



**CITY OF EDGEWOOD
COUNCIL STUDY SESSION AGENDA**

Tuesday, May 3, 2022 – 7:00 PM ♦ City Hall – 2224 104th Avenue East ♦ Edgewood, WA

1. CALL TO ORDER

Roll Call, Pledge of Allegiance

2. COUNCIL BUSINESS

A. Interviews – Economic & Development Advisory Board (Position 6 Vacancy)

B. Discussion – Equity, Diversity and Inclusion (Trainings, Planning, etc.)

C. Discussion – Fire Code Updates

D. Discussion - Ordinance - 2022 Budget Amendment No. 1

E. Discussion – Surface Water Manual Update

F. Discussion - Resolution - Edgemont Park Playground Installation

G. Discussion – Ordinance – Amending Chapter 8.10 – Fireworks

H. Discussion – Ordinance – Title 8, Chapter 8.20 Noise Pollution

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: Interviews – Economic & Development Advisory Board (Position 6 Vacancy)	Agenda Item #: 2.A
	For Agenda of: 5/3/2022
	Prepared by: Morgan Dorner, Darren Groth
Attachments (list): 1. EDAB_ Public Roster - Current as of 02-01-22	
Approval of Materials: Morgan Dorner, Darren Groth Rachel Pitzel 4/28/2022 Dave Gray 4/28/2022 Daryl Eidinger 4/28/2022	Expenditure Required: N/A
	Amount Budgeted: N/A
	Timeline: 05/03/22 Study Session Interviews 05/10/22 RCM Appointment

Summary Statement:

In accordance with Edgewood Municipal Code (EMC) Section 2.32.020 for Economic Development Advisory Board (EDAB) vacancies, City Council shall fill vacancies as stated in the Council Rules of Procedure. Per the Council Rules, once the applications are received, the City Council shall review and rank application packets. Should there be four or fewer applicants for any one position, however, all candidates shall be interviewed by the Council. In regard to this agenda item, we have two applications for the EDAB. This agenda item is intended to allow City Council to interview said applicants. After the City Council's interview, the Mayor shall appoint the chosen interviewee and the Council shall confirm or deny the appointment proposed by the Mayor. The appointment confirmation is scheduled to occur during the regular council meeting next week (May 10, 2022) in anticipation of filling the vacant Position 6.

Item History:

Recommended Action:

Presentation Only

Fiscal Note/Consideration:

EDAB Membership Roster			
Position	Member	City Email	Term Ending
1	Colleen Wise	colleen.wise@cityofedgewood.org	2023
2	Andrew Wiesenfeld*	awiesenfeld@cityofedgewood.org	2023
3	Lora Butterfield	lbutterfield@cityofedgewood.org	2023
4	Deanna Clark	dclark@cityofedgewood.org	2022
5	Angel Swanson**	aswanson@cityofedgewood.org	2022
6	VACANT		2022
7	Jason Neil	jneil@cityofedgewood.org	2022

***Chair**

****Vice-Chair**



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion – Equity, Diversity and Inclusion (Trainings, Planning, etc.)	Agenda Item #: 2.B
	For Agenda of: 5/3/2022
	Prepared by: Daryl Eiding
Attachments (list):	
Approval of Materials: Daryl Eiding Rachel Pitzel 4/28/2022 Dave Gray 4/28/2022 Daryl Eiding 4/28/2022	Expenditure Required: Amount Budgeted: Timeline: Topic to be added to all future Study Sessions (see item history below)

Summary Statement:

The City Council is committed to creating a stronger and more inclusive community and believe that equity, diversity and inclusion are essential for our present and our future.

Item History:

The council has asked that this topic be a discussion item at all future study sessions for the foreseeable future. The council has discussed equality, diversity and inclusion and planning at the following meetings:

09/01/2020 Study Session
 09/15/2020 Study Session
 09/29/2020 Study Session
 10/06/2020 Study Session
 10/20/2020 Study Session
 11/03/2020 Study Session
 11/24/2020 Study Session
 12/05/2020 Part I - National League of Cities - REAL Action: Advancing Racial Equity in Edgewood
 12/12/2020 Part II - National League of Cities - REAL Action: Advancing Racial Equity in Edgewood
 01/05/2021 Study Session
 01/19/2021 Study Session
 02/08/2021 Council Subcommittee Meeting
 02/16/2021 Study Session
 03/08/2021 Council Subcommittee Meeting
 03/16/2021 Study Session
 03/30/2021 Study Session
 04/06/2021 Study Session
 04/12/2021 Council Subcommittee Meeting
 04/20/2021 Study Session
 05/04/2021 Study Session
 05/10/2021 Council Subcommittee Meeting
 05/11/2021 Regular Council Meeting to discuss alternates to Subcommittee

05/18/2021 Study Session
06/01/2021 Study Session
06/08/2021 Council Subcommittee Meeting
06/15/2021 Study Session
06/29/2021 Study Session
07/06/2021 Study Session
07/13/2021 Council Subcommittee Meeting
07/20/2021 Study Session
08/03/2021 Study Session
08/10/2021 Council Subcommittee Meeting
08/17/2021 Study Session
08/31/2021 Study Session
09/14/2021 Council Subcommittee Meeting
09/21/2021 Study Session
10/05/2021 Study Session
10/12/2021 Council Subcommittee Meeting
10/26/2021 Study Session
11/02/2021 Study Session
11/09/2021 Council Subcommittee Meeting
11/16/2021 Study Session
11/30/2021 Study Session
12/07/2021 Study Session
12/21/2021 Study Session
12/28/2021 Study Session
01/04/2022 Study Session
01/11/2022 Council Subcommittee Meeting (CANCELLED)
01/18/2022 Study Session
02/01/2022 Study Session
02/15/2022 Council Subcommittee Meeting
03/01/2022 Study Session
03/15/2022 Study Session
04/05/2022 Study Session
04/19/2022 Study Session

Recommended Action:

N/A

Fiscal Note/Consideration:

N/A



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion – Fire Code Updates	Agenda Item #: 2.C
	For Agenda of: 5/3/2022
	Prepared by: James Tumelson
Attachments (list): 1. Section B105 2. Section 507	
Approval of Materials: James Tumelson Rachel Pitzel 4/28/2022 Dave Gray 4/28/2022 Daryl Eidinger 4/28/2022	Expenditure Required: N/A Amount Budgeted: N/A Timeline: 05/03/22 Study Session Update 06/21/22 Study Session Discussion on Draft Code Amendments (Proposed)

Summary Statement:

As discussed with council on February 15, 2022, multiple sections of the Edgewood Municipal Code (EMC) germane to local fire code provisions have been relatively untouched for many years. Since taking over fire code administration from East Pierce on January 1, 2022, City staff has been working to reconcile these EMC sections with our state and the model codes. Two specific points of clarification are Section 507 and Section B105. Section 507 is intended to be deleted and, under Section B105 (Fire Credits), the proposal is to completely eliminate the use of fire credits.

This agenda item is intended to finalize the plan of deletion for these two items and to seek any additional direction from City Council regarding other amendments that should be drafted into the local fire code. In addition to the identified amendments to Sections 507 and B105, other general language clean ups include revised definitions, ensuring any recent administrative code interpretations are codified, and drafting a code that is consistent with our state and region. The anticipated timeline is to bring the full changes back to City Council for review during the June 21, 2022 study session.

Item History:

2/15/2022 SS

Recommended Action:

Hold a discussion and provide staff direction to Discussion – Fire Code Updates

Fiscal Note/Consideration:

Section B105.1 One and two-family dwellings.

The minimum fire-flow requirements for detached one-family dwellings having a fire-flow calculation area which does not exceed 3,600 square feet of livable space (344.5 M²) shall be 1,000 gallons per minute for each hydrant providing fire flow. Fire-flow and flow duration for detached one-family dwellings having a fire-flow calculation area in excess of 3,600 (344.5 M²) square feet livable space shall not be less than that specified in Table B105.1.

Exception:

~~The required fire flow may be reduced when using the City of Edgewood one family dwelling fire flow credit worksheet hereby referred to as Table B105.2.~~

Section B105.2 Buildings other than detached one-family dwellings.

The minimum fire-flow and flow duration for buildings other than detached one-family dwellings shall be as specified in Table B105.1 of the International Fire Code.

~~Detached One-Family Dwellings (R-3) and Private Garages (U-1) Fire Flow Worksheet~~

~~Table B105.2~~

~~— Permit #: _____ Date: _____~~

~~— Project Address: _____~~

~~— Applicant: _____~~

Credit Options ^{1, 2, 3, 4, 5, 6, 7}	% of Credit	Items Selected
NFPA 13 Monitored Sprinkler System (1)	60%	
NFPA 13 Sprinkler System (1)	50%	
Building < 2,000 square feet	25%	
Monitored Fire Alarm	25%	
30' Minimum Setback from Property Lines (6)	20%	
Modified 1-Hr Construction (2)	15%	
Class A or B Roofing Material	15%	
60% Brick/Stone Exterior	15%	
Paved Access within 150' of Building	10%	
Existing Hydrant (see 3, 4 and 5 below)	____%	

~~1.— Some credits may not be taken together.~~

~~2.— One-hour construction shall be a minimum of 1/2-inch type "X" drywall throughout the interior for one-family residence (R-3) occupancies and garage (U-1) occupancies. All other occupancy groups shall meet the requirements for one-hour construction per the International Building Code and International Residential Code.~~

~~3.— Existing hydrants located within 600 feet of the furthest point of structure, but not meeting minimum fire flow requirements, may take a 50 percent credit so long as the existing fire flow is greater than 500 gpm.~~

~~4.— Existing hydrants located farther than 600 feet from the furthest point of the structure, but not more than 1,000 feet and meeting minimum fire flow requirements may take a 50 percent credit.~~

5.—No hydrant credits will be given for hydrants located farther than 1,000 feet from the furthest point of the structure regardless of fire flow. One hundred percent credit must be obtained from the above table.

6.—The 30-foot setback is from the side and rear property lines. Front setbacks may be that allowed by the zoning of the property.

7.—The minimum fire flow requirements for private garages (U-1) shall be 750 gpm for 45 minutes; however, fire flow is not required for private garages meeting all of the following criteria:

- a)—It does not exceed 1,000 square feet;
- b)—It is accessory to a one- or two-family dwelling (R-3) that meets the requirements of this section;
- c)—It has setbacks from side and rear lot lines of at least 20 feet, and at least 10 feet from other buildings on the same lot;
- d)—It has modified, one-hour construction throughout the interior consisting of one layer 1/2-inch type “X” drywall.
- e)—Residential Fire Flow Requirements. Table 105-B applies to two lots or less.

—The minimum fire flow requirements for detached one-family dwellings having a fire flow calculation area which does not exceed 3,600 square feet of livable space shall be 1,000 gallons per minute for each hydrant providing fire flow. Fire flow and flow duration for detached one-family dwellings having a fire flow calculation area in excess of 3,600 square feet shall not be less than that specified in Table B105.1.

~~Section 507.5.1 Where required.~~

~~Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet (122 m) from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official.~~

~~Exception:~~

~~For Group R-3 and Group U occupancies, the distance requirement shall be 600 feet (183 m). Adult family homes shall be provided with fire flow as if new construction for a Group R-3 occupancy.~~

~~Section 507.5.7 Fire hydrant locations and distribution.~~

~~Public and private fire hydrants shall be provided as required in Sections 508.5.7.1 through 508.5.7.9. Fire hydrants shall be placed in locations approved by the code official and along fire apparatus access roads and adjacent public streets.~~

~~Section 507.5.7.1 Spacing on public and private roads. Fire hydrants shall be placed on public and private roads every 500 feet when serving all occupancies other than Group Use R-3 and U. For Group Use R-3 and U occupancies fire hydrants shall be placed every 600 feet.~~

~~507.5.7.2 Fire department connections.~~

~~A fire hydrant shall be located within 50 feet of a fire department connection.~~

~~507.5.7.3 On-site hydrants.~~

~~Buildings or structures required to have on-site fire hydrants shall have them spaced an average of 330 feet throughout the site and shall be accessible from fire access roads or lanes. Fire hydrants shall be located a safe distance from the building they are to serve. Locations shall be approved by the fire marshal prior to installation.~~

~~Exception:~~

~~Group R-3 and Group U occupancies.~~

~~507.5.7.4 Hydrants on principal roads.~~

~~In no case shall hydrants which are located across any roadway designated as an arterial by the Department of Public Works be considered available.~~



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion - Ordinance - 2022 Budget Amendment No. 1	Agenda Item #: 2.D
	For Agenda of: 5/3/2022
	Prepared by: Dave Gray
Attachments (list): 1. Ord No 22-XXXX Budget Amendment No 1 2. 2022 Budget Amendment No 1 Fund Impact Detail & Revised Salary Schedule	
Approval of Materials: Dave Gray Rachel Pitzel 4/28/2022 Dave Gray 4/28/2022 Daryl Eidinger 4/28/2022	Expenditure Required: The effect of accepting the grant and amending the salary schedule to add the newly created NPDES/Surface Water Program Coordinator, which is grant funded for eight months of 2022 is negligible to the labor model cost, until/if such time the Mayor would ask the Council to approve a budget amendment to backfill the vacated Engineering Tech position funded in the original budget labor model.
	Amount Budgeted: This Budget Amendment is to accept the 2nd tranche of ARPA Grant revenues of \$1,821,859 and to amend the Salary Schedule for the NPDES Program Coordinator position.* *This is an ARPA funded position for years 2022 (8 months), 23, & 24.
	Timeline: 05/03/2022: Study Session for Council Review 05/10/2022: Regular Council Meeting for potential Council Action as Regular Business (Ordinance)

Summary Statement:

ARPA REVENUE ACCEPTANCE: In 2021 the Federal Government Appropriated the American Recovery Plan Act (ARPA). ARPA resulted in the City of Edgewood receiving a grant for replacing revenues for general governance activities in the sum of \$3,643,718. The grant was funded in two tranches of \$1,821,859 each for 2021 and 2022. This budget amendment is to accept the 2022 grant revenue, and to commit to spending by additional appropriation the Parallel Road Network land acquisition of \$215,000 and the NPDES program cost for salaries of approximately \$78,629. for 8 months of 2022.

NPDES/Surface Water Program Coordinator added to the Salary Schedule: Public Works has identified this position as a critical need to maintain compliance with the Western Washington Phase II Municipal Stormwater Permit requirements. Local governments are required to manage and control stormwater runoff so that it does not pollute downstream waters. The permit requirement includes elements such as stormwater planning, public education and outreach, mapping and documentation, illicit discharge detection and

elimination (IDDE), operation and maintenance, runoff/flow controls for development, source control for existing development, structural stormwater controls, and annual reporting requirements.

As Council authorized the subject job description at the April 12, 2022 regular meeting, staff presents the attached budget amendment to authorize the position be added to the salary schedule.

Item History:

Recommended Action:

Request the Mayor place the Budget Amendment Ordinance with Exhibit A on the Regular Council Meeting Agenda for New Business at the Regular Council Meeting of May 10th, 2022.

Fiscal Note/Consideration:

ORDINANCE NO. 22-XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, AMENDING THE BUDGET FOR THE 2022 FISCAL YEAR, PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, State law, Chapter 35A.33 RCW, requires the City of Edgewood adopt an annual budget and provides procedures for such; and

WHEREAS, the City of Edgewood established its 2022 Budget in Ordinance No. 21-0621; and

WHEREAS, the City Council desires to amend the 2022 Budget to reflect the acceptance of the second American Recovery Plan Act Federal Grant tranche together with a revised salary schedule to accommodate partial grant appropriation; and

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

Section 1. Amending 2022 Budget. The 2022 Budget approved with Ordinance 21-0621, is hereby amended to increase city revenues for the acceptance of the American Recovery Plan Act grant and to revise the salary schedule as identified in Exhibit A attached hereto and incorporated herein by this reference.

Section 2. Direction to Staff: Staff is hereby authorized and instructed to make the necessary changes to the printed form of the 2021 Budget to reflect the above amendments.

Section 3. Transmittal. The City Clerk is hereby authorized and directed to transmit a certified copy of this ordinance to the Association of Washington Cities, the Auditor of the State of Washington, and Municipal Research Services Center.

Section 4. Severability. Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 5. Effective Date. A summary of this ordinance shall be published in the official newspaper of the City and this ordinance shall take effect and be in full force five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL THIS 10TH DAY OF MAY, 2022.

Mayor, Daryl Eidinger

Attest/Authenticated:

City Clerk, Rachel Pitzel, CMC

Approved As To Form:

City Attorney Ann Marie Soto

Date of Publication: *May XX, 2022*

Effective Date: *May XX, 2022*

EXHIBIT A

4/28/2022

May 2022

Fund Name/Department	Fund Number	Original Budget	Original Line Item	Description of Request	Line Item Added	Line Item Deleted	Amended Budget	Fund Balance Impact
General Fund Revenue								
General Fund Grant Revenue-American Recovery Plan Act	001	\$12,934,646.00	\$0.00	Increased Grant Activity	\$1,821,859.00	\$0.00	\$14,756,505.00	\$1,821,859.00
General Fund Revenue	001	\$12,934,646.00	\$0.00		\$1,821,859.00		\$14,756,505.00	\$1,821,859.00

EXHIBIT "A"								
ORDINANCE 22-XXXX 2022 AMENDED BUDGET								
CITY OF EDGEWOOD								
2022 SALARY RANGE PLAN								
Budget Amendment No. 1								
Range	Job Title	2022 Monthly Wage Range						
		Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
FT-22-01	Administrative Assistant	\$4,611	\$4,754	\$4,902	\$5,052	\$5,209	\$5,370	\$5,536
FT-22-02	Public Works Maintenance Tech	\$5,069	\$5,225	\$5,387	\$5,554	\$5,726	\$5,903	\$6,085
FT-22-02	Accounting/Administrative Tech	\$5,069	\$5,225	\$5,387	\$5,554	\$5,726	\$5,903	\$6,085
FT-22-03	Public Works Maintenance Tech II	\$5,285	\$5,448	\$5,617	\$5,790	\$5,970	\$6,154	\$6,345
FT-22-04	Permit Coordinator	\$5,739	\$5,916	\$6,099	\$6,287	\$6,482	\$6,683	\$6,889
FT-22-04	Planning Technician	\$5,739	\$5,916	\$6,099	\$6,287	\$6,482	\$6,683	\$6,889
FT-22-04	ROW Inspector	\$5,739	\$5,916	\$6,099	\$6,287	\$6,482	\$6,683	\$6,889
FT-22-04	Parks Maintenance Lead	\$5,739	\$5,916	\$6,099	\$6,287	\$6,482	\$6,683	\$6,889
FT-22-05	Development Review Coordinator	\$6,439	\$6,639	\$6,844	\$7,056	\$7,273	\$7,499	\$7,731
FT-22-05	Field Supervisor	\$6,439	\$6,639	\$6,844	\$7,056	\$7,273	\$7,499	\$7,731
FT-22-05	Engineering Tech	\$6,439	\$6,639	\$6,844	\$7,056	\$7,273	\$7,499	\$7,731
FT-22-05	Associate Planner	\$6,439	\$6,639	\$6,844	\$7,056	\$7,273	\$7,499	\$7,731
FT-22-05	Code Compliance Specialist	\$6,439	\$6,639	\$6,844	\$7,056	\$7,273	\$7,499	\$7,731
FT-22-06	Communications Coordinator/Deputy City Clerk	\$7,063	\$7,283	\$7,507	\$7,740	\$7,979	\$8,226	\$8,480
FT-22-06	Combination Inspector	\$7,063	\$7,283	\$7,507	\$7,740	\$7,979	\$8,226	\$8,480
FT-22-06	NPDES/Surface Water Program Coordinator	\$7,063	\$7,283	\$7,507	\$7,740	\$7,979	\$8,226	\$8,480
FT-22-07	Associate Engineer	\$7,308	\$7,534	\$7,766	\$8,007	\$8,254	\$8,510	\$8,773
FT-22-08	Code Compliance Manager	\$7,365	\$7,593	\$7,828	\$8,070	\$8,320	\$8,577	\$8,842
FT-22-08	Accounting Manager	\$7,365	\$7,593	\$7,828	\$8,070	\$8,320	\$8,577	\$8,842
FT-22-08	Office Manager	\$7,365	\$7,593	\$7,828	\$8,070	\$8,320	\$8,577	\$8,842
FT-22-08	Information Technology Manager	\$7,365	\$7,593	\$7,828	\$8,070	\$8,320	\$8,577	\$8,842
FT-22-08	Combination Inspector/Plans Examiner	\$7,365	\$7,593	\$7,828	\$8,070	\$8,320	\$8,577	\$8,842
FT-22-09	Senior Planner	\$7,653	\$7,889	\$8,133	\$8,385	\$8,644	\$8,911	\$9,187
FT-22-10	Planning Manager	\$8,396	\$8,656	\$8,924	\$9,199	\$9,484	\$9,777	\$10,080
FT-22-10	Building Official	\$8,396	\$8,656	\$8,924	\$9,199	\$9,484	\$9,777	\$10,080
FT-22-11	Senior Engineer	\$8,830	\$9,104	\$9,386	\$9,676	\$9,975	\$10,284	\$10,602
FT-22-11	Public Works Superintendent	\$8,830	\$9,104	\$9,386	\$9,676	\$9,975	\$10,284	\$10,602
FT-22-12	City Engineer	\$9,494	\$9,788	\$10,090	\$10,402	\$10,724	\$11,056	\$11,397
FT-22-13	Information Technology Director	\$10,470	\$10,794	\$11,127	\$11,472	\$11,826	\$12,192	\$12,570
FT-22-13	City Clerk/ HR Director	\$10,470	\$10,794	\$11,127	\$11,472	\$11,826	\$12,192	\$12,570
FT-22-13	Public Works Director, PE	\$10,470	\$10,794	\$11,127	\$11,472	\$11,826	\$12,192	\$12,570
FT-22-13	Community & Economic Development Director	\$10,470	\$10,794	\$11,127	\$11,472	\$11,826	\$12,192	\$12,570
FT-22-13	Finance Director	\$10,470	\$10,794	\$11,127	\$11,472	\$11,826	\$12,192	\$12,570
FT-22-14	City Attorney	\$11,400	\$11,753	\$12,117	\$12,482	\$12,878	\$13,276	\$13,687
FT-22-14	Assistant City Administrator	\$11,400	\$11,753	\$12,117	\$12,482	\$12,878	\$13,276	\$13,687
All Steps are 3% lower than the higher step. All Comparables are at step 7 (AWC averages are top step).								
All Hourly Compensation Rates are based upon the Monthly Rate Divided by 173.33 Hours.								



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion – Surface Water Manual Update	Agenda Item #: 2.E
	For Agenda of: 5/3/2022
	Prepared by: Jeremy Metzler
Attachments (list): 1. DRAFT Ordinance 22-0xxx 2. DRAFT EMC Title 13 Updates (Redline) - 2022-04-14 3. Acknowledge-Letter-2022-S-3756 4. 22-1108_EMC Title 13 Amendments_SEPA DNS Adoption-Addendum_4.4.22 5. PC final signed recommendation (EMC 13 Stormwater Manual) 4.11.2022	
Approval of Materials: Jeremy Metzler Rachel Pitzel 4/28/2022 Dave Gray 4/28/2022 Daryl Eidingen 4/28/2022	Expenditure Required: N/A
	Amount Budgeted: N/A
	Timeline: 05/03/2022 SS 05/10/2022 RCM

Summary Statement:

The City of Edgewood is subject to the current Western Washington Phase II Municipal Stormwater Permit, last updated in 2019 and administered by the Washington State Department of Ecology (Ecology). Under Special Condition S5.C.6 (Controlling Runoff from Development and Construction Sites), the City is required to update its ordinance to adopt the current *Stormwater Management Manual for Western Washington* by Ecology, or another Ecology-approved Phase I program's Manual, no later than June 30, 2022. Edgewood adopted Pierce County's *Stormwater & Site Development Manual* in 2016, including several local amendments, under Chapter 13.05 EMC.

As Pierce County updated their Manual in 2021 to maintain Ecology approval, Edgewood must now update EMC to adopt their new Manual and ensure our local amendments are still compatible. Attached are a draft ordinance and redline modifications to the code for Council's consideration, including an Acknowledgement Letter from the Department of Commerce and the issued SEPA DNS for this proposed action. Staff has also taken this opportunity to perform some minor housekeeping, removing unnecessary amendments and redundant references. Finally, the local amendments maintain the more strict downstream analysis requirements and flow control thresholds already contained in EMC, as adopted in 2016.

The Planning Commission reviewed the proposed changes to EMC at their March 14 and April 11, 2022 meetings, including a public hearing at the latter, resulting in their recommendation to Council immediately thereafter (attached). Following tonight's discussion, this item is scheduled for potential action at next week's regular meeting.

While no public comments were provided at last week's public hearing, concerns regarding artificial turf installations were recently brought to the attention of staff. Reviewing the 2021 Pierce County Manual, artificial turf is specifically called out as a pollution-generating pervious surface (PGPS) in the Volume I Glossary and in Volume V, Section 4.1.3. While this addresses water quality treatment for these surfaces, staff is concerned about surface water runoff quantity regulation. In short, with the removal of vegetation, we expect more runoff from these surfaces than other vegetated surfaces, both above and below the ground's surface.

