**
- 12.18.070 Compensation to the City.**
- 12.18.080 Amendment of Lease.**
- 12.18.090 Renewal of Lease.**
- 12.18.100 Standards for Renewal of Leases.**
- 12.18.110 Obligation to Cure as a Condition of Renewal.**
- 12.18.120 Termination of Leases.**
- 12.18.130 Conditional Leases.**
- 12.18.140 Rental Payments.**
- 12.18.150 Termination, Cancellation, or Forfeiture of Leases—Re-leasing of City
Owned Property.**
- 12.18.160 Restoration of City Owned Property and Removal or Reversion of
Improvements Upon Termination of Lease.**
- 12.18.170 Reservation of Rights-of-way.**

12.18.010 Definitions.

- A. “City” means the City of Edgewood, Washington.
- B. “City Owned Property” means unopened or unused public rights-of-way, public parks, or other City owned or controlled property.
- C. “Lease” means a negotiated agreement between the City and a Lessee for the use and occupation by the Lessee of City Owned Property.
- D. “Lessee” means that Person who leases City Owned Property from the City pursuant to a Lease negotiated pursuant to this Chapter and as approved by the Edgewood City Council.
- E. “Person” means any person, firm, corporation, company, enterprise or entity.

12.18.020 City Owned Property Available for Leasing.

- A. City Owned Property which the City Council may determine is not needed or devoted to a public use may be leased as provided within this Chapter 12.18. A Lease is required before any Person commences to utilize any City Owned Property for any non-City use.
- B. The City Council may, in its sole discretion, which is hereby reserved, approve Leases for the non-City use of City Owned Property. Neither this section, nor any other provision of this Chapter shall be construed to create an entitlement or vested right in any Person or entity of any type, regardless of whether or not a Lease application has been submitted to or accepted by the City. Each Person who desires to use City Owned Property for non-City use must first obtain a Lease from the City prior to engaging in such use.
- C. This Chapter shall not supplant or replace any requirements for installations, facilities, and/or Persons to have a valid franchise or master use permit in accordance with RCW Ch. 35.99, EMC Chapter 12.06, or EMC Chapter 12.08. This Chapter shall apply to “facilities leases” as the term is used within EMC Section 12.08.050.

12.18.030 Application for Lease Required.

- A. Any Person that desires to solicit the City’s approval of a Lease pursuant to this Chapter shall file an application with the City, which shall include the following:
 - 1. The identity of the applicant, including all affiliates of the applicant;
 - 2. A description of the City Owned Property the applicant proposes to lease;
 - 3. The length of the lease term desired;
 - 4. A description of the facilities or other equipment proposed to be located upon the City Owned Property (if applicable);

5. An anticipated construction commencement and completion schedule (if applicable);
6. A description of the proposed use of the City Owned Property and/or services that are or will be offered or provided by the applicant through its facilities to be located on the City Owned Property, if any;
7. Preliminary plans and specifications in sufficient detail to identify:
 - a. the location(s) of existing facilities or other lines or equipment upon the City Owned Property;
 - b. The location and source of electric and other utilities, including fiber, required for the installation and operation of the proposed Lease use;
 - c. The type and location (horizontally and vertically) of all existing utilities (electrical, communication, water, sewer, stormwater, etc.) within 50 feet of the proposed project area (which the project area shall include the location of the fiber source and power source). Further, the applicant shall include all existing and proposed improvements related to the proposed location, including but not limited to poles, driveways, ADA ramps, equipment cabinets, street trees and structures within 50 feet from the proposed project area;
8. Accurate scale conceptual drawings and diagrams of sufficient specificity to analyze the aesthetic impacts of the proposed use, facilities and/or other equipment;
9. Evidence demonstrating that the applicant has received all of the necessary zoning and land use permits and approvals from the City or evidence that complete applications for such permits and approvals have been submitted to the City and that the proposed use meets all applicable zoning and land use codes. No application for a Lease shall be considered unless the land desired to be leased is zoned to permit the use to which the applicant intends to put the land;
10. Financial statements prepared in accordance with general accepted accounting principles demonstrating the applicant's financial ability to construct, operate, maintain, relocate and remove the facilities, if applicable and to the extent permitted by law;
11. Such other and further information as may be reasonably requested by the City; and
12. An application fee for City review costs and a deposit for all survey, appraisal or other costs anticipated to be incurred by the City in connection with the application and lease evaluation process. If at any point in processing the Lease application the City anticipates that review of the lease application will exceed the deposit provided by the applicant, the applicant shall deposit additional funds with the City for such processing costs prior to the City engaging in further review of the applicant's Lease application.

B. The City Administrator, in his or her sole discretion, may waive one or more of the application requirements listed in this section.

12.18.040 Negotiation of Proposed Lease Terms.

A. All applications for a Lease filed with the City shall be forwarded to the Planning and Land Use Department and the Public Works Department for review and comment. The review may include, but shall not be limited to the following: review and comment by other city departments, comments on survey requirements and costs, comment on appraisal requirements and costs, and comment on other interest in use or lease of the land in question. After review by the relevant City departments, the City Administrator, in conjunction with the City Attorney, shall negotiate with the applicant a draft Lease for review and consideration by the City Council.

- B. The terms of the draft Lease to be negotiated shall include, but not be limited to, the following:
1. Permitted use of the City Owned Property;
 2. Lease term;
 3. Compensation (rent) amount;
 4. Timeframe for Lessee's removal of facilities or construction after expiration of Lease, if applicable;
 5. Insurance requirements of Lessee;
 6. Indemnification requirements as required by the City's insurer; and
 7. Any and all other terms that the City may require.