Staff is seeking Council's direction on this issue. As the code update to adopt the current Manual must be adopted by June 30, 2022 to maintain compliance with the Permit, staff offers the following options for Council's consideration: 1) propose an update to the draft ordinance that would address this issue, for Council's consideration as early as next week's meeting, or 2) proceed with the ordinance next week as presented herein, remanding the artificial turf concerns to the Planning Commission for further review and recommendation.

Item History:

04/19/2022 SS

04/26/2022 RCM PH

Recommended Action:

Hold a discussion and provide staff guidance regarding Discussion – Surface Water Manual Update .

Fiscal Note/Consideration:

N/A

ORDINANCE NO. 22-0xxx

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON, AMENDING EDGEWOOD MUNICIPAL CODE (EMC) TITLE 13 SURFACE WATER MANAGEMENT AND SITE DEVELOPMENT; ADOPTING THE JULY 2021 EDITION OF THE PIERCE COUNTY STORMWATER MANAGEMENT AND SITE DEVELOPMENT MANUAL, WITH LOCAL AMENDMENTS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of Edgewood (City) is a National Pollutant Discharge Elimination System (NPDES) permittee operating a Municipal Separate Storm Sewer System (MS4) under the Western Washington Phase II Municipal Stormwater Permit (hereafter “Phase II Permit”), as issued by the Washington State Department of Ecology (Ecology) as directed by the Federal Clean Water Act (CWA) and the State Water Pollution Control Law (Chapter 90.48 RCW); and

WHEREAS, a new Phase II Permit was issued on July 1, 2019, effective August 1, 2019 through July 31, 2024; and

WHEREAS, the Phase II Permit requires the City adopt a Stormwater Manual which has been determined by Ecology to be equivalent to the Ecology “Stormwater Management Manual for Western Washington” for controlling the quantity and quality of stormwater runoff; and

WHEREAS, a “60-day Notice of Intent to Adopt Amendment” was submitted to the Washington State Department of Commerce on March 11, 2022 pursuant to RCW 36.70A.106, acknowledged by letter March 14, 2022, with 60-day notice period ending on May 10, 2022; and

WHEREAS, the City of Edgewood Planning Commission met to discuss the proposed updates at the March 14, 2022 and April 11, 2022 regular planning commission meetings; and

WHEREAS, the Planning Commission held a public hearing to review and gather public comment on April 11, 2022, providing recommendations on the proposed amendments; and

WHEREAS, a State Environmental Policy Act (SEPA) Determination of Nonsignificance (DNS) was issued for the amendments on April 4, 2022, and no timely appeals of said determination were filed; and

WHEREAS, on April 19, 2022, the City Council first reviewed the proposed updates and recommendation from the Planning Commission; and

WHEREAS, on April 26, 2022, the City Council held a public hearing to review and gather public comment on the proposed changes; and

WHEREAS, the Council considered this Ordinance during its study session on May 3, 2022, and regular City Council meeting on May 10, 2022;

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

Section 1. Findings. The recitals above are hereby adopted as legislative findings in support of this ordinance. The City Council further adopts by reference previously held study session agenda bills of April 19, 2022 and May 3, 2022 as additional findings.

Section 2. Amendments to EMC 13.05. Edgewood Municipal Code Sections 13.05.160 and 13.05.170 are hereby amended as set forth in Exhibit A, attached herewith.

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

Section 4. Effective Date. 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 and effect five days after publication, as provided by law.

ADOPTED THIS 10TH DAY OF MAY, 2022.

Daryl Eidinger, Mayor

ATTEST/AUTHENTICATED:

Rachel Pitzel, CMC
City Clerk

APPROVED AS TO FORM:

Ann Marie J. Soto, City Attorney

Date of Publication:

Effective Date:

Chapter 13.05

STORMWATER MANUAL – SITE DEVELOPMENT REGULATIONS

13.05.010 Exemptions.

The following work is exempt from the requirements of these regulations:

A. Complete site development applications submitted prior to the effective date of this chapter, or any amendments thereto, for city review and approval. In such event, the provisions of this chapter that were in effect as of the time a complete site development application was submitted shall control.

B. Emergency projects which if not performed immediately would substantially endanger life or property. Upon resolution of the emergency, the property owner must either restore the site to its original condition or comply with the requirements of this Title within 60 days. The City may extend the 60-day time limit when the property owner can show reasonable cause for the delay.

C. Public works and private sector road and utility projects completely within the road right-of-way or within easements adjacent to the right-of-way which do not add impervious surface (not to include trenching activities) or impact the watershed or downstream resources. This may include pavement maintenance practices limited to pothole and square cut patching, overlaying existing asphalt or concrete pavement with asphalt or concrete without expanding the area of coverage, shoulder grading, reshaping/reggrading drainage systems, crack sealing, resurfacing with in-kind material without expanding the road prism, pavement preservation activities that do not expand the road prism, and vegetation maintenance.

D. Grading of land for agricultural purposes; provided, that the requirements of EMC Title 14, Critical Areas, are met.

E. Maintenance of public roads or flood control projects when done by a public agency and the project has been reviewed and approved for compliance with applicable state, federal, county, and city regulations, and the work is in existing public right-of-way or easement dedicated to or on property owned by the city.

F. Public works maintenance activities and utility activities which have submitted and had approved an annual scope of work for routine repetitive activities detailing erosion and sediment control measures that comply with the provisions of the PCM or Regional Road Maintenance Endangered Species Act Program Guidelines developed by Tri-County Road Maintenance Technical Working Group, August 2000, and which will be implemented during the specified activities.

Commented [JM1]: Added edits due to the manual's updates, pulling items from PCC 17A into EMC instead of listing any more modifications to the PCM below.

G. Routine agricultural practices such as disking, harrowing, plowing, etc., except in sensitive or critical areas. However, said routine agricultural practices in sensitive or critical areas that commenced prior to June 1998 are exempt.

Commented [JM2]: One additional exemption from PCC 17A

H. Emergency sandbagging, diking, ditching, filling or similar work during or after periods of extreme weather conditions when done to protect life or property.

I. Washington State Department of Transportation (WSDOT) projects in which stormwater management standards, specifications, and practices are conducted in accordance with "WSDOT's Highway Runoff Manual" as approved by the Department of Ecology.

J. All utility trenching and installation where said utility has filed a yearly scope of work plan that addresses sediment and erosion control work methods that comply with the PCM.

K. Projects that are covered under the state of Washington Model Toxics Control Act (MTCA) or the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

L. The removal, deposit, stockpiling, broadcasting or displacement of not more than a total of 50 cubic yards of material throughout the life of a development from its existing, permitted condition. Said materials shall include, but not be limited to, topsoil, gravel, earth, peat, sawdust, mulch, bark, chips or solid nutrients.

Commented [JM3]: Consolidation L & M

M. The creation, addition, or replacement of not more than 200 square feet of impervious surface area, stockpiling or broadcasting of less than 50 cubic yards of topsoil, peat, sawdust, mulch, bark, chips or solid nutrients on a lot, tract, or parcel of land.

Commented [JM4]: Adding the practical threshold for surface water permit applications that the City has been practicing, supported by surface water modeling outputs and other regulatory thresholds.

...

13.05.160 ~~December 2015 Edition~~ July 2021 Edition, Pierce County Stormwater Management and Site Development Manual adopted.

The city adopts by reference the ~~December 2015~~ July 2021 Edition, Pierce County Stormwater Management and Site Development Manual as modified herein.

13.05.170 Modifications to the PCM.

The city hereby amends the PCM as follows:

Replace any reference to "County" or "Pierce County" in the PCM with "City" or "City of Edgewood". Replace any reference to "Planning and ~~Public Works (PPW)~~ Land Services (PALS)" in the PCM with "Community Development and Public Works Departments". Replace any reference to "PCC Title 18E", "PCC Title 18E.70", "PCC Title 18E.80", or "Critical Areas Ordinance" with "EMC Title 14". Replace any reference to "PCC Title 18A" or "PCC Title 18J"

with “EMC Title 18”. Any other references to “Pierce County Code” shall remain unchanged, unless otherwise noted herein.

~~As stated in PCM Volume I, Section 2.3, all projects shall meet the following minimum requirements, regardless of size and even if exempt from permit application submittal:~~

- ~~▪ Minimum Requirement #2: Construction Stormwater Pollution Prevention (SWPP);~~
- ~~▪ Minimum Requirement #4: Preservation of Natural Drainage Systems and Outfalls; and~~
- ~~▪ Minimum Requirement #5: Onsite Stormwater Management.~~

~~Projects exempt from the requirements of the 2015 PCM are identified in Volume I Chapter 2.2 and Pierce County Code (PCC) 17A. Such exemptions are briefly summarized below. See the PCM and PCC 17A for further details.~~

- ~~▪ Emergency projects which if not performed immediately would substantially endanger public safety or property. Upon resolution of the emergency, the property owner must either restore the site to its original condition or comply with the requirements of this Title, EMC Title 18, and PCC 17A within 60 days;~~
- ~~▪ Pavement maintenance practices (no road prism expansion);~~
- ~~▪ Commercial agricultural practices, on lands defined in RCW 84.34.020(2) for production, except for activities in sensitive and/or critical areas commencing since June 1998, conversion of timberland to agriculture, or construction of impervious surfaces;~~
- ~~▪ Projects covered under the State of Washington Model Toxics Control Act (MTCA) or the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA);~~
- ~~▪ Forest practices regulated under the Forest Practices Act (Chapter 76.09 RCW) that do not convert timberland to other uses;~~
- ~~▪ Underground and/or overhead utility projects (PCC 17A.10.070 C.1.g, 17A.10.070 C.4) that create less than 500 square feet of impervious surface and are constructed in accordance with the Manual on Accommodating Utilities in Pierce County Rights-of-Way.~~

Volume 1 Chapter Section 1.3 How to Use this Volume – Replace Item 3 with the following:

Chapter 3 to determine what submittal requirements apply. Submittal forms can be obtained from the City of Edgewood’s website: www.cityofedgewood.org.

Volume 1 Section Chapter 1.4.2 Protection and Establishment of Natural Buffer Areas

– Replace the first paragraph with the following:

Natural buffer areas may be required to protect drainage courses from erosion and pollutants. Natural buffer areas are required adjacent to all wetlands, per the city’s requirements, as documented in the Edgewood critical areas ~~atlas~~-maps and required by the Critical Areas Ordinance, EMC Title 14. Where development is proposed near buffer zones

Commented [JM5]: Deleted here, see edits to EMC 13.05.010 (above) and Volume 1 Sections 2.2 & 2.3.1 (below).

Commented [AMS6]: These are sections, not chapters. I updated throughout so as not to confuse.

that have been established by the city or near an environmentally sensitive area, obtain the city's regulations regarding buffer zones.

Volume 1 ~~Section Chapter~~ 1.7 Relationship of this Manual to Federal, State, and Local Regulatory Requirements – Replace the second and third paragraphs with the following:

The City of Edgewood website has information on the city's permitting process, including online permit information: www.cityofedgewood.org.

Permit information can also be obtained by calling the general information line at (253) 952-3299, or visiting City Hall at 2224 104th Ave. E. in Edgewood.

Volume 1 ~~Section Chapter~~ 1.7.1 The Manual's Role as Technical Guidance and Requirements – Replace "~~PCC Title 17A~~"~~the code reference~~ under "Penalties and Enforcement" with "EMC 13.05.100". Replace "~~PCC Title 17A~~"~~the code reference~~ under "Appeals" with EMC 13.05.090.

Volume 1 ~~Section Chapter~~ 1.7.2 More Stringent Measures – Delete the second paragraph.

Volume 1 ~~Section Chapter~~ 1.7.3 Presumptive Versus Demonstrative Approaches to Protecting Water Quality – Replace the phone number at the end of the section with (253) 952-3299.

Volume 1 ~~Section Chapter~~ 1.7.4 – Replace this section with the following:

Phase II – NPDES and State Waste Discharge Stormwater Permits for Municipalities

Certain municipalities and other entities are subject to permitting under the U.S. Environmental Protection Agency (U.S. EPA) Phase II Stormwater Regulations (40 CFR Parts 122, 123). In western Washington, Ecology has issued joint NPDES and state waste discharge permits to regulate the discharges of stormwater from the municipal separate storm sewer systems operated by small cities, including Edgewood.

The Phase II NPDES Municipal Stormwater Permit was reissued on ~~August 1, 2012~~July 1, 2019 (and subsequently modified on ~~January 16, 2015~~) and is available on the Ecology website: <http://www.ecy.wa.gov/programs/wq/stormwater/municipal/phaseiiwww/wwwphiipermits.html><https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Stormwater-general-permits/Municipal-stormwater-general-permits/Western-Washington-Phase-II-Municipal-Stormwater>.

Volume 1 Section 2.2 Exemptions – Replace "PCC Title 17A" with "EMC 13.05.010".

Volume 1 ~~Chapter-Section~~ 2.3.1 New Development - Replace the first, bold sentence with the following: **All new development shall be required to comply with Minimum Requirements #2, #4 and #5, regardless of size and even if exempt from permit application submittal.**

There are no amendments to the New Development thresholds.

Volume 1 Chapter 2.3.2 Redevelopment

Commented [JM7]: Removed to clean up code.

There are no amendments to the Redevelopment thresholds.

Volume 1 Chapter 2.4.1

Minimum Requirement #1 Preparation of Stormwater Site Plans.

There are no amendments to Minimum Requirement #1.

Volume 1 ~~Section Chapter~~ 2.4.2 Minimum Requirement #2: Construction Stormwater Pollution Prevention (SWPP).

On page 2-8, add the following paragraph under the third paragraph of [Chapter-Section 2.4.2](#):

Per EMC Title 14.90.040(B)(5), the removal and disturbance of vegetation, clearing or grading in Landslide Hazard Management Areas shall be limited to the area of the approved development and shall not be allowed during the wet season (November 1st through May 1st), unless adequate provisions for wet season erosion have been addressed in the geotechnical report and approved by the department.

Volume 1 Chapter 2.4.3

Minimum Requirement #3 Source Control of Pollutants.

There are no amendments to Minimum Requirement #3.

Volume 1 Chapter 2.4.4

Minimum Requirement #4 Preservation of Natural Drainage Systems and Outfalls.

There are no amendments to Minimum Requirement #4.

Volume 1 ~~Section Chapter~~ 2.4.5

Minimum Requirement #5 On-site Stormwater Management

On page 2-~~10~~11, add the following paragraphs under the first paragraph of [Chapter-Section 2.4.5](#):

To verify whether or not downstream drainage courses and facilities are adequate (Minimum Requirement #4), all project sites proposing 2,000 square feet or more of new and/or replaced impervious surface area with any discharge (including overflow) must perform a downstream analysis consistent with [Chapter-Section 3.3.4](#) (page 3-22~~1~~, "Drainage Report Section 9", beginning at the second paragraph), from the project site to the applicable receiving water body (pothole, lake, or stream) as depicted in the city's Surface Water Management Plan, ~~but in no case any more than one-half mile downstream of the site.~~

The engineer must field inspect all existing stormwater drainage systems and determine if the capacity is adequate to handle existing flows, flows generated by the proposed project, and any overflows. Project sites tributary to a pothole, ~~even if more than one-half mile from the project site,~~ will also require a zero-rise analysis of said pothole, meeting the

Commented [JB8]: Removed to clean up code.

requirements of EMC 14.80.050(E). Adequacy will be evaluated based on conveyance capacity during the 5100-year peak flow, known flooding problems, erosion damage or potential, amount of freeboard in channels and pipes, and storage potential within the system. If the conveyance is deemed inadequate, the engineer must either improve the system or restrict flows leaving the project to compensate.

In lieu of this downstream analysis, the engineer may either:

1. Demonstrate the undetained / unmitigated 100-year peak flow rate under developed conditions (i.e. overflow) will not be greater than the modeled 100-year peak flow rate under existing conditions, or
2. Retain 100% of stormwater runoff within the project site (following the methods prescribed in the PCM), apply a 20% safety factor to the modeled stormwater retention volume(s), and no surface water will be allowed to leave the site (including overflow).

On page 2-10, add the following to the second paragraph after “flow control exempt per Section 2.4.7 of this chapter”: (including those project sites that infiltrate 100% of stormwater onsite)

On page 2-1011, replace the third paragraphsecond paragraph with the following:

In addition, projects subject to the city's Development and Design Standards (per EMC 18.90 and 18.95) should review Volume VI in conjunction with Minimum Requirements #5, #6, and #7. Some of the requirements of EMC 18.90 and 18.95 may partially or fully achieve the requirements of Minimum Requirements #5, #6, and #7. Projects using infiltration for stormwater management may be subject to groundwater flow testing and flow pattern identification as part of the mitigation requirements where infiltration may cause new or exacerbate existing down-gradient flooding, erosion or landslide problems.

In lieu of this downstream analysis, the engineer may either:

1. Demonstrate the undetained / unmitigated 100-year peak flow rate under developed conditions (i.e. overflow) will not be greater than the modeled 100-year peak flow rate under existing conditions, or

2. Retain 100% of stormwater runoff within the project site (following the methods prescribed in the PCM), apply a 20% safety factor to the modeled stormwater retention volume(s), and no surface water will be allowed to leave the site (including overflow).

On page 2-1112, replace the second paragraphtext and Table 2.1 (and associated note) with the following:

Projects triggering Minimum Requirements #1 through #10 shall either:

- a. Use onsite stormwater management BMPs from List #2 for all surfaces within each type of surface in List #2; or
- b. Demonstrate compliance with the LID Performance Standard and implement the soil preservation and amendment BMP described in Volume III, Section 3.1. Projects selecting this

Commented [AMS9]: This appears to have been removed from the 2021 manual

Commented [JB10]: The second paragraph was removed by the County when they updated the manual.

Commented [JM11]: Deleting unintentional redundancy

Commented [JB12]: Paragraph has been removed in new manual and the table has been removed and a new table was added. Following review, the new information is not applicable to Edgewood and this modification still applies.

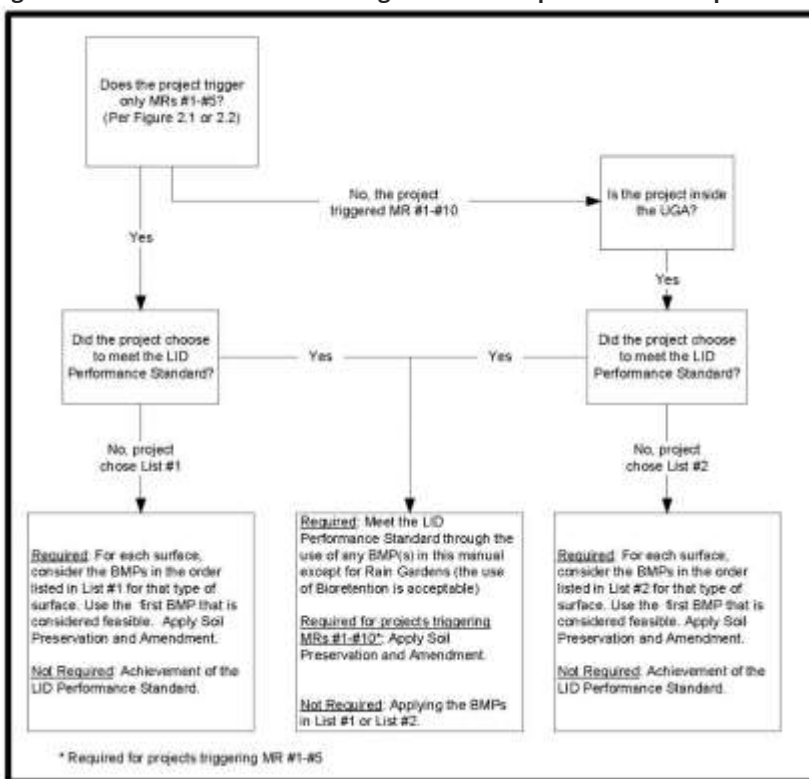
option cannot use rain gardens. They may choose to use bioretention areas as described in Volume III, Section 3.4 to achieve the LID Performance Standard.

On page 2-14, replace the second bullet under “Competing Needs” with:

Where an LID requirement has been found to be in conflict with special design criteria found in EMC Title 18, the existing codes may supersede or reduce the LID requirement.

On page 2-45~~13~~, replace Figure 2.3 with the following:

Figure 2.3 Flow Chart for Determining Minimum Requirement #5 Requirements.



On page 2-16, replace the second bullet under “Competing Needs” with:

Where an LID requirement has been found to be in conflict with special design criteria found in EMC Title 18, the existing codes may supersede or reduce the LID requirement.

Volume 1 **Section Chapter** 2.4.6

Minimum Requirement #6 Runoff Treatment

Commented [JB13]: Moved to be consistent with Manual.

Commented [JB14]: Moved to be consistent with Manual.

On page 2-17-19, add the following before the first paragraph under “Supplemental Guidelines”:

For new agricultural activities allowed under EMC 14.60.040(D) in aquifer recharge and wellhead protection areas, Integrated Pest Management (IPM) practices and fertilizer use Best Management Practices (BMPs) shall be used as described by the Washington State University Extension Service. See Appendix IV-B for an example IPM program.

Volume 1 Section Chapter 2.4.7

Minimum Requirement #7 Flow Control

There are no flow control-exempt receiving waters in the City of Edgewood. Delete the following:

- On page 2-1819 to page 2-20, first paragraph, last sentence, delete everything after “into a fresh waterbody” ~~(appears on page 2-20).~~
- On page 2-181920, delete the bullet points after the first paragraph, the second paragraph, and the bullet points following the second paragraph (which continue onto page 2-19210).

On page 2-1921, replace the second paragraph under “Thresholds” with the following:

If any of the following conditions are met / exceeded, the standard flow control requirement for western Washington must be achieved:

On page 2-1921, amend the first bulleted paragraph under Thresholds to read:

- Projects in which the total of effective impervious surfaces is 5,000 square feet or more in a threshold discharge area.

On page 2-2021, replace the first paragraph under “Discharge Requirements” with the following:

It is the City’s policy that stormwater be infiltrated whenever possible. Infiltration facilities shall be designed in accordance with summary standards provided for the applicant’s convenience by the City, or in accordance with the PCM and associated reference documents. Projects using infiltration for stormwater management may be subject to groundwater flow testing and flow pattern identification as part of the mitigation requirements where infiltration may cause new or exacerbate existing down-gradient flooding, erosion or landslide problems.

The allowable release rates from a project are dependent upon the ultimate destination for the stormwater. All projects not directly attributable to one of the four categories defined below shall use Category A for determining the allowable discharge rates.

On page 2-2021, replace first sentence under “Category A” with: “Any naturally occurring waterbody not defined as a closed depression, publicly owned regional retention and/or detention facility, or privately constructed regional retention and/or detention facility.” Under

"Requirements", delete the last word in the first paragraph, "unless", and the following two bullet points.

In summary, all project sites shall consider forested conditions for the predeveloped scenario.

On page 2-2423, under "Category B", "Requirements", first bullet point, replace both instances of the phrase "(existing)" after "predeveloped" with "(forested)". Also, after the phrase "must also be added to the final design storage volume", add the following:

without increasing the depth of the proposed facility. A zero-rise analysis shall also be performed on the closed depression, meeting the requirements of EMC 14.80.050(E). WWHM, MGSFlood, or other DOE-approved continuous runoff model shall be used in lieu of HEC-RAS for the zero-rise analysis.

On page 2-2325, under "Category D", "Requirements", second bullet point, replace "Director of Pierce County Public Works" with "City of Edgewood Public Works Department", and replace "Pierce County Surface Water Management" with "the City of Edgewood Surface Water Program Manager".

Volume 1 Section Chapter 2.4.8

Minimum Requirement #8 Wetlands Protection

On page 2-2628, under "Supplemental Guidelines", first paragraph, replace "Pierce County Critical Areas Ordinance 18E" with "EMC Title 14".

Volume 1 Chapter 2.4.9

Minimum Requirement #9 Operations and Maintenance

There are no amendments to Minimum Requirement #9.

Volume 1 Chapter 2.4.10

Minimum Requirement #10 Financial Liability

There are no amendments to Minimum Requirement #10.

Volume 1 Section Chapter 3.2.6 Abbreviated Plan – Site Development Drawings

On page 3-7, bullet point 11, replace "PCC title 18J" with "EMC Title 18".

On page 3-8, under "Advanced Plan Requirements", replace "PCC Title 17A, Soil Engineering – Stability" in the last paragraph with "EMC Title 14".

Volume 1 Section Chapter 3.2.9 Abbreviated Plan – Establishment of Maintenance Covenant

On page 3-9, replace the first sentence of the second paragraph with the following:

Commented [AMS15]: Is it necessary to add this as an amendment? It would fall under the general "replace references to PC Ord 18E with EMC Title 14" at the beginning of this section.

Commented [JM16R15]: Deleting this per comment above.

Commented [JM17]: Removed to clean up code.

Commented [JM18]: Covered by general replacement references above.

The recorded maintenance covenant must be created on a city-approved form, obtainable from the Surface Water Program Manager.

Volume 1 Section Chapter 3.3.4 Drainage Control Plan – Drainage Report

On page 3-~~2021~~, replace “Drainage Report Section 7 – Floodplain Analysis” with the following:

If the project is within a potential flood hazard area as defined in EMC Title 14 and indicated on the City of Edgewood's Critical Areas Map, show the 100-year flood hazard area on the plans. If the flood hazard area has not been established (or the city determines that it is in error), the city may require the applicant to establish and map the 100-year flood hazard area for the proposed project per EMC 14.80, to be submitted with the Drainage Report. For closed depressions, the analysis will be for the 100-year flood considering existing land cover conditions. For streams and other water bodies with surface outlets, the analysis will be for the 100-year flood for build out at maximum density allowed by current zoning. If the project is determined to be in the flood hazard area, additional studies per EMC 14.80 may be required. WWHM, MGSFlood, or another DOE-approved continuous runoff model shall be used in lieu of HEC-RAS for the zero-rise analysis. ~~The project engineer shall contact the city Surface Water Program Manager regarding the appropriate computer program(s) for backwater analysis.~~

On page 3-~~2122~~, replace the ~~second through fourth paragraphs~~ last sentence of the first bullet under “Drainage Report Section 9 – Facility Sizing and ~~OffsiteDownstream a~~Analysis” with the following:

The study area shall extend downstream of the proposed project discharge location to the applicable receiving water body (pothole, lake, or stream) as depicted in the city's Surface Water Management Plan.

~~A downstream analysis is required from the project site to the applicable receiving water body (pothole, lake, or stream) as depicted in the city's Surface Water Management Plan. The engineer must field inspect all existing stormwater drainage systems and determine if the capacity is adequate to handle existing flows, flows generated by the proposed project, and any overflows. Adequacy will be evaluated based on conveyance capacity during the 100-year peak flow, known flooding problems, erosion damage or potential, amount of freeboard in channels and pipes, and storage potential within the system.~~

On page 3-22, under “Drainage Report Section 9 – Facility Sizing and Offsite Analysis”, between the first and second bullet, insert a new bullet reading as with the following:

Project sites tributary to a closed depression / pothole will also require a zero-rise analysis meeting the requirements of EMC 14.80.050(E). WWHM, MGSFlood, or another DOE-approved continuous runoff model shall be used in lieu of HEC-RAS for the zero-rise analysis.

~~If a capacity problem or stream bank erosion problem is encountered, the release rate from the project will be restricted accordingly or the applicant may correct the problem. Drainage data (available at the city) may be used to assist the engineer in determining the capacity of existing systems. Historic comprehensive storm drainage maps are also available to aid in understanding development patterns and changed conditions. For naturally occurring drainage systems, drainage ditches, or undeveloped drainage courses, the engineer must~~

Commented [AMS19]: Is this still accurate? Is this intended to replace the paragraphs that carry over onto page 3-23 as well?

Commented [JM20R19]: Revised as needed to fit new manual and retain more strict components.

take into account the hydraulic capacity of the existing drainage course and environmental considerations such as erosion, siltation, and increased water velocities or water depths.

On page 3-24, under “Drainage Report Section 9 – Facility Sizing and Offsite Analysis”, add the following to the end of the second-to-last paragraph:

The engineer must determine if there is adequate capacity in the offsite conveyance system to handle existing flows, flows generated by the proposed project, and any overflows. Adequacy will be evaluated based on conveyance capacity during the 100-year peak flow, known flooding problems, erosion damage or potential, amount of freeboard in channels and pipes, and storage potential within the system.

A copy of any storm drainage maps generated from available GIS coverage, updated with current drainage features, and showing the flow route of the onsite water for the downstream conveyance flow path must be included in the storm drainage calculations. USGS maps (minimum scale of 1:2400) may be utilized when city maps are not available.

Volume 1 Section 3.3.5 Drainage Control Plan – Construction SWPPP Report

On page 3-254, Table 3.2, replace “Pierce County ~~PALS~~Planning & Public Works (PPW)” with “City of Edgewood”, remove the “Shoreline Permit” row, and remove “or Fish and Wildlife Permit” from the last cell.

Commented [JM21]: Table 3.2 is still technically park of Section 3.3.4, as that is where it is referenced...

Volume 1 ~~Section Chapter~~ 3.3.7 Drainage Control Plan – Establishment of Maintenance Covenant

On page 3-2829, replace the first paragraph with the following:

A maintenance covenant is required for each site/lot that contains stormwater management BMPs that will be maintained by a private entity such as an individual, corporation, or homeowner’s association. The maintenance covenant must be created on a city-approved form (obtainable from the Edgewood Community Development Department), and any attachments shall meet the recording requirements of the Pierce County Auditor. The covenant shall be recorded at the Pierce County Auditor’s office at the expense of the applicant, and shall be tied to the parcel numbers that the project is built on. All covenants must be recorded prior to final construction approval for the proposed project.

Volume 1 Appendix I-B

See Chapter 14.40 EMC for wetland protection, buffer and mitigation requirements. The requirements of EMC 14.40 shall take precedence over Appendix I-B.

Commented [AMS22]: Take precedence or supersede? Take precedence means that I-B still applies in some circumstances so just wanting to make sure this is the intent.

Volume 1 Glossary

Areas of Special Flood Hazard: Replace “PCC 18E” with “EMC 14.80”.

Commented [JM23R22]: Confirmed, thank you!

County, the: Replace title with “City, the” and definition as follows:

The jurisdictional boundaries of the City of Edgewood, and the Mayor or authorized representative.

Critical Areas: Replace “PCC Title 18E – Development Regulations – Critical Areas” with “EMC Title 14”.

Environmentally Sensitive Area (Sensitive Area): Replace with “See EMC Title 14.”

Large Lot: Deleted / Not Applicable

One Lot Subdivision: Deleted / Not Applicable

Short Plat or Short Subdivision: Replace with “As defined in EMC Title 16.”

Subdivision: Replace with “As defined in EMC Title 16.”

Wetlands: Replace with “As defined in EMC Title 14.”

Commented [AMS24]: Same comment as previously noted. This would be covered under the intro "replace references" in this section so may not be needed.

Commented [JM25R24]: Agreed – deleting redundancies.

Commented [JB26]: Has been removed for Manual.

Commented [JM27]: Deleting redundancy

Volume 2 Section Chapter 2.2.1 Narrative

On page 2-45, delete the second paragraph under “Certified Erosion Control Lead”.

On page 2-57, under “Financial/Ownership Responsibilities”, replace “PCC Title 17A.20” with “EMC 16.06.050”.

Volume 2 Section Chapter 2.3.1 Step 1 – Data Collection

On page 2-810, under the “Evaluate Zoning” bullet, replace with the following:

Determine if the site zoning per EMC Title 18 requires a full / comprehensive LID development or if the applicant chooses to apply a full / comprehensive LID development. If pursuing comprehensive LID, see Volume VI for additional requirements and guidelines.

Volume 2 Section Chapter 2.3.3 Step 3 – Construction SWPPP Development and Implementation

On page 2-12, under Element #2: Establish Construction Access”, bullet six, replace “County Industrial Pretreatment Program at (253) 798-3013” with “applicable purveyor – see the City of Edgewood for more information.”

Commented [JB28]: Has been removed from Manual

On page 2-2022 to page 2-23, under the third-Fifth bullet under Element #9, replace “County Industrial Pretreatment Program at (253) 798-3013” with “applicable purveyor – see the City of Edgewood for more information.” (continued on page 2-23.”

On page 2-2224 and continued onto page 2-25, under the first-last bullet, replace “County Industrial Pretreatment Program at (253) 798-3013” with “applicable purveyor – see the City of Edgewood for more information.”

Volume 2 Section Chapter 3.1 Source Control BMPs

On page 3-1112, under “Design and Installation Specifications Conditions of Use”, second third bullet, replace “County Industrial Pretreatment Program at (253) 798-3013” with “applicable purveyor – see the City of Edgewood for more information.”

Commented [JB29]: Location of phone number changed.

Volume 2 Chapter 3.2 Runoff Conveyance and Treatment BMPs

On page 3-139, under “Sanitary Sewer Disposal”, replace “County Industrial Pretreatment Program at (253) 798-3013” with “applicable purveyor – see the City of Edgewood for more information.” ~~There are no amendments required Runoff Conveyance and Treatment BMPs.~~

Commented [JB30]: Language in the permit was changed to contact local sewer authority.

Volume 3 Chapter-Section 2 Hydrologic Analysis and Design Standards On page 2-1, fourth paragraph, replace the last sentence with: Additional information on general LID site design and requirements of the city's Development and Design Standards (per EMC 18.90 and 18.95) are provided in Volume VI.

Volume 3 Section Chapter-2.5.2 Infiltration Facilities for Flow Control – Procedures

On page 2-1617, under “Construct the Facility and Conduct Performance Testing.”, replace with the following:

To demonstrate that the facility performs as designed, the constructed facility must be tested and monitored per the Verification of Performance requirements in Section 2.5.3, and documented as part of the facility's as-built records.

Volume 3 Section Chapter-2.5.3 General Criteria for Infiltration Basins and Trenches

On page 2-18, under “100-year Overflow Conveyance”, add the following:

To verify the capacity of the overflow conveyance, a downstream analysis shall be prepared per Volume I, Chapter 2.4.5 of this manual (as modified herein). In lieu of this downstream analysis, the engineer may demonstrate 100% retention of stormwater runoff within the project site (following the methods prescribed in the PCM), apply a 20% safety factor to the modeled stormwater retention volume(s), and no surface water will be allowed to leave the site (including bypass and overflow).

~~On page 2-19, bullet point #5, replace “PCC Title 18E.80” with “EMC Title 14”.~~

Commented [JM31]: Added general reference above.

~~On page 2-20, under “Infiltration Near Steep Slopes or Landslide Hazard Areas”, replace “PCC Title 18E.80” with “EMC Title 14”.~~

Volume 3 Section Chapter-3.2.1 General Dispersion Facility Design Criteria

On page 3-8, replace the ~~first-second~~ bullet point under “General Design Criteria” with the following:

Runoff from dispersion facilities shall not be allowed for stormwater discharges up-slope from Landslide or Erosion Hazard Areas. If the natural discharge location of the site is toward a Landslide or Erosion Hazard Area, stormwater shall be conveyed down the slope in a pipe as required by Chapters 14.90 and 14.110 EMC. If the natural discharge location of the site is away from the Landslide or Erosion Hazard Area, a piped storm system shall be used to convey stormwater away from the hazard area. Stormwater management facilities for the

Commented [AMS32]: Did you want to amend the 3rd bullet point under “general design criteria” to update the PCC Title 18E.80 reference to Title 14 EMC?

Commented [JM33R32]: Added general reference above.

site shall be implemented in accordance with the requirements of Chapter 13.05 EMC and PCM as supplemented herein.

On page 3-8, add the following to the end of Section 3.2.1:

To preserve the vegetative flowpath area on the project site from alteration, the dispersion system and flowpath length shall be documented on a site plan, to be recorded on the property title. The site plan shall include the following requirements:

1. Maintenance of vegetation in the flowpath area shall be in accordance with BMP T5.13 (or otherwise approved design).
2. Splashblocks or gravel-filled trenches shall not be covered or removed but shall be maintained in accordance with the approved design.
3. If the flowpath area, splashblocks, or gravel-filled trenches are disturbed, additional stormwater management facilities shall be designed and constructed in accordance with the PCM or City's most current adopted stormwater manual.

Volume 3 Chapter 3.5.6 Paving Surface Design Criteria

On page 3-56, replace "PCC Title 18E.80" with "EMC Title 14".

Volume 3 Chapter 3.9.5 Perforated Stub-Out Connections

On page 3-84, replace "PCC Title 18E.80" with "EMC Title 14".

Commented [JM34]: Added general reference above.

Volume 3 Section Chapter 3.10.2 Vegetated Roofs – Applications and Limitations

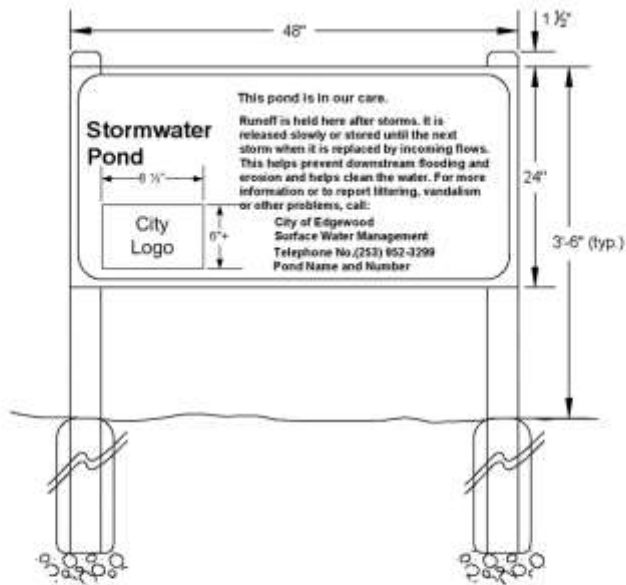
On page 3-8794, replace "PCC Title 17C – Construction and Infrastructure Regulations – Building and Fire Codes" with "EMC Title 15.05" in fourth bullet point.

Volume 3 Section Chapter 3.12.1 Detention Ponds

On page 3-106, replace "Stormwater Sign Sample Specifications" with the following:

On page 3-109, under "Signage" replace paragraph with the following: "

Detention ponds, infiltration basins, wet ponds, and combined ponds shall have a sign placed for maximum visibility from adjacent streets, sidewalks, and paths. An example of sign specifications for a permanent surface water control pond is illustrated below."



Sample Specifications:

Size:	48 inches by 24 inches
Material:	0.125-gauge aluminum
Face:	Non-reflective vinyl or 3 coats outdoor enamel (sprayed)
Lettering:	Silk screen enamel where possible, or vinyl letters
Colors:	White background, Black letters
Type face:	Arial. Title: 3 inch; Sub-Title: 1 1/2 inch; Text: 1 inch; Outer Border: 1/8 inch; Border Distance from Edge: 1/4 inch; all text 1 1/4 inch from border.
Posts:	Pressure treated, beveled tops, 1 1/2 inch higher than sign.
Installation:	Secure to chain link fence if available. Otherwise install on two 4" x 4" posts, pressure treated, mounted atop gravel bed, installed in 30-inch concrete filled post holes (8-inch minimum diameter). Top of sign no higher than 42 inches from ground surface.
Placement:	Face sign in direction of primary visual or physical access. Do not block any access road. Do not place within 5 feet of structural facilities (e.g. manholes, spillways, pipe inlets).

Volume 4 **Section Chapter** 1.3 What Type of Pollutants...

On page 1-2, first paragraph, replace "Pierce County Code (PCC) Title 11" with "EMC 13.25".

Volume 4 **Section Chapter** 1.4.1 Source Control Best Management Practices

On page 1-45, under item 2, third bullet, replace "County Industrial Pretreatment Program at (253) 798-3013" with "applicable purveyor – see the City of Edgewood for more information."

Volume 4 **Section Chapter** 1.7 How Do I Get Started?

On page 1-7, replace the third paragraph with the following:

If you have questions, please contact the City of Edgewood Surface Water Program Manager at (253) 952-3299. They can provide assistance over the phone and also at your business site.

Commented [JB35]: Replaces Pierce County information.

Volume 4 ~~Section~~ **Chapter 1.8** Some Important Requirements to Note

On page 1-7, replace “PCC Title 11 Illicit Stormwater Discharges” with “Chapter 13.25 EMC”, replace “Pierce County Surface Water Management at (253) 798-2725” with “the City of Edgewood Surface Water Program Manager at (253) 952-3299”, and replace “Pierce County Planning ~~and Land Services~~ and Public Works (PALSPW) at (253) 798-7200” with “City of Edgewood at (253) 952-3299.” In the second and third paragraphs.

Volume 4 Chapter 2 Worksheet for Commercial and Industrial Activities

On page 2-1, replace “County Industrial Pretreatment Program at (253) 798-3013” with “applicable purveyor – see the City of Edgewood for more information”, and replace “Pierce County Surface Water Management at (253) 798-2725” with “the City of Edgewood Surface Water Program Manager at (253) 952-3299” in the second and third paragraphs.

Commented [AMS36]: Should the refence in the first paragraph to PCC Title 11 Illicit Stormwater Discharges be amended to cite to Chapter 13.25 EMC?

Commented [JM37R36]: Added – thanks!

Commented [JB38]: Changes were made by P.C. program names.



STATE OF WASHINGTON
DEPARTMENT OF COMMERCE
1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000
www.commerce.wa.gov

03/14/2022

Mr. Jeremy Metzler
Senior Engineer / Surface Water Program Manager
City of Edgewood
2224 104th Avenue East
Edgewood, WA 98372

Sent Via Electronic Mail

Re: City of Edgewood--2022-S-3756--60-day Notice of Intent to Adopt Amendment

Dear Mr. Metzler:

Thank you for sending the Washington State Department of Commerce (Commerce) the 60-day Notice of Intent to Adopt Amendment as required under [RCW 36.70A.106](#). We received your submittal with the following description.

Proposed Edgewood Municipal Code (EMC) amendment to Title 13 SURFACE WATER MANAGEMENT AND SITE DEVELOPMENT; ensuring compliance the updated Pierce County Stormwater Management and Site Development Manual.

We received your submittal on 03/11/2022 and processed it with the Submittal ID 2022-S-3756. Please keep this letter as documentation that you have met this procedural requirement. Your 60-day notice period ends on 05/10/2022.

We have forwarded a copy of this notice to other state agencies for comment.

Please remember to submit the final adopted amendment to Commerce within ten days of adoption.

If you have any questions, please contact Growth Management Services at reviewteam@commerce.wa.gov, or call Keri Sallee, (360) 725-3064.

Sincerely,

Review Team
Growth Management Services



Determination of Nonsignificance (DNS) Adoption/Addendum

City of Edgewood ■ 2224 104th Ave East ■ Edgewood, Washington 98372-1513 ■ 253-952-3299

Date of Issuance:	April 4, 2022
Proposal Name:	Edgewood Municipal Code (EMC) Title 13, Surface Water Management and Site Development Amendments
File No.:	22-1108
Lead Agency:	City of Edgewood
Staff Contact:	Jeremy Metzler, Public Works Director (253) 831-3299 jeremy@cityofedgewood.org
Proponent:	City of Edgewood Public Works Department
Location:	City of Edgewood Municipal Boundaries
Proposal Description:	A non-project action for proposed amendments to EMC Title 13 Surface Water Management and Site Development including Chapters 13.05.160 and 13.05.170 ensuring compliance with the updated Pierce County Stormwater Management and Site Development Manual.
Existing Environmental Documents:	SEPA DNS for EMC Title 13 Stormwater Manual – Site Development Regulations Update issued September 21, 2016 and associated SEPA Checklist prepared September 6, 2016 (File No. 5354); City of Edgewood Comprehensive Plan; Pierce County Stormwater Management and Site Development Manual, July 2021 Edition; SEPA Checklist dated March 3, 2022; Draft amendments to EMC 13.05.160 and 170
Document being adopted:	City of Edgewood SEPA DNS for EMC Title 13 Stormwater Manual – Site Development Regulations Update issued September 21, 2016 (File No. 5354): Amendments to EMC Chapter 13.05 Stormwater Manual and Site Development Regulations and portions of EMC Titles 12, 13, 14, 15, 16, 18, and 20, adopting the December 2015 edition of the Pierce County Stormwater Management and Site Development Manual, with local amendments, incorporating and requiring low impact development (LID) to the maximum extent feasible, providing for severability, and in accordance with provisions outlined within the draft code amendments.
DNS Adoption/Addendum:	As provided WAC 197-11-600(4)(c) and Part Six WAC 197-11-625 Addenda-Procedures additional information including draft amendments to EMC 13.05.160 and 170 amendments and accompanying analysis does not substantially change the environmental analysis and alternatives in the original DNS. The City has identified and adopted the existing DNS as being appropriate for this proposal. The adopted document meets the City's environmental review needs for the current proposal and will accompany the proposal to the decision maker.

The City has determined that this proposal will not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). The DNS was issued under WAC 197-11-340(2).

Pursuant to EMC 20.05.190 and 20.05.250 there is no comment and no appeal period.

SEPA Responsible Official:



04/04/2022

Signature

Date

Darren Groth, Community and Economic Development Director
2224 104th Ave E, Edgewood, WA 98372 | (253) 952-3299

Documents available:

Environmental checklists and other materials are available on the City's Permit Portal via portal.cityofedgewood.org by searching the file number(s) listed above. Documents associated with this proposal are also available upon written request, in person, and by phone.

SEPA ENVIRONMENTAL CHECKLIST

Purpose of checklist:

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for applicants:

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Instructions for Lead Agencies:

Please adjust the format of this template as needed. Additional information may be necessary to evaluate the existing environment, all interrelated aspects of the proposal and an analysis of adverse impacts. The checklist is considered the first but not necessarily the only source of information needed to make an adequate threshold determination. Once a threshold determination is made, the lead agency is responsible for the completeness and accuracy of the checklist and other supporting documents.

Use of checklist for nonproject proposals:

For nonproject proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B plus the [SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS \(part D\)](#). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in Part B - Environmental Elements –that do not contribute meaningfully to the analysis of the proposal.

A. Background [\[HELP\]](#)

1. Name of proposed project, if applicable:
Site Development Code Update (Municipal Stormwater Permit Compliance)
2. Name of applicant:
City of Edgewood Public Works

3. Address and phone number of applicant and contact person:
Jeremy Metzler, PE – Public Works Director
2224 104th Avenue East, Edgewood, WA 98372
(253) 952-3299
4. Date checklist prepared: March 3, 2022
5. Agency requesting checklist: City of Edgewood
6. Proposed timing or schedule (including phasing, if applicable): Code adoption no later than June 28, 2022, per Western Washington Phase II Municipal Stormwater Permit requirements.
7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain. N/A, as this is a non-project action.
8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.
2021 Pierce County Stormwater & Site Development Manual
9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.
N/A, as this is a non-project action.
10. List any government approvals or permits that will be needed for your proposal, if known.
City Council adoption of an Ordinance to update the Municipal Code.
11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)
Updates to the Municipal Code necessary to maintain compliance with the Western Washington Phase II Municipal Stormwater Permit.
12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.
City-wide, no specific location; The proposed development regulations would apply to any new development that meets the triggering thresholds throughout the City of Edgewood.

B. Environmental Elements [\[HELP\]](#)

1. Earth [\[help\]](#)

a. General description of the site:

(circle one): Flat, rolling, hilly, steep slopes, mountainous, other N/A, non-project action.

b. What is the steepest slope on the site (approximate percent slope)?

N/A, as this is a non-project action.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

N/A, as this is a non-project action.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

N/A, as this is a non-project action.

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.

N/A, as this is a non-project action.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

N/A, as this is a non-project action.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

N/A, as this is a non-project action.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

N/A, as this is a non-project action.

2. Air [\[help\]](#)

a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.

N/A, as this is a non-project action.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

N/A, as this is a non-project action.

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

N/A, as this is a non-project action.

3. **Water** [\[help\]](#)

a. Surface Water: [\[help\]](#)

- 1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

N/A, as this is a non-project action.

- 2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

N/A, as this is a non-project action.

- 3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

N/A, as this is a non-project action.

- 4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

N/A, as this is a non-project action.

- 5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

N/A, as this is a non-project action.

- 6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

N/A, as this is a non-project action.

b. Ground Water: [\[help\]](#)

- 1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

N/A, as this is a non-project action.

- 2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

N/A, as this is a non-project action.

c. Water runoff (including stormwater):

- 1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

N/A, as this is a non-project action.

2) Could waste materials enter ground or surface waters? If so, generally describe.

N/A, as this is a non-project action.

3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.

N/A, as this is a non-project action.

d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:

N/A, as this is a non-project action.

4. **Plants** [\[help\]](#)

a. Check the types of vegetation found on the site: N/A, non-project action.

___deciduous tree: alder, maple, aspen, other

___evergreen tree: fir, cedar, pine, other

___shrubs

___grass

___pasture

___crop or grain

___Orchards, vineyards or other permanent crops.

___wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other

___water plants: water lily, eelgrass, milfoil, other

___other types of vegetation

b. What kind and amount of vegetation will be removed or altered?

N/A, as this is a non-project action.

c. List threatened and endangered species known to be on or near the site.

N/A, as this is a non-project action.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

N/A, as this is a non-project action.

e. List all noxious weeds and invasive species known to be on or near the site.

N/A, as this is a non-project action.

5. **Animals** [\[help\]](#)

a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site. N/A, non-project action.

Examples include:

birds: hawk, heron, eagle, songbirds, other:

mammals: deer, bear, elk, beaver, other:
fish: bass, salmon, trout, herring, shellfish, other _____

b. List any threatened and endangered species known to be on or near the site.

None known throughout the City of Edgewood.

c. Is the site part of a migration route? If so, explain.

Yes – Pacific Flyway Zone.

d. Proposed measures to preserve or enhance wildlife, if any:

N/A, as this is a non-project action.

e. List any invasive animal species known to be on or near the site.

N/A, as this is a non-project action.

6. Energy and Natural Resources [\[help\]](#)

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

N/A, as this is a non-project action.

b. Would your project affect the potential use of solar energy by adjacent properties?
If so, generally describe.

N/A, as this is a non-project action.

c. What kinds of energy conservation features are included in the plans of this proposal?
List other proposed measures to reduce or control energy impacts, if any:

N/A, as this is a non-project action.

7. Environmental Health [\[help\]](#)

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal?
If so, describe. N/A, non-project action.

1) Describe any known or possible contamination at the site from present or past uses.

N/A, as this is a non-project action.

2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.

N/A, as this is a non-project action.

3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.

N/A, as this is a non-project action.

- 4) Describe special emergency services that might be required.

N/A, as this is a non-project action.

- 5) Proposed measures to reduce or control environmental health hazards, if any:

N/A, as this is a non-project action.

b. Noise

- 1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

N/A, as this is a non-project action.