12.18.050 Determination by the City.

The City Council shall hold a public hearing on proposed Leases. The City Council shall be under no obligation to accept any Lease proposal but shall evaluate all proposals under the criteria set forth in this Chapter and based on the terms of the proposed Lease as negotiated prior to City Council consideration. The approval of any Lease shall be by resolution. In the event that a Lease is approved by the City Council and the zoning and land use permits for the proposed use governed by the Lease are denied or subsequently revoked by the City, the Lessee's rights under the Lease shall terminate simultaneously with the denial or revocation.

12.18.060 Rights Granted Under Lease.

No Lease entered into under this chapter shall convey any right, title or interest in the underlying City Owned Property, but shall be deemed a permit only to use and occupy the City Owned Property for the limited purposes and term stated in the Lease and any applicable permits. Further, no Lease shall be construed as any warranty of title. Further, any Lease with the City for the use of City Owned Property shall not relieve the Lessee of any responsibility for obtaining licenses or permits required by the City or any other local, state, or federal governments.

12.18.070 Compensation to the City.

Each Lease granted under this Chapter is subject to the City's right, which is expressly reserved, to fix a fair and reasonable compensation to be paid for the rights granted to the Lessee in accordance with the prohibitions on gifting of public funds or lending of credit contained in the Washington Constitution; provided, nothing in this Chapter shall prohibit the City and a Lessee from agreeing to the compensation to be paid.

12.18.080 Amendment of Lease.

Except as provided within a specific Lease agreement, a new Lease application and Lease agreement shall be required of any Lessee that desires to expand or relocate its use, facilities or other equipment located upon City Owned Property pursuant to a Lease under this Chapter. Further, all Lease amendments must obtain City Council approval, unless such authority is delegated to the Mayor by the City Council.

12.18.090 Renewal of Lease.

A Lessee that desires to renew its Lease under this chapter shall, not more than 180 days nor less than 90 days before expiration of the current Lease, file an application with the City for renewal of its Lease, which shall include the following:

- A. The information, fees(s), and deposit(s) required by EMC 12.18.030;
- B. Any information required pursuant to the expiring Lease between the City and the Lessee; and
- C. Any other deposits or charges required pursuant to this Chapter.

12.18.100 Standards for Renewal of Leases.

The City Council shall make a decision on whether to renew a Lease based upon, but not limited to, the following standards:

- A. The Lessee's compliance with the requirements of this chapter and the expiring Lease;
- B. The continuing capacity of the City Owned Property to accommodate the Lessee's use and existing facilities, if applicable;
- C. The financial and technical ability of the Lessee to comply with a proposed renewal Lease; and
- D. Such other factors as may demonstrate that the continued grant to use the public property will serve the community interest.

12.18.110 Obligation to Cure as a Condition of Renewal.

No Lease renewal application shall be processed until any ongoing violations or defaults in the Lessee's performance of the Lease, or of the requirements of this Chapter and any other lawful applicable regulations relating to the use and management of City Owned Property, have been cured, or a plan detailing the corrective action to be taken by the Lessee has been approved by the City.

12.18.120 Termination of Leases.

Leases in good standing may be terminated in whole or in part at any time upon written agreement between the Lessee and the City.

12.18.130 Conditional Leases.

The City may issue conditional Leases on lands it reasonably believes it will own or will acquire title to prior to the actual receipt of title. Leases on this conditional basis shall be canceled in whole or in part in the event the City is denied title to such lands under the Lease. The City shall not be liable for any damage to the Lessee or any other claims by reason of having leased such land on a conditional basis. In the event the City does receive title to the land, the conditional Lease shall then have the same standing, force and effect as a nonconditional Lease issued under the regulations of this chapter.

12.18.140 Rental payments.

All rentals shall be paid in advance.

12.18.150 Termination, Cancellation, or Forfeiture of Leases—Re-leasing of City Owned Property.

In the event that a Lease under this chapter is terminated for any reason, the City may offer such lands for Lease by other Lessees or other appropriate disposal as provided by law.

12.18.160 Restoration of City Owned Property and Removal or Reversion of Improvements Upon Termination of Lease.

A. For Leases expiring on the termination date provided in the Lease, the Lessee shall restore the leased property to its prelease condition and remove all improvements owned by the Lessee within the time frame provided pursuant to the terms of the Lease.

B. For Leases terminated by agreement in accordance with Section 12.18.120 or other provisions within the Lease for involuntary termination of the Lease by the City (such as in the event of default), the Lessee shall restore the leased property to its prelease condition and remove all improvements owned by the Lessee within 60 days of the City's termination of the Lease. However, in the event of extreme hardship on the Lessee, the Mayor may, at his or her sole discretion, extend the time for removing such improvements. All such extensions are subject to the Lessee paying prorated rental payments for the period(s) of extension.

C. Should the time for removing the improvements or restoring the City Owned Property expire without extension of the time for the Lessee to remove the improvements or restore the City Owned Property, the City may reenter the City Owned Property and remove the improvements and/or restore the City Owned Property to prelease condition at the sole cost and expense of the Lessee.

12.18.170 Reservation of Rights-of-way.

The City expressly reserves the right to grant easements or rights-of-way across leased City Owned Property if it is determined in the best interest of the City to do so.