- 2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

N/A, as this is a non-project action.

- 3) Proposed measures to reduce or control noise impacts, if any:

N/A, as this is a non-project action.

8. Land and Shoreline Use [\[help\]](#)

- a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.

N/A, as this is a non-project action.

- b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use? N/A, as this is a non-project action.

- 1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:

N/A, as this is a non-project action.

- c. Describe any structures on the site.

N/A, as this is a non-project action.

- d. Will any structures be demolished? If so, what?

N/A, as this is a non-project action.

- e. What is the current zoning classification of the site?

N/A, as this is a non-project action.

- f. What is the current comprehensive plan designation of the site?

N/A, as this is a non-project action.

- g. If applicable, what is the current shoreline master program designation of the site?
N/A, as this is a non-project action.
- h. Has any part of the site been classified as a critical area by the city or county? If so, specify.
N/A, as this is a non-project action.
- i. Approximately how many people would reside or work in the completed project?
N/A, as this is a non-project action.
- j. Approximately how many people would the completed project displace?
N/A, as this is a non-project action.
- k. Proposed measures to avoid or reduce displacement impacts, if any:
N/A, as this is a non-project action.
- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:
N/A, as this is a non-project action.
- m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any:
N/A, as this is a non-project action.

9. Housing [\[help\]](#)

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.
N/A, as this is a non-project action.
- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.
N/A, as this is a non-project action.
- c. Proposed measures to reduce or control housing impacts, if any:
N/A, as this is a non-project action.

10. Aesthetics [\[help\]](#)

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?
N/A, as this is a non-project action.
- b. What views in the immediate vicinity would be altered or obstructed?
N/A, as this is a non-project action.
- c. Proposed measures to reduce or control aesthetic impacts, if any:
N/A, as this is a non-project action.

11. Light and Glare [\[help\]](#)

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

N/A, as this is a non-project action.

- b. Could light or glare from the finished project be a safety hazard or interfere with views?

N/A, as this is a non-project action.

- c. What existing off-site sources of light or glare may affect your proposal?

N/A, as this is a non-project action.

- d. Proposed measures to reduce or control light and glare impacts, if any:

N/A, as this is a non-project action.

12. Recreation [\[help\]](#)

- a. What designated and informal recreational opportunities are in the immediate vicinity?

N/A, as this is a non-project action.

- b. Would the proposed project displace any existing recreational uses? If so, describe.

N/A, as this is a non-project action.

- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

N/A, as this is a non-project action.

13. Historic and cultural preservation [\[help\]](#)

- a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe.

N/A, as this is a non-project action.

- b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.

N/A, as this is a non-project action.

- c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.

N/A, as this is a non-project action.

- d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

N/A, as this is a non-project action.

14. Transportation [\[help\]](#)

- a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.
N/A, as this is a non-project action.
- b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?
N/A, as this is a non-project action.
- c. How many additional parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate?
N/A, as this is a non-project action.
- d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).
N/A, as this is a non-project action.
- e. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.
N/A, as this is a non-project action.
- f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?
N/A, as this is a non-project action.
- g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.
N/A, as this is a non-project action.
- h. Proposed measures to reduce or control transportation impacts, if any:
N/A, as this is a non-project action.

15. Public Services [\[help\]](#)

- a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.
N/A, as this is a non-project action.
- b. Proposed measures to reduce or control direct impacts on public services, if any.
N/A, as this is a non-project action.

16. Utilities [\[help\]](#)

- a. Circle utilities currently available at the site:
electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system,
other _____

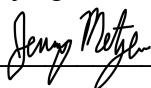
N/A, as this is a non-project action.

- b. Describe the utilities that are proposed for the project, the utility providing the service,
and the general construction activities on the site or in the immediate vicinity which might
be needed.

N/A, as this is a non-project action.

C. Signature [\[HELP\]](#)

The above answers are true and complete to the best of my knowledge. I understand that the
lead agency is relying on them to make its decision.

Signature: 

Name of signee Jeremy Metzler, PE

Position and Agency/Organization Public Works Director, City of Edgewood

Date Submitted: 3/3/2022

D. Supplemental sheet for nonproject actions [\[HELP\]](#)

(IT IS NOT NECESSARY to use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction
with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of
activities likely to result from the proposal, would affect the item at a greater intensity or
at a faster rate than if the proposal were not implemented. Respond briefly and in
general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; pro-
duction, storage, or release of toxic or hazardous substances; or production of noise?

Highly unlikely as this is a non-project action to update the Municipal Code and adopt the most current
Pierce County Stormwater & Site Development Manual, in order to continue mitigating potential impacts
associated with new development within the City of Edgewood in accordance with best available science.

Proposed measures to avoid or reduce such increases are:

Continued integration of best available science mitigation practices on new development sites, making
them more closely mimic natural conditions as required by the Municipal Stormwater Permit.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

See response to #1, above

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

See response to #1, above

3. How would the proposal be likely to deplete energy or natural resources?

See response to #1, above

Proposed measures to protect or conserve energy and natural resources are:

See response to #1, above

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

See response to #1, above

Proposed measures to protect such resources or to avoid or reduce impacts are:

See response to #1, above

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

See response to #1, above

Proposed measures to avoid or reduce shoreline and land use impacts are:

See response to #1, above

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

See response to #1, above

Proposed measures to reduce or respond to such demand(s) are:

Not applicable.

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

No conflicts to the best of our knowledge: these modifications are necessary to maintain compliance with the Western Washington Phase II Municipal Stormwater Permit requirements, which is informed by the Federal Clean Waters Act.



City of Edgewood

2224 104th Avenue East, Edgewood WA 98372-1513

Phone: (253) 952-3299 Fax: (253) 952-3537

Determination of Nonsignificance (DNS)

FILE NUMBER: 5354

**DESCRIPTION
OF PROPOSAL:**

Amendments to Edgewood Municipal Code (EMC) Chapter 13.05 – Stormwater Manual – Site Development Regulations and portions of EMC Titles 12, 13, 14, 15, 16, 18, and 20, adopting the December 2015 edition of the Pierce County Stormwater Management and Site Development Manual, with local amendments, incorporating and requiring low impact development (LID) to the maximum extent feasible, providing for severability, and in accordance with provisions outlined within the DRAFT code amendments.

LOCATION: City of Edgewood Municipal Boundaries

PROPONENT: City of Edgewood

LEAD AGENCY: City of Edgewood

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was entered following approval of Ordinance 13-0392, adopted as an emergency measure. This information is available to the public on request.

CONCLUSIONS OF RESPONSIBLE OFFICIAL:

The Responsible Official concludes that pursuant to Washington Administrative Code (WAC) 197-11-340(1), a Determination of Nonsignificance (DNS) may be issued. This conclusion is based on staff review of the SEPA Environmental Checklist and applicable environmental documents. There is no comment period.

Responsible Official: Kevin Stender

Position/Title: Community Development Director

Address: 2224 104th Avenue East, Edgewood, WA 98372-1513

Notice Date: September 21, 2016

Staff Contact: Kirk Rappe, Associate Planner
Phone: (253) 952-3299

Date

9/21/2016

Signature



City of Edgewood, Washington
Department of Community Development
2224 104th Avenue East, Edgewood, WA 98372-1513
Phone (253) 952-3299 ♦ Fax (253) 952-3537

Environmental Checklist Application

Project Number : _____ Fee Collected: ☐ yes ☐ no
File Type : _____ Application Date : _____
Project Lead : _____ Related File : _____
Site Address : _____ Related File # 2 : _____

TO BE COMPLETED BY STAFF

PROJECT #: _____ RECEIVED BY: _____ DATE: _____ FEE: _____

A. STAFF REVIEW DETERMINED THAT PROJECT:

- _____ Meets the categorically exempt criteria.
- _____ Has no probable significant adverse environmental impact(s) and application should be processed without further consideration of environmental effects.
- _____ Has probable, significant impact(s) that can be mitigated through conditions. EIS not necessary.
- _____ Has probable, significant adverse environmental impact(s).
An Environmental Impact Statement will be prepared.
- _____ An Environmental Impact Statement for this project has already been prepared.

Signature of Responsible Official

Date

B. COMMENTS: _____

C. TYPE OF PERMIT OR ACTION REQUESTED: _____

D. ZONING DISTRICT: _____

TO BE COMPLETED BY APPLICANT

A. BACKGROUND INFORMATION:

1. Name of Project: Site Development Code Update (Low Impact Development)
2. Name of Applicant: City of Edgewood (Public Works)
Mailing Address: 2224 104th Avenue East
Edgewood, WA 98372-1513
Contact Person: Jeremy Metzler, P.E. Phone: (253) 952-3299
(Note that all correspondence will be mailed to the applicant listed above.)
3. Applicant is (owner, agent, other): Agent
4. Name of Legal Owner: N/A Phone: (253) 952-3299
Mailing Address: 2224 104th Avenue East
Edgewood, WA 98372-1513
5. Location. Give general location of proposed project (*street address or nearest intersection streets: section, township and range*).
City-wide, no specific location; The proposed development regulations would apply to any new development that meets the triggering thresholds throughout the City of Edgewood.
6. Legal description and parcel number
 - a. Legal description (attach as separate sheet if necessary):
City of Edgewood's Corporate Limits
 - b. Parcel number: N/A
7. Existing conditions: Give a general description of the property and existing improvements, size, topography, vegetation, soil, drainage, natural features, etc. (*attach as separate sheet if necessary*).
City of Edgewood, WA - the topography is a mostly-undulating hill / plain surrounded by steep slopes, with elevation ranging from 300 to 400 feet. The plain consists of several closed depressions that pond water in normal winters and floods roads in wet winters. Edgewood lies within the Western Hemlock Zone of Western Washington, with large areas cleared for pasture that were previously dominated by Douglas fir trees. Soils are generally poor draining Vashon till and outwash materials. 
8. Site Area: N/A - non-project action Site Dimensions: N/A

9. Project description: Give a brief, complete description of the intended use of the property or project. (Attach site plans as described in the instructions):

No site specific conditions are part of this application, as this is a non-project action.

10. Schedule: Describe the timing or schedule (include phasing and construction dates, if possible).

Code adoption no later than December 31, 2016, per Phase II NPDES Permit requirements.

11. Future Plans: Do you have any plans for future additions, expansion or further activity related to or connected with this proposal? If yes, explain.

N/A, as this is a non-project action.

12. Permits: List all permits for this project from local, state, federal, or other agencies for which you have applied or will apply.

SEPA, as well as submittal of the proposed Site Development Code revisions to the Washington State Department of Commerce, as mandated through Washington State law.

13. Environmental Information: List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

None.

14. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

N/A, as this is a non-project action.

B. ENVIRONMENTAL ELEMENTS

1. Earth

a. General description of the site (*circle one*): Flat, rolling, hilly, steep slopes, mountainous, other: _____

b. What is the steepest slope on the site (*approximate percent slope*)?

N/A, as this is a non-project action.

c. What general types of soils are found on the site (*for example, clay, sand, gravel, peat, muck*)? If you know the classification of agricultural soils, specify them and note any prime farmland.

N/A, as this is a non-project action.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

N/A, as this is a non-project action.

e. Describe the purpose, type and approximate quantities of any filling or grading proposed. Indicate source of fill.

N/A, as this is a non-project action.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

N/A, as this is a non-project action.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

N/A, as this is a non-project action.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any.

N/A, as this is a non-project action.

2. Air

- a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.

N/A, as this is a non-project action.

- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

N/A, as this is a non-project action.

- c. Proposed measures to reduce or control emissions or other impacts to air, if any.

N/A, as this is a non-project action.

3. Water

- a. Surface:

- 1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, salt water, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

N/A, as this is a non-project action.

- 2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

N/A, as this is a non-project action.

- 3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

N/A, as this is a non-project action.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities, if known.

N/A, as this is a non-project action.

5) Does the proposal lie within a 100 year floodplain? If so, note location on the site plan.

N/A, as this is a non-project action.

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

N/A, as this is a non-project action.

b. Ground:

1) Will ground water be withdrawn, or will water be discharged to ground water? Give general description, purpose, and approximate quantities, if known.

N/A, as this is a non-project action.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: domestic sewage; industrial, containing the following chemicals...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

N/A, as this is a non-project action.

c. Water Runoff (including storm water):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

N/A, as this is a non-project action.

2) Could waste materials enter ground or surface waters? If so, generally describe.

N/A, as this is a non-project action.

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

N/A, as this is a non-project action.

4. Plants

a. Check or circle types of vegetation found on the site:

- ☒ deciduous tree: alder, maple aspen, other
- ☒ evergreen tree: fir, cedar, pine, other
- ☒ shrubs
- ☒ grass
- ☒ pasture
- ☐ crop or grain
- ☒ wet soil plants: cattail, buttercup, bulrush, skunk cabbage, other
- ☒ water plants: water lily, eelgrass, milfoil, other
- ☐ other types of vegetation

b. What kind and amount of vegetation will be removed or altered?

N/A, as this is a non-project action.

c. List threatened or endangered species known to be on or near the site.

N/A, as this is a non-project action.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

N/A, as this is a non-project action.

5. Animals

a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site:

birds: hawk, heron, eagle, songbirds,

other: _____

mammals: deer, bear, elk, beaver,

other: opossum _____

fish: bass, salmon, trout, herring, shellfish,

other: Perch _____

b. List any threatened or endangered species known to be on or near the site.

None known throughout the City of Edgewood.

c. Is the site part of a migration route? If so, explain.

Edgewood, WA does lie within the Pacific Flyway Zone.

d. Proposed measures to preserve or enhance wildlife, if any:

N/A, as this is a non-project action.

6. Energy and Natural Resources

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

N/A, as this is a non-project action.

- b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

N/A, as this is a non-project action.

- c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

N/A, as this is a non-project action.

7. Environmental Health

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

N/A, as this is a non-project action.

- 1) Describe special emergency services that might be required.

N/A, as this is a non-project action.

- 2) Proposed measures to reduce or control environmental health hazards, if any:

N/A, as this is a non-project action.

- b. Noise

- 1) What types of noise exist in the area which may affect your project (for example: traffic, equipment operation, other)?

N/A, as this is a non-project action.

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

N/A, as this is a non-project action.

3) Proposed measures to reduce or control noise impacts, if any:

N/A, as this is a non-project action.

8. Land and Shoreline Use

a. What is the current use of the site and adjacent properties?

N/A, as this is a non-project action.

b. Has the site been used for agriculture? If so, describe.

N/A, as this is a non-project action.

c. Describe any structures on the site.

N/A, as this is a non-project action.

d. Will any structures be demolished? If so, what?

N/A, as this is a non-project action.

e. What is the current zoning classification of the site?

N/A, as this is a non-project action.

f. What is the current comprehensive plan designation of the site?

N/A, as this is a non-project action.

g. If applicable, what is the current shoreline master program designation of the site?

N/A, as this is a non-project action.

h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.

N/A, as this is a non-project action.

i. Approximately how many people would reside or work in the completed project?

N/A, as this is a non-project action.

j. Approximately how many people would the completed project displace?

N/A, as this is a non-project action.

k. Proposed measures to avoid or reduce displacement impacts, if any:

N/A, as this is a non-project action.

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any.

N/A, as this is a non-project action.

9. **Housing**

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low income housing.

N/A, as this is a non-project action.

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low income housing.

N/A, as this is a non-project action.

c. Proposed measures to reduce or control housing impacts, if any.

N/A, as this is a non-project action.

10. Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

N/A, as this is a non-project action.

- b. What views in the immediate vicinity would be altered or obstructed?

N/A, as this is a non-project action.

- c. Proposed measures to reduce or control aesthetic impacts, if any.

N/A, as this is a non-project action.

11. Light and Glare

- a. What type of light or glare will the proposals produce? What time of day would it mainly occur?

N/A, as this is a non-project action.

- b. Could light or glare from the finished project be a safety hazard or interfere with views?

N/A, as this is a non-project action.

- c. What existing off-site sources of light or glare may affect your proposal?

N/A, as this is a non-project action.

- d. Proposed measures to reduce or control light and glare impacts, if any.

N/A, as this is a non-project action.

12. Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity?

N/A, as this is a non-project action.

b. Would the proposed project displace any existing recreational uses? If so, describe.

N/A, as this is a non-project action.

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any.

N/A, as this is a non-project action.

13. Historic and Cultural Preservation

a. Are there any places or objects listed on, or proposed for, national, state or local preservation registers known to be on or next to the site? If so, generally describe.

N/A, as this is a non-project action.

b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.

N/A, as this is a non-project action.

c. Proposed measures to reduce or control impacts, if any.

N/A, as this is a non-project action.

14. Transportation

a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any.

N/A, as this is a non-project action.

b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?

N/A, as this is a non-project action.

c. How many parking spaces would the completed project have? How many would the project eliminate?

N/A, as this is a non-project action.

d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

N/A, as this is a non-project action.

e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

N/A, as this is a non-project action.

f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.

N/A, as this is a non-project action.

g. Proposed measures to reduce or control transportation impacts, if any.

N/A, as this is a non-project action.

15. Public Services

a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.

N/A, as this is a non-project action.

b. Proposed measures to reduce or control direct impacts on public services, if any.

N/A, as this is a non-project action.

16. Utilities

a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other N/A, as this is a non-project action.

b. Describe the utilities that are proposed for the project, the utilities providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

N/A, as this is a non-project action.

C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

I, JEREMY METZGER being duly sworn, declare that I am the contract purchaser, agent or owner of the property involved in this application, and under penalty of perjury by the laws of the state of Washington certify, that the foregoing statements and answers herein contained and the information herewith submitted are true and correct to the best of my knowledge and belief.

Dated : 9/6/2016

Signature : [Signature]

Subscribed and sworn to before me this 6th day of September, 2016.



Rachel Pitzel
Notary Public in and for the State of
Washington residing at Black Diamond
Commission Expires 8/13/20

DO NOT USE THIS SHEET FOR PROJECT ACTIONS

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emission to air; production, storage, or release of toxic or hazardous substances; or production of noise?

Highly unlikely as this is a non-project action geared towards integrating Low Impact Development (LID) standards in mitigating potential impacts associated with new development within the City of Edgewood.

Proposed measures to avoid or reduce such increases are:

Integration of LID storm drainage measures (including bio-respiration, filtration, and infiltration enhanced dispersion) in proposed developments, that will allow these sites to more closely mimic natural conditions.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

Highly unlikely as this is a non-project action geared towards integrating LID standards in mitigating potential impacts associated with new development within the City of Edgewood.

Proposed measures to protect or conserve plants, animals, fish, or marine life?

Integration of LID storm drainage measures (including bio-respiration, filtration, and infiltration enhanced dispersion) in proposed developments, that will allow these sites to more closely mimic natural conditions.

3. How would the proposal be likely to deplete energy or natural resources?

Highly unlikely as this is a non-project action geared towards integrating LID standards in mitigating potential impacts associated with new development within the City of Edgewood.

Proposed measures to protect or conserve energy and natural resources are:

Integration of LID storm drainage measures (including bio-respiration, filtration, and infiltration enhanced dispersion) in proposed developments, that will allow these sites to more closely mimic natural conditions.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

Highly unlikely as this is a non-project action geared towards integrating LID standards in mitigating potential impacts associated with new development within the City of Edgewood.

Proposed measures to protect such resources or to avoid or reduce impacts are:

Integration of LID storm drainage measures (including bio-respiration, filtration, and infiltration enhanced dispersion) in proposed developments, that will allow these sites to more closely mimic natural conditions.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

Highly unlikely as this is a non-project action geared towards integrating LID standards in mitigating potential impacts associated with new development within the City of Edgewood.

Proposed measures to avoid or reduce shoreline and land use impacts are:

Integration of LID storm drainage measures (including bio-respiration, filtration, and infiltration enhanced dispersion) in proposed developments, that will allow these sites to more closely mimic natural conditions.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

Highly unlikely as this is a non-project action geared towards integrating LID standards in mitigating potential impacts associated with new development within the City of Edgewood.

Proposed measures to reduce or respond to such demand(s) are:

N/A

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

Non-known, as these modifications are geared toward the City meeting both State and Federal Clean Waters Act requirements.



CITY OF EDGEWOOD
PLANNING COMMISSION
RECOMMENDATION

The Planning Commission voted 5-0 to recommend APPROVAL of the proposed code amendments to the Edgewood Municipal Code (EMC) pertaining to stormwater management regulations.

It is the recommendation of the City of Edgewood Planning Commission to approve the EMC amendments as presented in the staff report and attachment submitted by Public Works Director Jeremy Metzler at the April 11, 2022, meeting.

**RECOMMENDED BY THE CITY OF EDGEWOOD PLANNING COMMISSION
ON THE 11TH DAY OF APRIL 2022.**


Planning Commission Chair

Attest by:


Evan Hietpas
Associate Planner



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion - Resolution - Edgemont Park Playground Installation	Agenda Item #: 2.F
	For Agenda of: 5/3/2022
	Prepared by: Jeremy Metzler
Attachments (list): 1. 1 - Call for Bids 2. 2 - Bid Summary 3. 3 - Proposal - RS Underground 4. 4 - 20220422 - Contract 5. 5 - 20220421 Public Works Payment Bond-Performance Bond - RS Underground	
Approval of Materials: Jeremy Metzler Rachel Pitzel 4/28/2022 Dave Gray 4/28/2022 Daryl Eidinger 4/28/2022	Expenditure Required: \$96,206.00 (including sales tax)
	Amount Budgeted: \$275,000 (2022 CIP Project P-7) \$93,714.50 (Engineer's Estimate)
	Timeline: 05/03/2022 SS 05/10/2022 RCM

Summary Statement:

As discussed with Council earlier this year, new playground equipment for Edgemont Park is on order, and we are now ready to award the contract for installation. On March 28, 2022, the City advertised a Call for Bids (attached). We received two (2) responses by the April 15, 2022 deadline. City staff tabulated the bid results, reviewed the lowest apparent bidder's proposal (attached), checked references, and determined the lowest responsive, responsible bidder was RS Underground, Inc. Staff is seeking Council direction on whether or not to proceed with contract award and execution. Also attached for Council's information is the proposed construction contract and bonds.

Item History:

11/02/2021 SS
 12/21/2021 SS
 01/11/2022 RCM

Recommended Action:

Hold a discussion and provide staff guidance regarding Discussion - Resolution - Edgemont Park Playground Installation.

Fiscal Note/Consideration:

The Engineer's Construction Cost Estimate for this installation was \$93,714.50, including Bid Additive Item 1.

The Council-adopted Capital Improvement Plan identified \$275,000 in 2022 under Project P-7, of which \$125,033.92 remains after the equipment purchase authorized in January 2022. Installation bids received range from \$96,206.00 to \$195,154.30. If approved, \$31,319.42 of the original budget will remain, and this project is funded through Park Impact Fees and Real Estate Excise Taxes.

CALL FOR BIDS
CITY OF EDGEWOOD
PUBLIC WORKS PROJECT –
EDGEMONT PARK PLAYGROUND

ENGINEER’S ESTIMATE \$65,000 TO \$70,000

Sealed Proposals will be received by the undersigned at the City of Edgewood, 2224 104th Avenue East, Edgewood, Washington 98372, up to **11:00 am local time on April 15, 2022**, for furnishing the necessary labor, materials, equipment, tools, and guarantees thereof to construct the aforementioned Public Works Project.

This project consists of furnishing all labor, materials and equipment necessary for the removal and replacement of playground equipment at Edgemont Park (11001 24th St E), including but not limited to: equipment demolition, removal, and installation, subgrade preparation, and playground safety surfacing replacement.

The Work shall be substantially complete within 20 working days after the commencement date stated in the Notice to Proceed. All bidding and construction is to be performed in compliance with the Contract Provisions and Contract Plans for this project and any addenda issued thereto that are on file at the office of the City Clerk, City Hall, Edgewood, Washington.

The Proposals will be publicly opened and read aloud shortly after the time and date stated above. Proposals are to be submitted only on the form provided with the Bid Documents. All Proposals must be accompanied by a certified check, postal money order, cashier’s check, or Proposal bond payable to the “City of Edgewood” and in an amount of not less than five percent (5%) of the total Proposal amount.

Bid Documents for this project are available free-of-charge at the following website: <https://www.cityofedgewood.org/202/Bids-Small-Works>. A Bidders List will not be maintained with this solicitation, so bidders are encouraged to monitor the website for any addenda. Contract questions shall be directed to Chuck Hendricksen, City Engineer, City of Edgewood, (253) 392-2560.

Financing of the Project has been provided by City of Edgewood, Washington. The City of Edgewood expressly reserves the right to reject any or all Proposals and to waive minor irregularities or informalities in any Proposal.

(Signed) **RACHEL PITZEL, CMC**
CITY CLERK

BIDDER		ENGINEER'S ESTIMATE		RS Underground, Inc.		Northwest Cascade, Inc.	
BIDDER ADDRESS				7725 142nd Ave. E.		PO Box 73399	
				Puyallup, WA 98372		Puyallup, WA 98373	
WASHINGTON STATE WORKMAN'S COMP. ACCT. NO.				93246501		265081,00	
WASHINGTON STATE CONTRACTOR'S REG. NUMBER				RSUNDI*998JP		NORTHCI148BG	
BID BOND OR OTHER GOOD FAITH TOKEN				5% BID BOND		5% BID BOND	
ITEM	QUANTITY	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
SCHEDULE A: EDMONT PARK							
Minor Change	1 CALC	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00
SPCC Plan	1 LS	\$750.00	\$750.00	\$1,000.00	\$1,000.00	\$500.00	\$500.00
Mobilization/Demobilization	1 LS	\$6,500.00	\$6,500.00	\$7,000.00	\$7,000.00	\$14,000.00	\$14,000.00
COVID-19 Safety Plan	1 LS	\$500.00	\$500.00	\$1,000.00	\$1,000.00	\$500.00	\$500.00
TESC	1 LS	\$1,000.00	\$1,000.00	\$1,500.00	\$1,500.00	\$6,000.00	\$6,000.00
Removal of Ex. Benches, Tables, Play Equip.	1 LS	\$10,000.00	\$10,000.00	\$8,000.00	\$8,000.00	\$8,000.00	\$8,000.00
Play Area Structure Excavation	1 LS	\$10,000.00	\$10,000.00	\$15,000.00	\$15,000.00	\$32,000.00	\$32,000.00
Installation of New Benches	3 EA	\$750.00	\$2,250.00	\$1,000.00	\$3,000.00	\$1,250.00	\$3,750.00
Installation of New Tables	3 EA	\$1,200.00	\$3,600.00	\$1,000.00	\$3,000.00	\$1,050.00	\$3,150.00
Installation of Play Equipment	1 LS	\$16,000.00	\$16,000.00	\$12,000.00	\$12,000.00	\$52,800.00	\$52,800.00
Engineered Wood Fiber Safety Surfacing	182 CY	\$85.00	\$15,470.00	\$75.00	\$13,650.00	\$109.00	\$19,838.00
Subtotal, Schedule A			\$67,070.00		\$66,150.00		\$141,538.00
Sales Tax @ 10.00%			\$6,707.00		\$6,615.00		\$14,153.80
TOTAL CONSTRUCTION COST, SCHEDULE A			\$73,777.00		\$72,765.00		\$155,691.80
BIDDER		ENGINEER'S ESTIMATE		RS Underground, Inc.		Northwest Cascade, Inc.	
ITEM	QUANTITY	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
ADDITIVE ITEM 1: PLAY AREA PERIMETER							
Replace Play Area Perimeter	290 LF	\$50.00	\$14,500.00	\$64.00	\$18,560.00	\$110.00	\$31,900.00
Engineered Wood Fiber Safety Surfacing	25 CY	\$85.00	\$2,125.00	\$75.00	\$1,875.00	\$109.00	\$2,725.00
Play Area Excavation	25 CY	\$60.00	\$1,500.00	\$35.00	\$875.00	\$50.00	\$1,250.00
Subtotal, Additive Item 1			\$18,125.00		\$21,310.00		\$35,875.00
Sales Tax @ 10.00%			\$1,812.50		\$2,131.00		\$3,587.50
TOTAL CONSTRUCTION COST, Additive Item 1			\$19,937.50		\$23,441.00		\$39,462.50
TOTAL CONSTRUCTION COST, SCHEDULE A			\$73,777.00		\$72,765.00		\$155,691.80
TOTAL CONSTRUCTION COST, ADDITIVE ITEM 1			\$19,937.50		\$23,441.00		\$39,462.50
TOTAL CONSTRUCTION COST, SCHEDULES A AND ADDITIVE ITEM 1			\$93,714.50		\$96,206.00		\$195,154.30
Sealed bids were opened at the City of Edgewood, 2224 104th Avenue East, Edgewood, Washington 98372 on Friday, April 15, 2022, at 11:00 a.m. (local time).							
I hereby certify that, to the best of my knowledge, the above tabulations are true and correct transcriptions of the unit prices and total amounts bid.						DENOTES MATHEMATICAL OR ROUNDING ERROR	
							
CHUCK HENDRICKSEN, P.E.							

City of Edgewood
Edgemont Park Playground

Official Bid Opening Time:
11:00am

Company Name	Proposal / Statement of Bidder's Qualifications	Bid Deposit or Proposal Bond	Proposal Signed	Addenda	Total Amount of Bid Proposal
RS. Underground	✓	✓	✓		\$96,206. ⁰⁰
NW Cascade	✓	✓	✓		\$195,154.30

*Bid Log Only - All bids will be reviewed by City of Edgewood

**PUBLIC WORKS PROJECT –
EDGEMONT PARK PLAYGROUND**

ENGINEER'S ESTIMATE \$65,000 TO \$70,000

PROPOSAL

City of Edgewood
2224 104th Avenue East
Edgewood, Washington 98372

The undersigned has examined the Work site(s), local conditions, the Contract, and all applicable laws and regulations covering the Work. The following unit and lump sum prices are tendered as an offer to perform the Work in accordance with all of the requirements set forth in the Contract and all applicable laws and regulations.

As required by the Contract, a postal money order, certified check, cashier's check or Proposal bond made payable to the Owner is attached hereto. If this Proposal is accepted and the undersigned fail(s) or refuse(s) to enter into a contract and furnish the required performance bond, labor and material payment bond, special guarantee bonds (if required), required insurance and all other required documentation, the undersigned will forfeit to the Owner an amount equal to five percent of the Proposal amount.

After the date and hour set for submitting the Proposals, no bidder may withdraw its Proposal, unless the Award of the contract is delayed for a period exceeding 60 consecutive calendar days.

The undersigned agrees that in the event it is Awarded the contract for the Work, it shall employ only Contractors and Subcontractors that are duly licensed by the State of Washington and remain so at all times they are in any way involved with the Work.

The undersigned agrees that the Owner reserves the right to reject any or all Proposals and to waive any minor irregularities and informalities in any Proposal.

The undersigned agrees that the Owner reserves the right to Award the Contract to the lowest responsible, responsive bidder whose Proposal is in the best interest of the Owner.

PROPOSAL - Continued**SCHEDULE A: EDMONT PARK PLAYGROUND**

<u>NO.</u>	<u>ITEM</u>	<u>QTY</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>AMOUNT</u>
1.	Minor Change (1-04.4(1))	1	CALC	\$1,000	\$1,000
2.	SPCC Plan (1-07.15(1))	1	LS	\$ <u>1,000.⁰⁰</u>	\$ <u>1,000.⁰⁰</u>
3.	Mobilization, cleanup and demobilization (1-09.7)	1	LS	\$ <u>7,000.⁰⁰</u>	\$ <u>7,000.⁰⁰</u>
4.	COVID-19 Safety Plan (1-07)	1	LS	\$ <u>1,000.⁰⁰</u>	\$ <u>1,000.⁰⁰</u>
5.	Temporary Erosion and Sediment Control (8-01)	1	LS	\$ <u>1,500.⁰⁰</u>	\$ <u>1,500.⁰⁰</u>
6.	Removal of Existing Benches, Tables, Play Equipment and Wood Chips (2-02)	1	LS	\$ <u>8,000.⁰⁰</u>	\$ <u>8,000.⁰⁰</u>
7.	Play Area Structure Excavation (2-09)	1	LS	\$ <u>15,000.⁰⁰</u>	\$ <u>15,000.⁰⁰</u>
8.	Installation of New Benches (6-07)	3	EA	\$ <u>1,000.⁰⁰</u>	\$ <u>3,000.⁰⁰</u>
9.	Installation of New Tables (6-07)	3	EA	\$ <u>1,000.⁰⁰</u>	\$ <u>3,000.⁰⁰</u>
10.	Installation of New Play Equipment (6-03)	1	LS	\$ <u>12,000.⁰⁰</u>	\$ <u>12,000.⁰⁰</u>
11.	Engineered Wood Fiber (EWF) (9-14.5(3))	182	CY	\$ <u>75.⁰⁰</u>	\$ <u>13,650.⁰⁰</u>
Subtotal (Schedule A):				\$	<u>66,150.⁰⁰</u>
Washington State Sales Tax (10.0%):				\$	<u>6,615.⁰⁰</u>
TOTAL CONSTRUCTION COST (SCHEDULE A):				\$	<u>72,765.⁰⁰</u>

PROPOSAL - Continued

ADDITIVE ITEM 1: PLAY AREA PERIMETER

<u>NO.</u>	<u>ITEM</u>	<u>QTY</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>AMOUNT</u>
1.	Replace Play Area Perimeter	290	LF	\$ <u>64.⁰⁰</u>	\$ <u>18,560.⁰⁰</u>
2.	Engineered Wood Fiber (EWF)	25	CY	\$ <u>75.⁰⁰</u>	\$ <u>1,875.⁰⁰</u>
3.	Play Area Excavation (2-09)	25	CY	\$ <u>35.⁰⁰</u>	\$ <u>875.⁰⁰</u>
Subtotal (ADDITIVE 1):				\$	<u>21,310.⁰⁰</u>
Washington State Sales Tax (10.0%):				\$	<u>2,131.⁰⁰</u>
TOTAL CONSTRUCTION COST (ADDITIVE 1):				\$	<u>23,441.⁰⁰</u>

BID SUMMARY

1.	TOTAL CONSTRUCTION COST (SCHEDULE A forwarded from page P-2):	\$	<u>72,765.⁰⁰</u>
2.	TOTAL CONSTRUCTION COST (ADDITIVE 1 forwarded from page P-3):	\$	<u>23,441.⁰⁰</u>
TOTAL CONSTRUCTION COST (ALL SCHEDULES AND ADDITIVES):		\$	<u>96,206.⁰⁰</u>

Note: A bid must be received on all items.

PROPOSAL - Continued

STATEMENT OF BIDDER'S QUALIFICATIONS

Name of Firm: RS Underground Inc
Address: 7725 142nd AVE E. Puyallup, WA 98372
Telephone No. 253-208-4843 Fax No. —
Contact Person for this Project: Ron Sprague
E-mail: rsunderground97@gmail.com

Number of years the Contractor has been engaged in the construction business under the present firm name, as indicated above:

25 Years

WORK TO BE COMPLETED BY BIDDER

List the Work and the dollar amount thereof that the Bidder will complete with its forces, if awarded the contract.

Work to be Performed	Dollar Amount
<u>Complete job</u>	<u>96206.⁰⁰</u>

PROPOSED SUBCONTRACTORS (Per RCW 39.30.060)

For Proposals exceeding one million dollars, indicate who (either the Contractor submitting this bid or a subcontractor) will be completing the work for each of the categories listed below. Information shall include their Washington State Department of Licensing Contractor's Registration No. This information shall be provided with the Proposal or within one hour after the published Proposal submittal time in accordance with RCW 39.30.060.

Work to be Performed	Subcontractor or Prime (Name and Registration Number)
<u>None</u>	

PROPOSAL - Continued

ADDENDA RECEIVED

Addendum No.	Date Received	Name of Recipient
<i>none</i>		

NOTE: Bidder shall acknowledge receipt of all addenda. Bidder is responsible for verifying the actual number of addenda issued prior to submitting a Proposal.

Subject to any extensions of the Contract time granted under the Contract, the undersigned agrees to substantially complete the Work required under this Contract and to physically complete the Work required under this contract within the working days from when Contract Time begins as indicated in the table below.

	Time from NTP to Substantial Completion	Time from NTP to Physical Completion
Schedule A	20 working days	30 working days
Additive Item 1	No Additional Time	

The undersigned has reviewed and fully understands the provisions in the Contract regarding liquidated damages and agrees that liquidated damages shall be \$1,000.00 per day for each and every working day beyond the Contract time allowed for substantial completion until the Substantial Completion Date is achieved and \$500.00 for each and every working day required beyond the Contract Time for physical completion until the Physical Completion Date is achieved.

The undersigned is, and will remain in, full compliance with all Washington State administrative agency requirements including, but not limited to registration requirements of Washington State Department of Labor & Industries for contractors, including but not limited to requirements for bond, proof of insurance and annual registration fee. The undersigned's Washington State:

Dept. of Labor and Industries Workman's Compensation Account No. is 93246501;
Dept. of Licensing Contractor's Registration No. is ASUMDEX 998JP;
Unified Business Identifier Number is 602039644;
Excise Tax Registration Number is 602039644; and
Employment Security Account Number is 118127009.

The undersigned has reviewed all insurance requirements contained in the Contract and has verified the availability of and the undersigned's eligibility for all required insurance. The undersigned verifies that the cost for all required insurance, has been included in this Proposal.

In relation to claims related in whole or in part to workplace injuries to employees, the undersigned waives any immunity granted under the State Industrial Insurance Law, RCW Title 51. This

PROPOSAL - Continued

waiver has been specially negotiated by the parties, which is acknowledged by the undersigned in signing this Proposal.

By signing the proposal, the undersigned declares, under penalty of perjury under the laws of the United States and the State of Washington, that the following statements are true and correct:

1. That the undersigned person(s) or entity(ies) has(have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this Proposal is submitted.
2. The bidder hereby certifies that, within the three-year period immediately preceding the bid solicitation date (January 15, 2022), that the bidder is not a "willful" violator, as defined in RCW 49.48.082, of any provision of chapters 49.46, 49.48, or 49.52 RCW, as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction.

The undersigned agrees that the Owner is authorized to obtain information from all references included herein.

Sincerely,

Ronald E Sprague
Sign Name

4-14-22
Date

By: Ronald E Sprague President
Print Name, Title

Puyallup, WA
Location Executed (City, State)

RS Underground Inc
Print Company Name

Amount of Proposal deposit: \$ _____ Check No. _____,

or Proposal bond in the amount of \$ 5%

_____, issued through CB TMS of WA, Inc
Name of Bank/Bonding Company

located at PO Box 681 Bothell, WA 98041
Mailing Address

206-361-9693
Telephone Number of Bank/Bonding Company

PROPOSAL BOND

KNOW ALL PERSONS BY THESE PRESENTS, That we RS Underground, Inc.

of Puyallup, WA as principal, and the Travelers Casualty and Surety
Company of America

a corporation duly organized under the laws of the state of Connecticut,
and authorized to do business in the State of
Washington, as surety, are held and firmly bound unto the **CITY OF EDGEWOOD** in the full
and penal sum of five percent of the total amount of the bid proposal of said principal for the work
hereinafter described, for the payment of which, well and truly to be made, we bind our heirs,
executors, administrators and assigns, and successors and assigns, firmly by these presents.

The condition of this bond is such, that whereas the principal herein is herewith submitting his or
its sealed proposal for the following construction project, to wit:

EDGEMONT PARK PLAYGROUND

said bid and proposal, by reference thereto, being made a part hereof.

NOW, THEREFORE, If the said proposal bid by said principal be accepted, and the contract be
awarded to said principal, and if said principal shall duly make and enter into and execute said
Contract and shall furnish bond as required by the **CITY OF EDGEWOOD** within a period of 10
days from and after said award, exclusive of the day of such award, then this obligation shall be
null and void, otherwise it shall remain and be in full force and effect.

IN TESTIMONY WHEREOF, The principal and surety have caused these presents to be

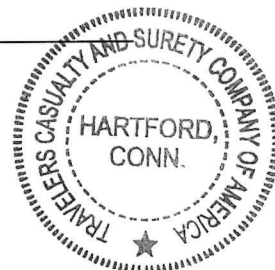
signed and sealed this 12th day of April, 2022.

RS Underground, Inc.

By: [Signature]
(Principal)

Travelers Casualty and Surety Company of America

(Surety)
By: [Signature]
(Attorney-in-fact)
Chris A. Fix





**Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company**

POWER OF ATTORNEY

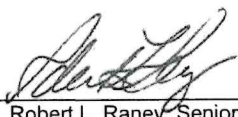
KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **CHRIS A FIX** of **BOTHELL**, **Washington**, their true and lawful Attorney(s)-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **21st** day of **April**, **2021**.



State of Connecticut

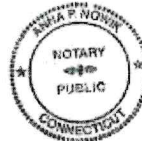
City of Hartford ss.

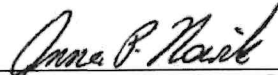
By: 
Robert L. Raney, Senior Vice President

On this the **21st** day of **April**, **2021**, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of each of the Companies, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the **30th** day of **June**, **2026**




Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of each of the Companies, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

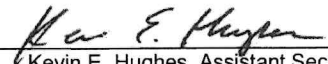
FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of each of the Companies, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this 12th day of April, 2022.




Kevin E. Hughes, Assistant Secretary

**To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney(s)-in-Fact and the details of the bond to which this Power of Attorney is attached.**

PUBLIC WORKS CONTRACT

1. **Contract and Parties.** This Public Works Contract (“Contract”) is between the CITY OF EDGEWOOD, Pierce County, Washington (“City”), a Washington municipal corporation and RS Underground, Inc. (“Contractor”), a corporation organized under the laws of the State of Washington. The City and Contractor are each a “Party” and together the “Parties” to the Contract. The Parties agree as follows.
2. **Project.** The Parties enter into this Contract for purposes of Contractor providing the City with equipment, materials and performing work for the City (“the Project”), generally described as:

PUBLIC WORKS PROJECT – EDGEMONT PARK PLAYGROUND, to include furnishing all labor, materials and equipment necessary for the removal and replacement of playground equipment at Edgemont Park (11001 24th St E), including but not limited to: equipment demolition, removal, and installation, subgrade preparation, and playground safety surfacing replacement.
3. **Effective date.** This Contract becomes effective and binding upon the Parties, including each Party’s heirs, successors, and assigns, immediately upon execution of this contract by both parties.
4. **Notices to Parties.** Contractor agrees to accept notices under this Contract via email. It is the responsibility of Contractor to notify the City in writing if any of the contact information appearing below should change. Any notices required under this Contract shall be in writing and delivered to the following addresses. If notice by email, a hard copy shall be delivered or mailed the same date as email.

CITY:

CITY OF EDGEWOOD
2224 104th Ave E
Edgewood, WA 98372-1513
Contact: Chuck Hendricksen
Phone: (253) 392-2560
Email: chuck@cityofedgewood.org

CONTRACTOR:

RS Underground, Inc.
Address: 7725 142nd Avenue E
Puyallup, WA 98372
Contact: Ron Sprague
Phone: 253-208-4843
Email: rsunderground@gmail.com
Tax ID #: 602-039-644

5. **Notice to Proceed / Completion Time.** Contractor will commence the work set forth herein immediately after receiving written notice from the City to proceed, and further agrees to carry on such work regularly and uninterruptedly thereafter with such force as to secure its completion within 20 working days, after such notice to begin work. The time of beginning, rate of progress and time of completion are essential conditions of this Contract.
6. **Obligations of Contractor.** The following terms and conditions apply to this Contract:

A. *In general.*

- (1) Responsible for all labor and work. Contractor shall be solely responsible for furnishing all labor and performance of all work necessary to complete the Project as required.
- (2) Responsible for furnishing all materials and equipment. Contractor shall furnish all materials and equipment necessary to complete the Project, except for any materials expressly agreed in writing to be provided by the City.
- (3) Documents incorporated by reference. All terms and specifications contained in any Request for Bids that was issued by the City as part of determining the awarding of this Contract are hereby incorporated by reference and must be complied with by Contractor, unless one or more of such terms and specifications are expressly amended or waived in writing by the City. The Contractor agrees to perform all work in accordance with this Contract and the following documents, incorporated herein:
 - This Contract
 - Scope of Work
 - Plans and Contract Drawings
 - Special Provisions (if any)
 - General Provisions
 - Bid Documents
 - Contractor's Proposal
 - Addenda (if any)
 - Performance and Bid Bond
 - All provisions required by law to be inserted into this Contract, whether actually attached hereto or not

In the event of a conflict between the provisions of any of the contract documents listed above, the provisions of the document first listed shall prevail.

- (4) Laws and regulations to be followed. Contractor, its employees, agents, and subcontractors, shall at all times fully comply with all applicable laws, regulations, and administrative rulings in performing work for the Project.

- (5) Work Hours. Contractor shall not work on weekends, unless otherwise arranged and agreed to by the City in advance. On Mondays through Fridays, Contractor shall not start work before 8:00 AM, and shall not work after 5:00 PM.
- (6) Conditions of Work. By submitting a bid, Contractor represents and warrants to the City that Contractor has fully informed itself of all conditions relating to the work involved in completing the Project. In prosecuting the work, Contractor shall employ such methods or means as will not interfere with or interrupt the work of the City or its agents, employees or contractors.
- (7) Contractor's Responsibility. Contractor will prosecute the work in accordance with instructions, descriptions and/or plans and specifications provided by the City. Contractor shall carry on the work at its own risk until the same is fully completed and accepted, and shall, in case of any accident, destruction or injury to the work and/or materials before its final completion and acceptance, repair or replace forthwith the work and/or materials so injured, damaged or destroyed, at his/her own expense and to the satisfaction of the City. When materials and equipment are furnished by others for installation or erection by Contractor, Contractor shall receive, unload, store and handle same at site and become responsible therefore as though such materials and/or equipment were being furnished by Contractor. Contractor shall procure all permits (unless permits are secured or waived by the City) and licenses, pay all charges, fees and taxes, and give all notices necessary and incidental to the due and lawful prosecution of the work. Contractor shall be responsible for preparing working drawings, if applicable, and shall submit them to the City for approval prior to commencement of work. For purposes of this Contract, working drawings shall mean, shop drawings, shop plans, erection plans, false-work plans, framework plans, cofferdam, cribbing and shoring plans, or any other supplementary plans or similar data, including a schedule of submittal dates for working drawings where specified, which Contractor will rely on for purposes of conducting the work for the Project.
- (8) Contractor Clean-Up. Prior to physical completion, all debris resulting from Contractor's work, delivery or installation of equipment shall be disposed of entirely by Contractor in an efficient and expeditious manner as required and directed by the City.
- (9) Safety. Contractor and its subcontractors shall take all safety precautions and furnish and install all guards necessary for the prevention of accidents, and shall comply with all laws and regulations with regard to the prosecution of the work. Contractor agrees to furnish Material Safety Data Sheets (Form OSHA-20) applicable for hazardous or potentially hazardous products. Contractor agrees to comply with the conditions of the Washington Industrial Safety and Health Act of 1970, and standards and regulations issued thereunder, and certify that all items furnished and purchased will conform to and comply with said standards and regulations. Contractor further agrees to indemnify and hold harmless the City from damages assessed against the City because of Contractor's failure to comply with the Acts and the standards issued thereunder and for the failure of the items furnished under this order to so comply.

B. *Work Performance.*

- (1) Prevailing wages. Contractor shall pay the then current prevailing wages, as that term is defined under the laws of the State of Washington, for all work performed on this Project by Contractor and by Contractor's employees, agents, and subcontractors. Contractor is fully responsible for prevailing wage compliance. Upon execution of this Contract, Contractor, and any subcontractors, shall file a "Statement of Intent to Pay Prevailing Wages" with L&I and file a copy of the Statement of Intent to Pay Prevailing Wages with the City. The City shall not make any payments or reimbursements under the Agreement prior to receipt of all required Intent to Pay Prevailing Wages forms.

For reference only, and without relieving any Contractor responsibility, the City notes the State of Washington prevailing wage rates for public works projects located in Pierce County may be found at the following website address of the Department of Labor and Industries: <https://fortress.wa.gov/lni/wagelookup/prvWagelookup.aspx>. Upon request, the City will mail a hard copy of the applicable prevailing wages for this Project. Contractor is advised that this if this contract extends into multiple years, prevailing wage rates are updated annually.

- (2) Notice to City. Minimum five (5) working days' prior notice shall be given to the City's Department of Public Works prior to commencement of work under this Contract.
- (3) Approved Plans & Specifications to be followed. All work is to be performed to the City's satisfaction and in compliance with the Contract Documents listed in section 6.A(3) above, unless such requirements or specifications are expressly amended in writing by the City.
- (4) Schedule of Work to be followed. All Work shall be performed by the date for completion provided in this Contract. Contractor shall diligently proceed with the work and shall assure that it, and its subcontractors, have adequate staffing at all times in order for Contractor to comply with any Schedule of Work agreed to by the Parties, and shall make all reasonable efforts to complete the work in a timely manner.
- (5) Duty to Correct. Contractor shall promptly correct work rejected by the City as failing to conform to the requirements of the Contract. The Contractor shall bear the cost of correcting such rejected work. If the Contractor fails to correct nonconforming work within a reasonable time, the City may correct it and Contractor shall reimburse the City for the cost of the correction.
- (6) Project Administration. The Public Works Director, or his or her designee, shall administer this Contract and shall have all authority provided for the City under this Contract including all project approvals, including change orders. All work performed under this Contract will be monitored and inspected by the Public Works Director or his or her designee, and accepted by same.

C. *Non-Discrimination.*

- (1) Contractor, Contractor's officers and employees, and its subcontractors and agents, shall not discriminate against any employee or applicant for employment or any other person in the performance of this Contract because of race, creed, color, national origin, marital status, sex, age, disability, or other condition prohibited by federal, state, or local law or ordinance, except where the condition constitutes a bona fide occupational qualification under law.
- (2) Any violation of this Section shall be a material breach of this Contract and grounds for immediate cancellation, termination, or suspension of the Contract by the City, in whole or in part, and may result in Contractor being ineligible to perform further work for the City.

7. Compensation and Payment

- A. Unless otherwise mutually agreed through Change Order, as described in Section 10 below, the City shall pay the Contractor for the work performed under this contract as follows (select one):
- ☐ Time and materials; not to exceed _____ plus all applicable taxes.
 - ☐ Lump sum price set forth on the Contractor's proposal; not to exceed _____ plus all applicable taxes.
 - ☒ Unit prices set forth in the Contractor's proposal; not to exceed \$87,460.00 plus all applicable taxes.
- B. Contractor shall request approval and acceptance of each category of work from the City. Contractor may not bill for the completed work until the City has accepted the completed work.
- C. All invoices shall be submitted for work after it has been performed, and paid by City warrant within thirty (30) days of receipt of a proper invoice, except those required to be withheld by law or agreed to in special contract provisions.
- D. Failure to perform any of the obligations under the Contract by Contractor may be decreed by the City to be adequate reason for withholding any payments until compliance is achieved. Progress payments for work performed shall not be evidence of acceptable performance or an admission by the City that any work has been satisfactorily completed.
- E. Payments received on account of work performed by a subcontractor are subject to the provisions of RCW 39.04.250.

8. **Performance Bond.** If applicable, the Contractor shall provide a performance and payment bond to the City prior to commencement of work for 100% of the bid amount guaranteeing the full and faithful performance by Contractor of the terms and conditions of this Contract and the payment of all labor, mechanics, subcontractors, and materialmen and all persons who supply them with provisions and supplies for carrying out the work under this contract. This bond shall be in force until completion of the contract and also upon such period thereafter during which the law allows liens to be filed and sued upon. This performance bond shall be furnished by a corporate surety company authorized to do business in the State of Washington, in a company acceptable to the City and on the form attached hereto.

Initial: _____(Contractor)

9. **Retainage.** Pursuant to Chapter 60.28 RCW, a sum of five percent (5%) of the monies earned by Contractor will be retained from each invoice. Such retainage shall be used as a trust fund for the protection and payment: (1) to the State with respect to taxes imposed pursuant to RCW Title 82, and (2) the claims of any person arising under the Contract. No final payment or release of any retainage will be made until Contractor and each subcontractor has submitted an "Affidavit of Wages Paid" (LI 700-7 or other approved form) that has been certified by the industrial statistician of the Department of Labor and Industries. In addition, the retainage will not be released until the City has received certification that the Department of Revenue has received due payment of applicable taxes. Once the City has received certification from appropriate departments of the state of Washington, 45 days has passed from the date of acceptance of the Project and the City has not received any claims against the Project, then the City will release the retainage.
10. **Changes.** After execution of the Contract, changes in the scope of the work set forth in the Bid Documents may be accomplished by change order. Change orders shall be in writing signed by the Parties. If the total Contract Amount proposed under a Change Order exceeds 125% of the Contract Amount established in Section 7, above, the Change Order shall be reviewed and approved by the City Council prior to execution. All other Change Orders may be administratively approved by the City.
11. **Term and Termination of Contract.** This Agreement shall be in full force and effect for a period commencing upon execution and ending **July 8, 2022**, unless extended or sooner terminated under the provisions of this Contract. Time is of the essence of this Contract in each and all of its provisions in which performance is required. Further, this Contract may be terminated by the City at any time upon the default of the Contractor or upon public convenience, in which Contractor shall be entitled to just and equitable compensation for any satisfactory work completed prior to the date of termination. Contractor shall not be entitled to any reallocation of cost, profit, or overhead. Contractor shall not in any event be entitled to anticipated profit on work not performed because of such termination. Contractor shall use its best efforts to minimize the compensation payable under this Contract in the event of such termination. If the contract is terminated for default, Contractor shall not be entitled to receive any further payments under the Contract until all work called for has been fully performed. Any extra cost or damage to the City resulting from such default(s) shall be deducted from any money due or coming due to Contractor.

Contractor shall bear any extra expenses incurred by the City in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the City by reason of such default. This provision shall not prevent the City from seeking any legal remedies it may otherwise have for the violation or nonperformance of any provisions of this Contract.

12. Responsibility Criteria and Verification by Contractor. Pursuant to Chapter 39.04 RCW, the following requirements are part of this Contract:

A. Responsibility Criteria.

(1) Eligibility to be awarded contract. Contractor hereby certifies that Contractor meets the following responsibility criteria:

- a. Contractor has a certificate of registration in compliance with chapter 18.27 RCW;
- b. Contractor has a current state unified business identifier number;
- c. If applicable, Contractor has industrial insurance coverage for Contractor's employees working in Washington as required under Title 51 RCW; an employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW; and
- d. Contractor is not disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3);
- e. If the public works project is subject to the apprenticeship utilization requirements in RCW 39.04.320, not have been found out of compliance by the Washington state apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outlined in their standards of apprenticeship under chapter 49.04 RCW for the one-year period immediately preceding the date of the bid solicitation;
- f. Pursuant to RCW 39.04.350(1)(g), has received training on the requirements related to public works and prevailing wages under chapter 39.04 RCW and chapter 39.12 RCW; or has completed three or more public works projects and have had a valid business license in Washington for three or more years; and
- g. Within the three-year period immediately preceding the date of the bid solicitation, not have been determined by a final and binding citation and notice of assessment issued by the department of labor and industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or 49.52 RCW.

- B. *Requirement to verify subcontractors.* Contractor verifies the responsibility criteria contained above for each first tier subcontractor, and a subcontractor of any tier that hires other subcontractors and that each subcontractor verify the responsibility criteria for each of its subcontractors. Verification shall include that each subcontractor, at the time of subcontract execution, meets the responsibility criteria listed in RCW 39.04.350(1) and possesses an electrical contractor license, if required by chapter 19.28 RCW, or an elevator contractor license, if required by chapter 70.87 RCW. This verification requirement must be included in every subcontract of every tier.

13. Insurance.

A. Insurance Term

The Contractor shall procure and maintain insurance, as required in this Section, without interruption from commencement of the Contractor's work through the term of the Contract and for thirty (30) days after the Physical Completion date, unless otherwise indicated herein.

B. No Limitation

The Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

C. Minimum Scope of Insurance

The Contractor's required insurance shall be of the types and coverage as stated below:

- (1) Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
- (2) Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop gap liability, independent contractors, products-completed operations for a period of three years following substantial completion of the work for the benefit of the City, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit, using ISO form CG 25 03 05 09 or an endorsement providing at least as broad coverage. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The City shall be named as an additional insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations

endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad coverage.

- (3) Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
- (4) Builders Risk insurance covering interests of the City, the Contractor, Subcontractors, and Sub-subcontractors in the work. Builders Risk insurance shall be on a special perils policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including flood, earthquake, theft, vandalism, malicious mischief, and collapse. The Builders Risk insurance shall include coverage for temporary buildings, debris removal, and damage to materials in transit or stored off-site. This Builders Risk insurance covering the work will have a deductible of \$5,000 for each occurrence, which will be the responsibility of the Contractor. Higher deductibles for flood and earthquake perils may be accepted by the City upon written request by the Contractor and written acceptance by the City. Any increased deductibles accepted by the City will remain the responsibility of the Contractor. The Builders Risk insurance shall be maintained until the City has granted substantial completion of the project. An installation floater may be acceptable in lieu of Builders Risk for renovation projects only if approved in writing by the City.

D. Minimum Amounts of Insurance

The Contractor shall maintain the following insurance limits:

- (1) Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
- (2) Commercial General Liability insurance shall be written with limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit.
- (3) Builders Risk insurance shall be written in the amount of the completed value of the project with no coinsurance provisions.

E. City Full Availability of Contractor Limits

If the Contractor maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this Contract or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Contractor.

F. Other Insurance Provision

The Contractor's Automobile Liability, Commercial General Liability and Builders Risk insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

G. Contractor's Insurance for Other Losses

The Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools, Contractor's employee owned tools, machinery, equipment, or motor vehicles owned or rented by the Contractor, or the Contractor's agents, suppliers, contractors or subcontractors as well as to any temporary structures, scaffolding and protective fences.

H. Waiver of Subrogation

The Contractor and the City waive all rights against each other, any of their Subcontractors, Sub-subcontractors, agents and employees, each of the other, for damages caused by fire or other perils to the extent covered by Builders Risk insurance or other property insurance obtained pursuant to the Insurance Requirements Section of this Contract or other property insurance applicable to the work. The policies shall provide such waivers by endorsement or otherwise.

I. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.

J. Verification of Coverage

The Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsements, evidencing the Automobile Liability and Commercial General Liability insurance of the Contractor before commencement of the work. Before any exposure to loss may occur, the Contractor shall file with the City a copy of the Builders Risk insurance policy that includes all applicable conditions, exclusions, definitions, terms and endorsements related to this project. Upon request by the City, the Contractor shall furnish certified copies of all required insurance policies, including endorsements, required in this Contract and evidence of all subcontractors' coverage.

K. Subcontractors

The Contractor shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as

set forth herein, except the Contractor shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors. The Contractor shall ensure that the City is an additional insured on each Subcontractor's Commercial General liability insurance policy using an endorsement as least as broad as ISO CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

L. Notice of Cancellation

The Contractor shall provide the City and all Additional Insureds for this work with written notice of any policy cancellation within two business days of their receipt of such notice.

M. Failure to Maintain Insurance

Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Contractor to correct the breach, immediately terminate the Contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Contractor from the City.

N. Extended Coverage for Completed Operations

The Contractor shall maintain Commercial General Liability completed operations coverage for a period of three years following substantial completion of the work for the benefit of the City by naming the City an additional insured using ISO Additional Insured-Completed Operations endorsement CG 20 37 10 01 or an endorsement providing at least as broad coverage.

14. Claims for damages.

- A. Excluded situations. The City shall not be responsible for delays caused by soil conditions; underground obstructions; labor disputes; fire; delays by third parties, including public and private utilities; or reasonably foreseeable delays.
- B. Liability limited to direct costs. Contractor agrees that the City's liability to Contractor for payment of claims or damages of any kind whatsoever related to this Contract shall be limited to direct costs as provided under the force account provisions of applicable standard specifications. Contractor expressly waives all claims for payment of damages that include or are computed on total costs of job performance, extended overhead, or other similar methods that are not specific as to the actual, direct costs of contract work as defined in the force account provisions of applicable standard specifications.
- C. "Damages" defined. For purposes of applying RCW 4.24.115 to this Contract, Contractor and the City agree that the term "damages" applies only to a finding in a

judicial proceeding and is exclusive of third party claims for damage primarily thereto.

- D. **Indemnification.** The Contractor shall defend, indemnify, and hold the City, its officers, officials, employees, and volunteers harmless from any and all claims, injuries, damages, losses, or suits, including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries or damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence.

It is further agreed that claims for damages against the City for which Contractor's insurance carrier does not accept defense of the City may be tendered by the City to Contractor, who shall then accept and settle with the claimant or defend the claim. The City retains the right to approve claims investigation and counsel assigned to said claims, and all investigation of legal work product regarding said claims shall be performed under a fiduciary relationship to the City.

It is further specifically and expressly understood that the indemnification provided herein constitutes Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Contract.

15. **Assigning or Subcontracting.** Contractor shall not assign, transfer, subcontract or encumber any rights, duties, or interests accruing from this Contract without the express prior written consent of the City.
16. **Independent Contractor.** Contractor is and shall be at all times during the term of this Contract an independent contractor. Any and all employees of the Contractor, while engaged in the performance of any work or services required by the Contractor under this Contract, shall be considered employees of the Contractor only and not of the City. The Contractor will solely be responsible for its acts and for the acts of its agents, employees, subcontractors, or representatives during the performance of this Agreement. The City shall not be responsible for withholding or otherwise deducting federal income tax or Social Security or contributing to the State Industrial Insurance Program, or otherwise assuming the duties of an employer with respect to Contractor or any employee of the Contractor.
17. **Disputes.** Any action for claims arising out of or relating to this Contract shall be governed by the laws of the State of Washington. Venue shall be in Pierce County Superior Court.

18. **Attorney's Fees.** In any suit or action instituted to enforce any right granted in this Contract, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorney's fees from the other party.
19. **Extent of Contract/Modification.** This Contract, together with attachments or addenda, represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. This Contract may be amended, modified, or added to only by written instrument properly signed by both parties. Should any language in any of the Exhibits or Contract Documents conflict with language contained in this Contract, the provisions of this Contract shall prevail.
20. **Use and Ownership of Logos and Documents.** The Contractor will not use any trade name, trademark, service mark, or logo of the City (or any name, mark, or logo confusingly similar thereto) in any advertising, promotions, or otherwise, without the City's express prior written consent. On payment to the Contractor by the City of all compensation due under this Contract, all finished or unfinished documents and material prepared by the Contractor with funds paid by the City under this Contract shall become the property of the City and shall be forwarded to the City upon its request. Any records, reports, information, data or other documents or materials given to or prepared or assembled by the Contractor under this Contract will be kept confidential and shall not be made available to any individual or organization by the Contractor without prior written approval of the City or by court order.
21. **Non-waiver of Breach.** The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be and remain in full force and effect.
22. **Severability.** Any provision or part of the Contract held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the City and the Contractor, who agree that the Contract shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as reasonably possible to expressing the intention of the stricken provision.

BY ITS SIGNATURE BELOW, EACH PARTY ACKNOWLEDGES HAVING READ AND UNDERSTOOD THE TERMS AND CONDITIONS OF THIS CONTRACT AND AGREES TO BE BOUND BY THEM.

CITY OF EDGEWOOD

CONTRACTOR

By: _____

By: _____

Print name: _____

Print name: Ronald Sprague

Title: _____

Title: Governor

Date: _____

Date: _____

APPROVED AS TO FORM:

Ann Marie J. Soto, City Attorney

Attachments

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, Sharlene Sprague (Corporate Officer (Not Contract Signer)) certify that I am the Governor (Corporate Title) of the corporation named as Contractor in the Contract attached hereto; that Ronald Sprague, (Contract Signer) who signed said Contract on behalf of Contractor, was then Governor (Corporate Title) of said corporation; that said Contract was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

Corporate Officer Signature (*not Contract Signer*)

Sharlene Sprague
Print Name

Governor
Title

State of _____

County of _____

_____, (Corporate Officer (*not Contract Signer*)) being duly sworn, deposes and says that he/she is _____ (Corporate Title) of _____ (Name of Corporation).

Subscribed and sworn to before me this _____ day of _____,
20_____.

Notary Public (Signature)

Notary Public (Print)
My commission expires _____

PERFORMANCE BOND to CITY OF EDGEWOOD, WA

Bond No. _____

The **CITY OF EDGEWOOD**, Washington, (City) has awarded to RS Underground, Inc. (Principal), a contract for the construction of the project designated as the Public Works Project – Edgemont Park Playground in Edgewood, Washington (Contract), and said Principal is required to furnish a bond for performance of all obligations under the Contract.

The Principal, and _____ (Surety), a corporation, organized under the laws of the State of _____ and licensed to do business in the State of Washington as surety and named in the current list of “Surety Companies Acceptable in Federal Bonds” as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Dept., are jointly and severally held and firmly bound to the City, in the sum of Ninety Six Thousand Two Hundred and Six US Dollars (\$96,206.00) Total Contract Amount, subject to the provisions herein.

This statutory performance bond shall become null and void, if and when the Principal, its heirs, executors, administrators, successors, or assigns shall well and faithfully perform all of the Principal's obligations under the Contract and fulfill all the terms and conditions of all duly authorized modifications, additions, and changes to said Contract that may hereafter be made, at the time and in the manner therein specified; and if such performance obligations have not been fulfilled, this bond shall remain in full force and effect and the City, as obligee, may file a claim against such performance bond.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation.

This bond may be executed in two (2) original counterparts, and shall be signed by the parties' duly authorized officers. This bond will only be accepted if it is accompanied by a fully executed and original power of attorney for the officer executing on behalf of the surety.

PRINCIPAL

SURETY

Principal Signature _____ Date _____

Surety Signature _____ Date _____

Printed Name _____

Printed Name _____

Title

Title _____

Name, address, and telephone of local office/agent of Surety Company is:

Approved as to form:

City Attorney, City of Edgewood

Date _____

PUBLIC WORKS PAYMENT BOND
to CITY OF EDGEWOOD, WA

Bond No. _____

The **CITY OF EDGEWOOD**, Washington, (City) has awarded to RS Underground, Inc. (Principal), a contract for the construction of the project designated as the Public Works Project – Edgemont Park Playground in Edgewood, Washington (Contract), and said Principal is required under the terms of that Contract to furnish a payment bond in accord with Title 39.08 Revised Code of Washington (RCW) and (where applicable) 60.28 RCW.

The Principal, and _____ (Surety), a corporation organized under the laws of the State of _____ and licensed to do business in the State of Washington as surety and named in the current list of "Surety Companies Acceptable in Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Dept., are jointly and severally held and firmly bound to the City, in the sum of Ninety Six Thousand Two Hundred and Six (\$96,206.00) Total Contract Amount, subject to the provisions herein.

This statutory payment bond shall become null and void, if and when the Principal, its heirs, executors, administrators, successors, or assigns shall pay all persons in accordance with RCW Chapters 39.08, 39.12 and 60.28 including all workers, laborers, mechanics, subcontractors, and materialmen, and all persons who shall supply such contractor or subcontractor with provisions and supplies for the carrying on of such work, and all taxes incurred on said Contract under Title 82 RCW; and if such payment obligations have not been fulfilled, this bond shall remain in full force and effect and the City, as obligee, may file a claim against such payment bond.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, except as provided herein, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation.

This bond may be executed in two (2) original counterparts, and shall be signed by the parties' duly authorized officers. This bond will only be accepted if it is accompanied by a fully executed and original power of attorney for the officer executing on behalf of the surety.

PRINCIPAL

SURETY

Principal Signature

Date

Surety Signature

Date

Printed Name

Printed Name

Title

Title

Name, address, and telephone of local office/agent of Surety Company is:

Approved as to form:

City Attorney, City of Edgewood

Date



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion – Ordinance – Amending Chapter 8.10 – Fireworks	Agenda Item #: 2.G
	For Agenda of: 5/3/2022
	Prepared by: Darren Groth, Mark Berry
Attachments (list): - Attachment 1_ EMC 8.10 - Fireworks Sales and Discharge - Attachment 2_ RCW 70.77.395 - Sale or Discharge of Fireworks - Attachment 3_ Ord. No. 03-0210 - Fireworks Regulations - Attachment 4_ Ord. No. 04-0225 - Fireworks Hours - Attachment 5_ Ord. No. 16-0473 - Fireworks Updates	
Approval of Materials: Darren Groth, Mark Berry Rachel Pitzel 4/25/2022 Dave Gray 4/25/2022 Daryl Eidingen 4/26/2022	Expenditure Required: N/A
	Amount Budgeted: N/A
	Timeline: 05/03/22: Study Session

Summary Statement:

City Council requested a study session discussion regarding the use and discharge of fireworks. Chapter 70.77 RCW (State Fireworks Law) regulates fireworks within the State of Washington and allows local jurisdictions to enact ordinances that prohibit the sale, purchase, possession, or use of consumer fireworks. Ordinances adopted by a county or city that are more restrictive than state law shall have an effective date no sooner than one year after their adoption, in accordance with RCW 70.77.250(4).

The City of Edgewood currently regulates fireworks within Chapter 8.10, Fireworks of the Edgewood Municipal Code (EMC). Edgewood's existing fireworks standards for retail sales (EMC 8.10.030.J) and the dates and hours of discharge (EMC 8.10.050.A) are provided in Attachment 1. The state allowances for sales and discharge are provided in Attachment 2.

For background on the City's fireworks regulations, on June 24, 2003, City Council adopted City Ordinance No. 03-210 (Attachment 3) to set initial local limitations on the dates and hours, which were further amended in 2004 under Ord. No. 04-225 (Attachment 4) and in 2016 under Ord. No. 16-473 (Attachment 5).

This agenda item is intended as an initial discussion for staff to seek direction regarding any proposed code amendments to EMC 8.10.

Item History:

Recommended Action:

Hold a discussion and provide staff direction to Discussion – Ordinance – Amending Chapter 8.10 – Fireworks

Fiscal Note/Consideration:

8.10.030 Retail fireworks sales.

J. Retail Sales Period. No fireworks shall be sold or offered for sale at retail within the city except as follows each year:

1. From 12:00 noon to 11:00 p.m. on the twenty-eighth of June;
2. From 9:00 a.m. to 11:00 p.m. on each day from the twenty-ninth of June through the fifth of July;
3. From 12:00 noon to 11:00 p.m. on each day from the twenty-seventh of December through the thirty-first of December;
4. Or as provided in RCW 70.77.311.

8.10.050 Dates and hours when consumer fireworks discharge permitted.

A. Restrictions on Times for Discharge. The discharge of consumer fireworks is prohibited at any time except between the hours of 9:00 a.m. and 12:00 a.m. on the Fourth of July and between the hours of 6:00 p.m. on December 31st and 1:00 a.m. on January 1st of the subsequent year. Provided, that this prohibition shall not apply to duly authorized public displays where the same are authorized pursuant to the laws of the state; and provided further, that this prohibition shall not apply to persons or organizations specified in EMC 8.10.070.

RCW 70.77.395**Dates and times consumer fireworks may be sold or discharged—Local governments may limit, prohibit sale or discharge of fireworks.**

(1) It is legal to sell and purchase consumer fireworks within this state from twelve o'clock noon to eleven o'clock p.m. on the twenty-eighth of June, from nine o'clock a.m. to eleven o'clock p.m. on each day from the twenty-ninth of June through the fourth of July, from nine o'clock a.m. to nine o'clock p.m. on the fifth of July, from twelve o'clock noon to eleven o'clock p.m. on each day from the twenty-seventh of December through the thirty-first of December of each year, and as provided in RCW 70.77.311.

(2) Consumer fireworks may be used or discharged each day between the hours of twelve o'clock noon and eleven o'clock p.m. on the twenty-eighth of June and between the hours of nine o'clock a.m. and eleven o'clock p.m. on the twenty-ninth of June to the third of July, and on July 4th between the hours of nine o'clock a.m. and twelve o'clock midnight, and between the hours of nine o'clock a.m. and eleven o'clock p.m. on July 5th, and from six o'clock p.m. on December 31st until one o'clock a.m. on January 1st of the subsequent year, and as provided in RCW 70.77.311.

(3) A city or county may enact an ordinance within sixty days of June 13, 2002, to limit or prohibit the sale, purchase, possession, or use of consumer fireworks on December 27, 2002, through December 31, 2002, and thereafter as provided in RCW 70.77.250(4).

[2002 c 370 § 31; 1995 c 61 § 22; 1984 c 249 § 24; 1982 c 230 § 31; 1961 c 228 § 56.]

NOTES:

Severability—2002 c 370: See note following RCW 70.77.126.

Severability—Effective date—1995 c 61: See notes following RCW 70.77.111.

ORDINANCE NO 03-0210

AN ORDINANCE OF THE CITY OF EDGEWOOD, WASHINGTON, REPEALING UNIFORM FIRE CODE SECTIONS 7801 AND 7802, CREATING A NEW CHAPTER 8 10 IN THE EDGEWOOD MUNICIPAL CODE ENTITLED "FIREWORKS", PROHIBITING THE SALES AND DISTRIBUTION OF FIREWORKS, ESTABLISHING DATES AND TIMES FOR DISCHARGE OF FIREWORKS WITHIN THE CITY LIMITS, AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, in the interest of public safety, the sale, storage, possession, and discharge of fireworks shall be in accordance the following

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

Section 1 Repealer Uniform Fire Code Sections 7801 and 7802 are hereby repealed their entirety

Section 2 Definitions Definitions for fireworks shall be as set forth in RCW 70 77 126 as now exists or is hereafter amended

Section 3 Sales and Distribution Prohibited It is unlawful for any person, firm, or corporation to engage in the retail sale of, or to sell any fireworks within the City of Edgewood,

Section 4 Dangerous Fireworks Prohibited It is unlawful for any person to, possess, use, or explode any fireworks other than Consumer Fireworks, as defined in RCW 70 77 136, as now exists or as hereafter may be amended, within the City of Edgewood

Section 5 Dates When Discharge Permitted No person shall use or explode any fireworks within the city limits of the City of Edgewood except between 12 00 noon and 11 00 p m from July 1 through July 5, provided, that this prohibition shall not apply to duly authorized public displays where the same are authorized pursuant to the laws of the State, and provided further, that this prohibition shall not apply to persons or organizations specified in Section 7 below Discharge of fireworks on December 31 and January 1 authorized by RCW 70 77 is specifically prohibited in the City of Edgewood

Section 6 Hours of Discharge No person shall use or explode any fireworks in the City of Edgewood between the hours of 11 00 p m and 9 00 a m , except that the period of discharge on July 4 is extended to 12 00 midnight Any person found in violation of this Section shall be subject to a civil penalties citation in the amount of \$75 00, provided, however, this Section shall not apply to authorized public displays as are specified in Section 8, below

Section 7 Public Display Public display of fireworks shall be in accordance with RCW 70 77 and WAC 212 17 and the following

A permit will be required for all public displays of fireworks. Any person desiring to put on a public display of fireworks shall apply in writing to the City Manager for a permit at least thirty days in advance of the proposed display. The applicant shall submit information and evidence concerning the following:

- 1 The name of the organization sponsoring the display, if other than the applicant,
- 2 The date the display is to be held,
- 3 The exact location for the display,
- 4 The name and license number of the pyrotechnic operator who is to supervise discharge of the fireworks, and the name of at least one experienced assistant,
- 5 The number of set pieces, shells (specify single or multiple break), and other items,
- 6 The manner and place of storage of such fireworks prior to the display,
- 7 A diagram of the ground on which the display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways and other lines of communication, the lines behind which the audience will be restrained, and the location of all nearby trees, telegraph or telephone lines, or other overhead obstruction,
- 8 Applicant shall procure and maintain public liability insurance with limits of not less than \$1,000,000.00 for bodily injury to any one person in one accident or occurrence, \$2,000,000.00 for bodily injury to two or more persons in any one accident or occurrence, and \$500,000.00 property damage, or, at the option of the applicant, a combined single limit of \$2,000,000.00 per occurrence. The insurance policy shall name the City as an additional assured and shall contain a provision that it will not be cancelled or reduced without 30 days advance written notice to the City. The applicant shall also procure a State Fire Marshal's general license for the public display of fireworks,
- 9 The fee for each permit for public display of fireworks shall be as specified in the fee schedule, adopted by City of Edgewood Resolution 02-125, as now exists or as hereafter may be amended.

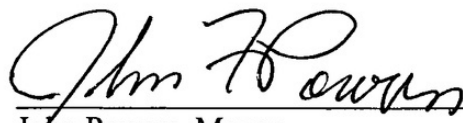
Section 9 Civil Infraction Any person violating any of the provisions of this Ordinance shall be guilty of a civil infraction and shall be assessed a civil penalty of \$250 for each any every day of violation.

Section 10 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.

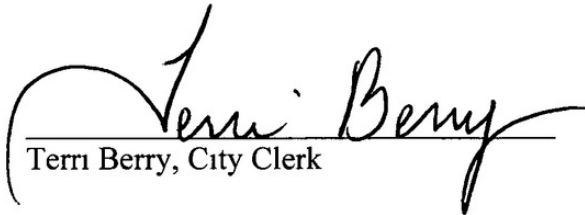
Section 11 Effective Date This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect on June 30, 2004.

**Presented to Council for First Reading on June 10, 2003
Presented to Council for First Reading on June 24, 2003**

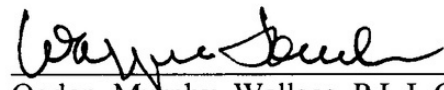
ADOPT BY THE CITY COUNCIL ON THE 24th DAY OF JUNE, 2003


John Powers, Mayor

ATTEST


Terri Berry, City Clerk

APPROVED AS TO FORM


Ogden, Murphy, Wallace, P L L C Attorneys

Date of Publication July 3, 2003
Effective Date June 30, 2004



CITY OF EDGEWOOD
REQUEST FOR COUNCIL ACTION
Agenda Bill No.: 03-0210

Date Action Requested: June 10 and 24, 2003

Title: AB 03-0210 an ordinance of the City Council of the City of Edgewood, Washington, repealing Uniform Fire Code Sections 7801 and 7802, creating a new Chapter 8 10 in the Edgewood Municipal Code entitled "Fireworks", prohibiting the sales and distribution of fireworks, establishing dates and times for discharge of fireworks within the city limits, and establishing an effective date

Attachments: Ordinance, Revised Code of Washington (RCW) Chapter 70 77, and Washington Administrative Code (WAC) Chapter 212-17-035

Submitted By: City Manager Henry J Lawrence, Jr

Approved for Agenda By: City Manager Henry J Lawrence, Jr

Prepared for Agenda By: City Clerk Terri Berry

Recommendation: Move to adopt AB 03-0210 an ordinance of the City Council of the City of Edgewood, Washington, repealing Uniform Fire Code Sections 7801 and 7802, creating a new Chapter 8 10 in the Edgewood Municipal Code entitled "Fireworks", prohibiting the sales and distribution of fireworks, establishing dates and times for discharge of fireworks within the city limits, and establishing an effective date

Discussion: At the May 6 and June 3, 2003, Public Services Committee meetings, discussions were held regarding fireworks regulations. In the interest of public safety, Police Chief Toles and Assistant Fire Chief Ed Goodlet proposed fireworks restrictions to include prohibiting sales and distribution as well as decreasing the dates and times discharge of fireworks would be allowed within the City limits.

Because the proposed ordinance is more restrictive than state law, the regulations therein, should this ordinance be adopted, will not go into effect for one year, or as stated on Section 11 of the ordinance, June 30, 2004. After that date, sales and distribution of fireworks would be prohibited in Edgewood and discharge dates and times would be from noon to 11 00 p m between July 1 and July 5.

Alternatives: 1) Do not adopt the motion 2) Refer to committee for further review

Fiscal Impact: Publication of notices

RCW 70 77 250

Chief of the Washington state patrol to enforce and administer -- Powers and duties

(1) The chief of the Washington state patrol, through the director of fire protection, shall enforce and administer this chapter

(2) The chief of the Washington state patrol, through the director of fire protection, shall appoint such deputies and employees as may be necessary and required to carry out the provisions of this chapter

(3) The chief of the Washington state patrol, through the director of fire protection, shall adopt those rules relating to fireworks as are necessary for the implementation of this chapter

(4) The chief of the Washington state patrol, through the director of fire protection, shall adopt those rules as are necessary to ensure statewide minimum standards for the enforcement of this chapter. Counties and cities shall comply with these state rules. Any ordinances adopted by a county or city that are more restrictive than state law shall have an effective date no sooner than one year after their adoption.

(5) The chief of the Washington state patrol, through the director of fire protection, may exercise the necessary police powers to enforce the criminal provisions of this chapter. This grant of police powers does not prevent any other state agency and city, county, or local government agency having general law enforcement powers from enforcing this chapter within the jurisdiction of the agency and city, county, or local government.

(6) The chief of the Washington state patrol, through the director of fire protection, shall adopt rules necessary to enforce the civil penalty provisions for the violations of this chapter. A civil penalty under this subsection may not exceed one thousand dollars per day for each violation and is subject to the procedural requirements under RCW

70 77 252

(7) The chief of the Washington state patrol, through the director of fire protection, may investigate or cause to be investigated all fires resulting, or suspected of resulting, from the use of fireworks.

[2002 c 370 § 19, 1997 c 182 § 5 Prior 1995 c 369 § 45, 1995 c 61 § 12, 1986 c 266 § 100, 1984 c 249 § 7, 1982 c 230 § 12, 1961 c 228 § 27]

NOTES

Severability -- 2002 c 370 See note following RCW 70 77 126

Severability -- Effective date -- 1997 c 182 See notes following RCW 70 77 160

Effective date -- 1995 c 369 See note following RCW 43 43 930

WAC 212-17-035 Definition and classification -- "Common fireworks " The term "common fireworks" shall mean any fireworks designed primarily to produce visible or audible effects by combustion. The term includes

(1) Ground and hand-held sparkling devices

(a) Dipped stick, sparkler Stick, or wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. Total pyrotechnic composition may not exceed 100 grams per item. Those devices containing any perchlorate or chlorate salts may not exceed 5 grams of pyrotechnic composition per item. Wire sparklers which contain no magnesium and which contain less than 100 grams of composition per item, not Class C explosives under DOT regulations, are included in this category.

(b) Cylindrical fountain Cylindrical tubes not more than 3/4 inch (19 mm) inside diameter, containing up to 75 grams of pyrotechnic composition. Upon ignition, a shower of colored sparks, and sometimes a whistling effect is produced. This device may be provided with a spike for insertion into the ground (spike fountain), a wood or plastic base for placing on the ground (base fountain), or a wood or cardboard handle, if intended to be hand-held (handle fountain).

(c) Cone fountain Cardboard or heavy paper cone containing up to 50 grams of pyrotechnic composition. The effect is the same as that of a cylindrical fountain.

(d) Illuminating torch Cylindrical tube containing up to 100 grams of pyrotechnic composition. Upon ignition, colored fire is produced. May be spike, base, or hand-held.

(e) Wheel Pyrotechnic device attached to a post or tree by means of a nail or string. Each wheel may contain up to six "driver" units, tubes not exceeding 1/2 inch (12.5 mm) inside diameter and containing up to 60 grams of pyrotechnic composition. Total pyrotechnic composition of each wheel shall not exceed 240 grams. Upon ignition, the wheel revolves, producing a shower of color and sparks and, sometimes, a whistling effect.

(f) Ground spinner Small device similar to a wheel in design and effect and placed on the ground and ignited. A shower of sparks and color is produced by the rapidly spinning device.

(g) Flitter sparkler Narrow paper tube filled with pyrotechnic composition that produces color and sparks upon ignition. This device does not have a fuse for ignition. The paper at one end of the tube is ignited to make the device function.

(2) Aerial device

(a) Helicopter, aerial spinner A tube not more than 1/2 inch (12.5 mm) inside diameter and containing up to 20 grams of pyrotechnic composition. A propeller or blade is attached, which, upon ignition, lifts the rapidly spinning device into the air. A visible or audible effect is produced at the height of flight.

(b) Roman candles Heavy paper or cardboard tube not exceeding 3/8 inch (9.5 mm) inside diameter and containing up to 20 grams of pyrotechnic composition. Upon ignition, up to ten "stars" (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several-second intervals.

(c) Mine, shell Heavy cardboard or paper tube up to 2 1/2 inches (63.5 mm) inside diameter attached to a wood or plastic base and containing up to 40 grams of pyrotechnic composition. Upon ignition, "stars," firecrackers, or other devices are propelled into the air. The tube remains on the ground.

(3) Combination items Fireworks devices containing combinations of two or more of

the effects described in this section

(4) Smoke device Tube or sphere containing pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect

(5) Class C explosives classified on January 1, 1984, as common fireworks by the United States Department of Transportation except that the term shall not include firecrackers, salutes, chasers, skyrockets, or missile-type rockets

WAC 212-17-050 Firework device chemical content, construction All common fireworks devices shall meet the following chemical content, design, and construction requirements

(1) Prohibited chemicals Fireworks devices shall not contain any of the following chemicals

(a) Arsenic sulfide, arsenates, or arsenites

(b) Boron

(c) Chlorates, except

(i) In colored smoke mixtures in which an equal or greater amount of sodium bicarbonate is included,

(ii) In caps and party poppers,

(iii) In those small items wherein the total powder content does not exceed four grams of which not greater than fifteen percent is potassium, sodium, or barium chlorate

(d) Gallates or gallic acid

(e) Magnesium (magnesium/aluminum alloys, called magnalium, are permitted)

(f) Mercury salts

(g) Phosphorus (red or white) EXCEPT that red phosphorus is permissible in caps and party poppers

(h) Picrates or picric acid

(i) Thiocyanates

(j) Titanium, except in particle size greater than 100-mesh

(k) Zirconium

(2) Fuses

(a) Fireworks devices that require a fuse shall

(i) Utilize only a fuse that has been treated or coated in such manner as to reduce the possibility of side ignition Devices such as ground spinners that require a restricted orifice for proper thrust and contain less than 6 grams of pyrotechnic composition are exempt from this requirement

(ii) Utilize only a fuse which will burn at least three seconds but not more than six seconds before ignition of the device

(b) The fuse shall be securely attached so that it will support either the weight of the fireworks device plus eight ounces dead weight or double the weight of the device, whichever is less, without separation from the fireworks device

(3) Bases The base or bottom of fireworks devices that are operated in a standing upright position shall have the minimum horizontal dimensions or the diameter of the base equal to at least one-third of the height of the device including any base or cap affixed thereto

(4) Pyrotechnic leakage The pyrotechnic chamber in fireworks devices shall be sealed

in a manner that prevents leakage of the pyrotechnic composition during shipping, handling and normal operation

(5) Burnout and blowout The pyrotechnic chamber in fireworks devices shall be constructed in a manner to allow functioning in a normal manner without burnout or blowout

(6) Handles and spikes Fireworks devices that are intended to be hand-held and are so labeled shall incorporate a handle at least four inches in length Handles shall remain firmly attached during transportation, handling and full operation of the device, or shall consist of an integral section of the device at least four inches below the pyrotechnic chamber Spikes provided with fireworks devices shall protrude at least two inches from the base of the device and shall have a blunt tip not less than 1/8 inch in diameter or 1/8 inch square

(7) Wheel devices Drivers in fireworks devices commonly known as "wheels" shall be securely attached to the device so that they will not come loose in transportation, handling, and normal operation Wheel devices intended to operate in a fixed location shall be designed in such a manner that the axle remains attached to the device during normal operation

(8) Toy smoke devices and flitter devices

(a) Toy smoke devices shall be so constructed that they will neither burst nor produce external flame (excluding the fuse and firstfire upon ignition) during normal operation

(b) Toy smoke devices and flitter devices shall not be of such color and configuration so as to be confused with banned fireworks such as M-80 salutes, silver salutes, or cherry bombs

(c) Toy smoke devices shall not incorporate plastic as an exterior material if the pyrotechnic composition comes in direct contact with the plastic

(9) Rockets with sticks Rockets with sticks (including sky rockets and bottle rockets) shall utilize a straight and rigid stick to provide a direct and stable flight Such sticks shall remain straight and rigid and attached to the driver so as to prevent the stick from being damaged or detached during transportation, handling, or normal operation

(10) Party poppers Party poppers (also known by other names such as "champagne party poppers" and "party surprise poppers" shall not contain more than 0.25 grains of pyrotechnic composition Such devices may contain soft paper or cloth inserts provided any such inserts do not ignite during normal operation

ORDINANCE NO 04-0225

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, AMENDING SECTION 8 10 050, REPEALING PORTIONS OF EDGEWOOD MUNICIPAL CODE (EMC) SECTION 8 10 060, CLARIFYING THE PERMITTED HOURS OF DISCHARGE OF FIREWORKS WITHIN THE CITY LIMITS, DECLARING AN EMERGENCY AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, Chapter 8 10 of the EMC, which regulates the sale and use of fireworks within the City limits, adopted in 2003, inadvertently containing three provisions (Section 8 10 050, 8 10 060 and 8 10 080) regarding the dates and times during which fireworks may be used or exploded and the penalties for violating this code

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

Section 1 Repealer Section 8 10 060 of the Edgewood Municipal Code is hereby repealed in its entirety

Section 2 Amendment Section 8 10 050 is hereby amended to read as follows

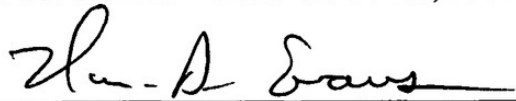
8 10 050 Dates when discharge permitted

No person shall use or explode any fireworks within the city limits of the city of Edgewood except between 12 00 noon and 11 00 p m from July 1st through July 5th, except that the period of discharge on July 4th is extended to 12 00 midnight provided, that this prohibition shall not apply to duly authorized public displays where the same are authorized pursuant to the laws of the state, and provided further, that this prohibition shall not apply to persons or organizations specified in EMC 8 10 070 Discharge of fireworks on December 31st and January 1st authorized by Chapter 70 77 RCW is specifically prohibited in the city of Edgewood

Section 3 Declaration of Emergency - Effective Date The City Council hereby finds and declares that an emergency exists necessitating this ordinance to become effective immediately in order to preserve the public health, safety and welfare of Edgewood citizens and the community This ordinance shall therefore become effective immediately upon adoption The City Clerk is directed to publish a summary of this ordinance at the earliest possible publication date

Section 4 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

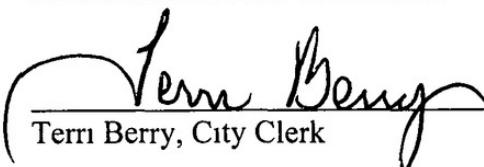
Presented to Council for its First Reading on June 22, 2004
ADOPTED BY THE CITY COUNCIL ON THE 22ND DAY OF JUNE, 2004



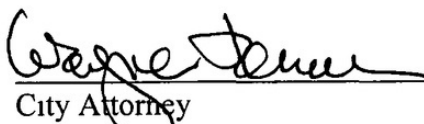
Mayor William D Evans

ATTEST/AUTHENTICATED

APPROVED AS TO FORM



Terri Berry, City Clerk



City Attorney

Date of Publication July 1, 2004

Effective Date June 22, 2004



CITY OF EDGEWOOD
REQUEST FOR COUNCIL ACTION
Agenda Bill No.: 04-0225

Date Action Requested: June 22, 2004

Title: AB 04-0225 an ordinance of the City Council of the City of Edgewood, Washington, amending Section 8 10 050, repealing portions of Section 8 10 060, clarifying the permitted hours of discharge for fireworks within the City limits and penalties for violation of this code, declaring an emergency and establishing an effective date

Attachments: Ordinance 04-0225, EMC 8 10, RCW 77 70 250

Submitted By: City Manager Henry J Lawrence, Jr

Approved For Agenda By: City Manager Henry J Lawrence, Jr

Prepared For Agenda By: City Clerk/Information Systems Manager Terri Berry

Recommendation: Move to adopt AB 04-0225 an ordinance of the City Council of the City of Edgewood, Washington, amending Section 8 10 050, repealing portions of Section 8 10 060, clarifying the permitted hours of discharge for fireworks within the City limits and penalties for violation of this code, declaring an emergency and establishing an effective date

Discussion. On June 30, 2004, EMC Chapter 8 10 Fireworks, adopted June 24, 2003, became effective. As staff began preparing information for the public in the matter, it was discovered that Sections 8 10 050, 8 10 060 and 8 10 080 contained conflicting information.

The verbiage in Section 8 10 050 that had been originally recommended by the Public Services Committee to the full Council in 2003, related to the permitted hours of discharge, is as follows:

Excerpt of the June 3, 2003 Public Services Committee summary

The Committee debated several discharge options. Consensus was reached to recommend that fireworks discharge be permitted July 1-3 from Noon - 11 00 p m, July 4 from Noon to 12 00 midnight, and July 5 from Noon to 11 00 p m.

This language established a more restrictive prohibition than that of RCW 70 77 State Fireworks Law. In accordance with RCW Section 70 77 250(4), "Any ordinances adopted by a county or city that are more restrictive than state law shall have an effective date no sooner than one year after their adoption." Therefore, the City was required to adhere to the one-year waiting period, making these new regulations effective June 30, 2004. However, in Section 8 10 060, a provision to extend the cut off to midnight instead of 11 00 p m on July 4th was adopted. This language is less restrictive than that which appears in the RCW's for and therefore did not trigger the one-year waiting period.

In addition, Section 8 10 060 contained verbiage related to penalties for violating this code, which were specifically addressed in Section 8 10 080 Civil Infraction By repealing all but the provision of extended hours on July 4th contained in Section 8 10 060, the ambiguity of the regulations will be addressed and the City's fireworks regulations will meet the original intent of the Public Services Committee and the Council at the time of adoption

In order for these regulations to be clearly enforceable this year, this ordinance must be adopted as an emergency ordinance, becoming effective immediately upon adoption, by a super-majority of the Council

Alternatives: 1) Do not adopt the ordinance 2) Refer to committee for further review

Fiscal Impact: None Known

Chapter 8 10

FIREWORKS

Sections

- 8 10 010 Repealer
- 8 10 020 Definitions
- 8 10 030 Sales and distribution prohibited
- 8 10 040 Dangerous fireworks prohibited
- 8 10 050 Dates when discharge permitted
- ~~8 10 060 Hours of discharge~~
- 8 10 070 Public display
- 8 10 080 Civil infraction

8 10 010 Repealer

Uniform Fire Code Sections 7801 and 7802 are hereby repealed their entirety (Ord 03-210 § 1)

8 10 020 Definitions

Definitions for fireworks shall be as set forth in RCW 70 77 126 as now exists or is hereafter amended (Ord 03-210 § 2)

8 10 030 Sales and distribution prohibited

It is unlawful for any person, firm, or corporation to engage in the retail sale of, or to sell any fireworks within the city of Edgewood (Ord 03-210 § 3)

8 10 040 Dangerous fireworks prohibited

It is unlawful for any person to possess, use, or explode any fireworks other than consumer fireworks, as defined in RCW 70 77 136, as now exists or as hereafter may be amended, within the city of Edgewood (Ord 03-210 § 4)

8 10 050 Dates when discharge permitted

No person shall use or explode any fireworks within the city limits of the city of Edgewood except between 12 00 noon and 11 00 p m from July 1st through July 5th, except that the period of discharge on July 4th is extended to 12 00 midnight provided, that this prohibition shall not apply to duly authorized public displays where the same are authorized pursuant to the laws of the state, and provided further, that this prohibition shall not apply to persons or organizations specified in EMC 8 10 070 Discharge of fireworks on December 31st and January 1st authorized by Chapter 70 77 RCW is specifically prohibited in the city of Edgewood (Ord 03-210 § 5)

~~**8.10.060 Hours of discharge.**~~

~~No person shall use or explode any fireworks in the city of Edgewood between the hours of 11 00 p m and 9 00 a m, except that the period of discharge on July 4th is extended to 12 00 midnight Any person found in violation of this section shall be subject to a civil penalties citation in the amount of \$75 00; provided, however, this section shall not apply to authorized public displays as are specified in EMC 8 10 070 (Ord 03-210 § 6)~~

8 10 070 Public display

Public display of fireworks shall be in accordance with Chapter 70 77 RCW and Chapter 212- 17 WAC and the following

A permit will be required for all public displays of fireworks Any person desiring to put on a public

display of fireworks shall apply in writing to the city manager for a permit at least 30 days in advance of the proposed display. The applicant shall submit information and evidence concerning the following:

- A The name of the organization sponsoring the display, if other than the applicant,
- B The date the display is to be held,
- C The exact location for the display,
- D The name and license number of the pyrotechnic operator who is to supervise discharge of the fireworks, and the name of at least one experienced assistant,
- E The number of set pieces, shells (specify single or multiple break), and other items,
- F The manner and place of storage of such fireworks prior to the display,
- G A diagram of the ground on which the display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways and other lines of communication, the lines behind which the audience will be restrained, and the location of all nearby trees, telegraph or telephone lines, or other overhead obstruction,
- H Applicant shall procure and maintain public liability insurance with limits of not less than \$1,000,000 for bodily injury to any one person in one accident or occurrence, \$2,000,000 for bodily injury to two or more persons in any one accident or occurrence, and \$500,000 property damage, or, at the option of the applicant, a combined single limit of \$2,000,000 per occurrence. The insurance policy shall name the city as an additional assured and shall contain a provision that it will not be cancelled or reduced without 30 days' advance written notice to the city. The applicant shall also procure a State Fire Marshal's general license for the public display of fireworks,
- I The fee for each permit for public display of fireworks shall be as specified in the fee schedule, adopted by city of Edgewood Resolution 02-125, as now exists or as hereafter may be amended (Ord 03-210 § 7)

8 10 080 Civil infraction

Any person violating any of the provisions of this chapter shall be guilty of a civil infraction and shall be assessed a civil penalty of \$250.00 for each and every day of violation (Ord 03-210 § 9)

RCW 70 77 250**Chief of the Washington state patrol to enforce and administer -- Powers and duties**

(1) The chief of the Washington state patrol, through the director of fire protection, shall enforce and administer this chapter

(2) The chief of the Washington state patrol, through the director of fire protection, shall appoint such deputies and employees as may be necessary and required to carry out the provisions of this chapter

(3) The chief of the Washington state patrol, through the director of fire protection, shall adopt those rules relating to fireworks as are necessary for the implementation of this chapter

(4) The chief of the Washington state patrol, through the director of fire protection, shall adopt those rules as are necessary to ensure statewide minimum standards for the enforcement of this chapter. Counties and cities shall comply with these state rules. Any ordinances adopted by a county or city that are more restrictive than state law shall have an effective date no sooner than one year after their adoption.

(5) The chief of the Washington state patrol, through the director of fire protection, may exercise the necessary police powers to enforce the criminal provisions of this chapter. This grant of police powers does not prevent any other state agency and city, county, or local government agency having general law enforcement powers from enforcing this chapter within the jurisdiction of the agency and city, county, or local government.

(6) The chief of the Washington state patrol, through the director of fire protection, shall adopt rules necessary to enforce the civil penalty provisions for the violations of this chapter. A civil penalty under this subsection may not exceed one thousand dollars per day for each violation and is subject to the procedural requirements under RCW 70 77 252.

(7) The chief of the Washington state patrol, through the director of fire protection, may investigate or cause to be investigated all fires resulting, or suspected of resulting, from the use of fireworks.

[2002 c 370 § 19, 1997 c 182 § 5. Prior: 1995 c 369 § 45, 1995 c 61 § 12, 1986 c 266 § 100, 1984 c 249 § 7, 1982 c 230 § 12, 1961 c 228 § 27.]

NOTES

Severability -- 2002 c 370 See note following RCW 70 77 126

Severability -- Effective date -- 1997 c 182 See notes following RCW 70 77 160

Effective date -- 1995 c 369 See note following RCW 43 43 930

Severability -- Effective date -- 1995 c 61 See notes following RCW 70 77 111

Severability -- 1986 c 266 See note following RCW 38 52 005

ORDINANCE NO. 16-0473

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, AMENDING CHAPTER 8.10 EMC FIREWORKS; MODIFYING THE DATES AND HOURS OF PERMISSIBLE FIREWORK DISCHARGE; UPDATING AND CLARIFYING THE CITY'S FIREWORKS ENFORCEMENT PROVISIONS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Edgewood currently regulates fireworks within Chapter 8.10 of Edgewood Municipal Code; and

WHEREAS, previous City Councils have been made aware of the potential negative ramifications associated with the discharge of both legal and illegal fireworks within the City of Edgewood; and

WHEREAS, RCW 70.77 regulates fireworks within the State of Washington and allows local jurisdictions to enact ordinances (RCW 70.77.395(3)) that prohibit the sale, purchase, possession, or use of consumer fireworks; and

WHEREAS, the Council of the City of Edgewood desires to further restrict the discharge of consumer fireworks and to further update and clarify the enforcement provisions of Chapter 8.10 EMC; and

WHEREAS, ordinances adopted by a county or city that are more restrictive than state law shall have an effective date no sooner than one year after their adoption, in accordance with RCW 70.77.250(4);

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

Section 1. Findings. The recitals above are hereby adopted as legislative findings in support of this ordinance. The City Council further adopts by reference the staff report and agenda bill dated June 28, 2016 as additional findings.

Section 2. Amendment of EMC 8.10.020. Section 8.10.020 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

8.10.020 Definitions – Delegation of authority.

Definitions of terms used in this chapter shall be as set forth in Chapter 70.77 RCW and Chapter 212-17 WAC except as expressly provided herein.

A. Delegation of Authority. Pursuant to RCW 70.77.270, the city council hereby designates the East Pierce Fire and Rescue fire

chief, or his or her designee as the person with authority to issue, condition, deny and/or revoke permits pursuant to this chapter, and to enforce the provisions hereof.

B. Local Fire Official Defined. The terms “local fire official” or “fire chief” as used in this chapter shall mean the chief of East Pierce Fire and Rescue or his or her designee.

Section 3. Amendment of EMC 8.10.030. Subsection 8.10.030(M) of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

8.10.030 Retail fireworks sales.

....

M. Violations. Without prejudice to any other penalties and remedies, violation of any provision of Chapter 70.77 RCW, this chapter, or a permit issued hereunder, or any failure or refusal on the part of a retailer to obey any rule, regulation or request of the fire chief, shall be grounds for the revocation of a fireworks permit. Such revocation shall be grounds for denial of any permit application submitted by the permittee during or otherwise pertaining to the calendar year immediately following the year in which such revocation occurs.

Section 4. Amendment of EMC 8.10.050. Section 8.10.050 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

8.10.050 Dates and hours when consumer fireworks discharge permitted.

A. Restrictions on Times for Discharge. The discharge of consumer fireworks is prohibited at any time except between the hours of 9:00 am and 12:00 a.m. on the Fourth of July and between the hours of 6:00 p.m. on December 31st and 1:00 a.m. on January 1st of the subsequent year. Provided, that this prohibition shall not apply to duly authorized public displays where the same are authorized pursuant to the laws of the state; and provided further, that this prohibition shall not apply to persons or organizations specified in EMC 8.10.070.

Section 5. Amendment of EMC 8.10.080. Section 8.10.080 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

8.10.080 Penalties.

A. Any person violating any of the provisions of this chapter shall be guilty of a civil infraction and shall be assessed a civil penalty of \$250.00 for each and every day of violation. Any violation of this chapter which also constitutes a violation of state law shall also be punishable in accordance with any and all applicable state law penalties, including without limitation the provisions of Chapter 70.77 RCW.

B. A person is guilty of a separate offense for each separate and distinct violation of any provisions of this chapter, and a person is guilty of a separate offense for each day during which he/she commits or allows to continue any violation of the provisions of this chapter.

C. Any fireworks which are illegally sold, offered for sale, used, discharged, possessed or transported in violation of the provisions of this chapter or of Chapter 70.77 RCW shall be subject to seizure by any police officer or by the city's fire marshal or his designee to the extent permitted by law.

Section 6. Severability. Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 7. Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City, and shall take effect and be in full force three hundred and sixty five (365) days after its date of adoption.

Presented to Council for First Reading June 14th, 2016

ADOPTED BY THE CITY COUNCIL ON JUNE 28th, 2016



Mayor Daryl Eiding

ATTEST/AUTHENTICATED:



City Clerk Rachel Pitzel

APPROVED AS TO FORM:



Zach Lell, City Attorney

Date of Publication: June 30, 2016

Effective Date: June ²⁸~~30~~, 2017 *mp*

CITY OF EDGEWOOD

2224 - 104th Ave. East

Edgewood, WA 98371

(253) 952-3299

Fax: (253) 952-3537

LEGAL NOTICE

Date: June 28, 2016

NOTICE OF ORDINANCE PASSED BY EDGEWOOD CITY COUNCIL

The following is a summary of an Ordinance passed by the City of Edgewood City Council on the 28th day of June, 2016, and shall take effect and be in full force on the 28th day of July, 2017.

ORDINANCE NO.16-0473

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, AMENDING CHAPTER 8.10 EMC FIREWORKS; MODIFYING THE DATES AND HOURS OF PERMISSIBLE FIREWORK DISCHARGE; UPDATING AND CLARIFYING THE CITY'S FIREWORKS ENFORCEMENT PROVISIONS; AND ESTABLISHING AN EFFECTIVE DATE.

The full text of the Ordinance is available at the City Clerk's office, Edgewood City Hall, 2224 - 104th Ave. East, Edgewood, WA 98371 (253) 952-3299.



City Clerk, Rachel Pitzel

Published in the News Tribune on: June 30, 2016



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion – Ordinance – Title 8, Chapter 8.20 Noise Pollution	Agenda Item #: 2.H
	For Agenda of: 5/3/2022
	Prepared by: Darren Groth, Mark Berry, Ann Marie Soto
Attachments (list): 1. ORD - Noise Pollution 4-26-22 (Option 1) 2. ORD - Noise Pollution_ Public Hearing Version (Option 2) 3. Chapter 8.76_ PCC - Noise Pollution Control (Option 3) 4. WAC 173-60_ Environmental Noise Levels (Option 4)	
Approval of Materials: Darren Groth, Mark Berry, Ann Marie Soto Rachel Pitzel 4/28/2022 Dave Gray 4/28/2022 Daryl Eidingen 4/28/2022	Expenditure Required: N/A
	Amount Budgeted: N/A
	Timeline: 05/03/2022 SS Discussion

Summary Statement:

Last summer, City Council members received emails regarding concerns about noise generated from a business along Meridian. City Council requested a discussion regarding the City's noise code. During the discussion, it was identified that the current system of identifying the source, receiver, and measuring decibels was causing difficulties with enforcement. As a result, City Council requested staff propose legally supported changes to the municipal code. Chief Berry researched other municipalities, pulled together options that could be utilized by his officers, field tested the drafted code, sought legal advice regarding the drafted code, modified the draft accordingly, and then presented the drafted regulations to City Council during their November 16, 2021 study session. City Council sent the matter to the Planning Commission to further vet and make a recommendation back to City Council. On January 10, 2022, the Planning Commission held a Public Hearing on the proposed code changes and recommended approval by a 5-2 vote.

City Council has engaged in further discussions and requested additional changes since receiving the recommendation from the Planning Commission. In attempts to keep an enforceable code that has been legally upheld, staff has not hit the mark in addressing all of City Council's concerns regarding the noise code. This agenda item is intended to present various options to help move forward with a final decision regarding the enforcement of noise pollution standards in Edgewood. The four options are attached to this agenda bill and highlighted below.

Option 1 is a drafted code the sets a plainly audible standard and moves every noise level to a 75-foot distance. This draft likely most closely resembles the requests from City Council. Staff, however, does not recommend this option. City Council has received, under separate cover, information regarding the potential pitfalls and enforcement challenges of this code.

Option 2 reverts the draft back to the version that was presented to and recommended by the Planning Commission. This draft is primarily based on the reasonableness legal standard. The reasonable person standard denotes a hypothetical person in society who exercises average care, skill, and judgment in conduct and who serves as a comparative standard for determining liability. This legal test relies on the fact that all members of the community owe a duty to act as a reasonable person in undertaking or avoiding actions with the risk to harm others and has been upheld by numerous courts, including the courts in Washington. There could still be additional tweaks to this version to address some of Council's concerns (such as requiring warnings), if desired. This is the Staff's recommended option in light of the Council's original direction last year.

Option 3 would retain the current Edgewood Municipal Code (EMC) reference to Pierce County Code's Noise Pollution Control regulations. This option keeps the decibel reading currently contained in PCC Chapter 8.67.

Option 4, like Option 3, would keep a decibel-based noise standard, but change the local code to merely adopt and use the Department of Ecology's (Ecology) rules contained in the Washington Administrative Code (WAC). Under this option, instead of adopting a local noise ordinance, the City could repeal the existing noise standards and use Ecology's rules contained in the WAC. If the Council is not inclined to go with Option 2, this is staff's next recommended option as it is the least susceptible to Council's concerns regarding subjectivity or discretion.

Item History:

On November 16, 2021, City Council received a presentation from staff in response to the Council's request for a review of Edgewood's noise code provisions. After reviewing the drafted amendment regarding measures to improve the current code, City Council sent the matter to the Planning Commission to further vet and make a recommendation back to City Council.

On December 13, 2021, the Planning Commission discussed the impacts that the proposed code changes will have on businesses in the Town Center and along the Meridian Corridor, residents in single-family neighborhoods, and the enforcement of noise pollution in Edgewood. The Commission expressed interest in evaluating the code changes one year after they go into effect to assess any impacts that they have had.

On January 10, 2022, the Planning Commission held a Public Hearing on the proposed code changes and recommended approval by a 5-2 vote.

On January 18, 2022, City Council held an initial study session discussion following the Planning Commission recommendation.

On January 25, 2022, City Council held a public hearing regarding the proposed code amendments. No additional input was received from the public.

On February 1, 2022, City Council held a study session discussion following their public hearing. Further discussion ensued with the Council and this item was removed from the February 8, 2022 City Council agenda for final action to allow for additional study session discussions with City Council.

On February 15, 2022, City Council held a study session regarding the proposed code amendments.

On March 1, 2022, City Council held a study session regarding the proposed code amendments.

On March 15, 2022, City Council held a study session regarding the proposed code amendments.

On April 5, 2022, City Council held a study session regarding the proposed code amendments.

Recommended Action:

Hold a discussion and provide staff direction to Discussion – Ordinance – Title 8, Chapter 8.20 Noise Pollution

Fiscal Note/Consideration:

ORDINANCE NO. 22-XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON, ADDING CHAPTER 8.20 AND AMENDING CHAPTERS 8.05, 8.09, 12.10, 18.90, AND 18.100 OF THE EDGEWOOD MUNICIPAL CODE RELATED TO NOISE POLLUTION; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Chapter 70A.20 RCW, the Noise Control Act of 1974, empowers the State of Washington Department of Ecology (Ecology) to establish standards relating to maximum environmental noise levels; and

WHEREAS, Ecology has identified that noise pollution is regulated by local governments and while Ecology does not have authority to enforce noise pollution laws and ordinances, they have provided laws and rules related to noise in Chapters 173-58, 173-60, and 173-62 WAC; and

WHEREAS, cities are allowed to adopt all of Ecology's rules, Sections of Ecology's rules, Sections of Ecology's rules along with standards written by the local government, or standards that are different from those in Ecology's rules, if submitted to Ecology and approved; and

WHEREAS, the City of Edgewood submitted the proposed rules to Ecology and on January 13, 2022, Ecology responded with no comments on the proposed noise ordinance amendments and Ecology's review period of City of Edgewood noise ordinance is completed; and

WHEREAS, the City's Responsible Official has determined that this Ordinance is categorically exempt from SEPA under WAC 197-11-800(19); and

WHEREAS, on December 1, 2021, the City sent a draft of this Ordinance to the Washington State Department of Commerce, as required by RCW 36.70A.106; and

WHEREAS, on January 10, 2022, the City's Planning Commission held a public hearing on this Ordinance and sent its recommendation to the City Council; and

WHEREAS, on January 18, 2022, the Edgewood City Council considered this draft Ordinance in a study session; and

WHEREAS, on January 25, 2022, the Edgewood City Council held a public hearing on this Ordinance; and

WHEREAS, on February 1, 2022, the Edgewood City Council considered this draft Ordinance in a study session; and

WHEREAS, on February 8, 2022, the Edgewood City Council took final action on this Ordinance during its regular meeting; and

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

Section 1. EMC Chapter 8.20, Added. Section 8.20.010, Purpose; Section 8.20.020, Noise Pollution; Section 8.20.030, Enforcement; and Section 8.20.040, Violation – Penalty of the Edgewood Municipal Code is hereby added to read as shown in Exhibit A, attached hereto and incorporated herein by this reference.

Section 2. EMC Section 8.05.050, Amended. Section 8.05.050, PCC sections and chapters not adopted of the Edgewood Municipal Code is hereby amended to read as shown in Exhibit B, attached hereto and incorporated herein by this reference.

Section 3. EMC Section 8.09.020, Amended. Section 8.09.020, Definitions of the Edgewood Municipal Code is hereby amended to read as shown in Exhibit B, attached hereto and incorporated herein by this reference.

Section 4. EMC Chapter 12.10, Amended. Sections 12.10.050, Prohibited activities, and 12.10.080, Violation-Penalty of the Edgewood Municipal Code are hereby amended to read as shown in Exhibit B, attached hereto and incorporated herein by this reference.

Section 5. EMC Section 18.90.140, Amended. Section 18.90.140, Performance standards of the Edgewood Municipal Code is hereby amended to read as shown in Exhibit B, attached hereto and incorporated herein by this reference.

Section 6. EMC Section 18.100.110, Amended. Section 18.100.110, Wireless communications facilities of the Edgewood Municipal Code is hereby amended to read as shown in Exhibit B, attached hereto and incorporated herein by this reference.

Section 7. 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 8. Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL ON THE 8TH DAY OF FEBRUARY 2022

Mayor Daryl Eiding

ATTEST/AUTHENTICATED:

Rachel Pitzel, CMC

City Clerk

APPROVED AS TO FORM:

Ann Marie Soto, City Attorney

Date of Publication:

Effective Date:

Exhibit A New Code

Title 8 | HEALTH AND SAFETY Chapter 8.20, Noise Pollution

8.20.010 Purpose.

The City Council has found that inadequately controlled noise may adversely affect the health, safety, and general welfare of people, the value of property, and the quality of the environment. The purpose of this chapter is to minimize the exposure of residents and visitors to the harmful physiological and psychological effects of excessive noise by limiting noise pollution in a manner that promotes commerce; the use, value, and enjoyment of property; sleep and repose; and the quality of the environment.

8.20.020 Noise Pollution.

A. General Prohibition. It is unlawful for any person to cause or for any person who owns or occupies property to allow to originate from the property sound that is a public disturbance noise.

B. Public Disturbances. The following sounds are public disturbance noises in violation of this chapter:

1. The frequent, repetitive, or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law;
2. The creation of frequent, repetitive, or continuous sounds in connection with the starting, operation, repair, rebuilding, or testing of any motor vehicle, motorcycle, off-highway vehicle, or other internal combustion engine within a residential district, so as to be plainly audible at a distance of more than 75 feet from the source of the noise;
3. Yelling, shouting, whistling, singing, or other man-made sounds or other artificially created noises on or near public streets, particularly between the hours of 10:00 p.m. and 7:00 a.m., so as to be plainly audible at a distance of more than 75 feet from the source of the noise;
4. The creation of frequent, repetitive, or continuous sounds which emanate from any building, structure, apartment, or condominium, which unreasonably disturb or interfere with the peace and comfort of owners or occupants of real property, such as sounds from musical instruments, audio sound systems, band sessions, or social gatherings, so as to be plainly audible at a distance of more than 75 feet from the source;
5. Sound from motor vehicle audio sound systems, such as tape players, radios, or compact disc players, operated at a volume so as to be plainly audible at a distance of more than 75 feet from the vehicle itself;
6. Sound from portable audio equipment, such as tape players, radios or compact disc players, operated at a volume so as to be plainly audible at a distance of more than 75 feet from the source;
7. The squealing, screeching, or other such sounds from motor vehicle tires in contact with the ground or other surface because of rapid acceleration, braking, excessive speed around corners, or any other reason, except for sounds resulting from actions necessary to avoid danger;
8. Land development and construction activity noise generated by activities regulated by EMC Titles 12-16, 18, and 20, except as authorized by EMC 18.90.140(G);
9. Sounds originating from residential property relating to temporary projects performed by the homeowner for the maintenance or repair of homes, grounds, or appurtenances, including but not limited to sounds from lawnmowers, powered hand tools, snow removal equipment, or any other power motorized equipment

before 7:00 a.m. and after 10:00 p.m. on weekdays and before 8:00 a.m. and after 10:00 p.m. on weekend days; or

10. Continuing and/or ongoing sounds from motor vehicles including but not limited to engine sounds, horn sounds, hydraulic or air break sounds, or other equipment located on the motor vehicle or attached trailer, so as to be plainly audible at a distance of more than 75 feet from the vehicle located on or in the vicinity of residential property, except to warn of danger or emergencies. For the purposes of this section, such sounds after 10:00 p.m. and before 7:00 a.m. on weekdays or after 10:00 p.m. and before 8:00 a.m. on weekend days shall be presumed to be a public disturbance noise.

C. Exemptions. EMC Chapter 8.20 shall not apply to the following activities.

1. Community and special events subject to an approved permit.

2. Fireworks lawfully discharged within the city.

3. Public safety training activities and the sirens or other warning devices, either on emergency vehicles operated by agencies such as fire departments, police departments, or ambulance services, or stationary devices for warning the general public of threats such as those from natural occurrences such as lahars, necessary in the interests of law enforcement or for the health, safety, or welfare of the community.

4. The performance of emergency work for the immediate safety, health, or welfare of the community or individuals of the community to restore property to a safe condition.

5. Equipment, tools, generators, or other devices used during emergency situations and the associated work performed for the duration of the emergency.

8.20.030 Authority to Enforce.

Enforcement of this Chapter shall follow EMC Section 7.05.015.

8.20.040 Violation – Penalty.

Any person who violates the provisions of this chapter shall be provided a warning upon first contact. Any person who violates the provisions of this chapter a second time within 48 hours of receiving a first warning will be subject to issuance of a civil infraction and a civil penalty of up to \$175.00; any additional violations within the same 48-hour period will subject the violator to a civil infraction and a civil penalty of up to \$250.

Exhibit B Amended Code(s)

8.05.050 PCC sections and chapters not adopted.

The following provisions of PCC Title 8 are excluded from the scope of this chapter and are expressly not adopted by reference hereunder:

- A. ~~PCC 8.72.090(A)~~; Chapter 8.72 PCC (Motor Vehicle, Public Disturbance, and Public Nuisance Noise);
- B. Chapter 8.08 PCC (Public Nuisances); and
- C. Chapter 8.09 PCC (Chronic Nuisance Properties).

8.09.020 Definitions.

[All other definitions unchanged. Logistical directions only, red text not codified]

“Nuisance” or “Nuisance activity” means and includes:

1. Any general or specific nuisance.
2. Any civil code violation as defined by state law or local ordinance occurring around or near the property including, but not limited to, the following activities, conditions or behaviors:
 - a. Litter and rubbish;
 - b. Fire hazard from vegetation and debris;
 - c. Violations of the fire code as adopted in Chapter 15.05 EMC.
3. Any criminal conduct, including the attempt and/or conspiracy to commit any criminal conduct, as defined by state or local ordinance occurring on, around, near or having a nexus to a property including, but not limited to:
 - a. Reckless endangerment: RCW 9A.36.050;
 - b. Prostitution: RCW 9A.88.030;
 - c. Patronizing a prostitute: RCW 9A.88.110;
 - d. Disorderly house, as defined by: RCW 9A.88.090;
 - e. Indecent exposure: RCW 9A.88.010;
 - f. Lewd conduct: RCW 7.48.050;
 - g. Any firearms or dangerous weapons violations listed in: Chapter 9.41 RCW;
 - ~~h. Noise: Chapter 70.107 RCW;~~
 - ~~h.~~ h. Drug-related activity: Chapter 69.50 RCW;
 - ~~j.~~ i. Gang-related activity: RCW 9.94A.030;

⌘ j. Warrant arrests, or any instance in which a Department of Corrections (DOC) offender is located at a property while in violation of DOC supervision: Chapter 10.31 RCW; RCW 10.88.370;

‡ k. Possession of stolen property: RCW 9A.56.140 through 9A.56.170;

⌘ l. Trafficking in stolen property and/or criminal profiteering: Chapter 9A.82 RCW;

⌘ m. Theft, trafficking, or unlawful possession of commercial metal property: Chapter 19.290 RCW;

⊖ n. Identity theft: RCW 9.35.020.

12.10.050 Prohibited activities.

The following activities are unlawful within city parks:

[A-H unchanged. Logistical directions only, red text not codified]

I. Noise. No person shall make any public disturbance noise or public nuisance noise as defined in EMC Chapter 8.20 ~~Chapter 8.72 of the Pierce County Code~~.

[J-P unchanged. Logistical directions only, red text not codified]

12.10.080 Violation – Penalty.

[A-D unchanged. Logistical directions only, red text not codified]

E. Violations of EMC 12.10.050(I) (“Noise”) shall be punished as set forth in EMC Chapter 8.20 ~~Pierce County Code Section 8.72.130, which provides that the first violation is a class 3 civil infraction under RCW 7.80.120 (\$50.00), the second violation is a class 2 civil infraction under RCW 7.80.120 (\$125.00) and the third violation is a class 1 civil infraction under RCW 7.80.120 (\$250.00) (all of these amounts do not include statutory assessments).~~

[F-K unchanged. Logistical directions only, red text not codified]

18.90.140 Performance standards.

[A-D unchanged. Logistical directions only, red text not codified]

E. Restrictions on Dangerous and Objectionable Elements.

1. ~~The provisions of Chapter 8.76 PCC, Noise Pollution Control (as adopted in EMC Title 8), shall apply. In addition, frequent, repetitive or continuous sounds emanating from any use or facility other than transportation facilities or temporary construction work shall not exceed 75 decibels at the property lines. If the community development director or designee determines it to be necessary or has reason to believe that noise levels are being exceeded, the owner and/or operator of a use or facility shall be required to provide noise reading data for noise levels at all property lines. No noise shall be permitted in violation of Chapter 8.20 EMC or this chapter.~~

2. No vibration shall be permitted which is discernible without instruments at the points of measurement specified in this section.
3. No emission shall be permitted of odorous gases or other odorous matter released from any operation or activity in such quantities so as to exceed the odor threshold beyond lot lines. The odor threshold shall be defined as the concentration in the air of a gas or vapor which will just evoke a response in the human olfactory system.
4. No direct or reflected light or glare, whether from floodlights or from high temperature processes such as combustion or welding or otherwise, so as to be visible at the property lines or skyward beyond the building height of the zone, shall be permitted.
5. The regulations of the federal occupational safety and health standards shall apply for all radioactivity and electrical disturbance unless local codes and ordinances supersede this federal regulation.

[F-G unchanged. Logistical directions only, red text not codified]

18.100.110 Wireless communications facilities.

[A-E unchanged. Logistical directions only, red text not codified]

F. General Development Standards Applicable to WCFs. The following criteria shall be applied in approving, approving with conditions, or denying a permit for a WCF. Unless otherwise provided in this chapter, WCF construction shall be consistent with the development standards of the zoning district in which it is located.

[F.1-6 unchanged. Logistical directions only, red text not codified]

7. Noise. ~~At no time shall transmission equipment or any other associated equipment (including, but not limited to, heating and air conditioning units) at any wireless communication facility emit noise that exceeds the applicable limit(s) established in EMC 18.90.140(E).~~ Facilities utilizing passive cooling or other cooling methods that do not emit noise are to be utilized when feasible. If not feasible, cooling methods using low noise profile equipment shall be utilized. In no event shall transmission equipment or any other associated equipment (including, but not limited to, heating and air conditioning units) at any wireless communication facility emit noise that exceeds the applicable limit(s) established in EMC 18.90.140(E).

ORDINANCE NO. 22-XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON, ADDING CHAPTER 8.20 AND AMENDING CHAPTERS 8.05, 8.09, 12.10, 18.90, AND 18.100 OF THE EDGEWOOD MUNICIPAL CODE RELATED TO NOISE POLLUTION; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Chapter 70A.20 RCW, the Noise Control Act of 1974, empowers the State of Washington Department of Ecology (Ecology) to establish standards relating to maximum environmental noise levels; and

WHEREAS, Ecology has identified that noise pollution is regulated by local governments and while Ecology does not have authority to enforce noise pollution laws and ordinances, they have provided laws and rules related to noise in Chapters 173-58, 173-60, and 173-62 WAC; and

WHEREAS, cities are allowed to adopt all of Ecology's rules, Sections of Ecology's rules, Sections of Ecology's rules along with standards written by the local government, or standards that are different from those in Ecology's rules, if submitted to Ecology and approved; and

WHEREAS, the City of Edgewood submitted the proposed rules to Ecology and on January 13, 2022, Ecology responded with no comments on the proposed noise ordinance amendments and Ecology's review period of City of Edgewood noise ordinance is completed; and

WHEREAS, the City's Responsible Official has determined that this Ordinance is categorically exempt from SEPA under WAC 197-11-800(19); and

WHEREAS, on December 1, 2021, the City sent a draft of this Ordinance to the Washington State Department of Commerce, as required by RCW 36.70A.106; and

WHEREAS, on January 10, 2022, the City's Planning Commission held a public hearing on this Ordinance and sent its recommendation to the City Council; and

WHEREAS, on January 18, 2022, the Edgewood City Council considered this draft Ordinance in a study session; and

WHEREAS, on January 25, 2022, the Edgewood City Council held a public hearing on this Ordinance; and

WHEREAS, on February 1, 2022, the Edgewood City Council considered this draft Ordinance in a study session; and

WHEREAS, on February 8, 2022, the Edgewood City Council took final action on this Ordinance during its regular meeting; and

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

Section 1. EMC Chapter 8.20, Added. Section 8.20.010, Purpose; Section 8.20.020, Noise Pollution; Section 8.20.030, Enforcement; and Section 8.20.040, Violation – Penalty of the Edgewood Municipal Code is hereby added to read as shown in Exhibit A, attached hereto and incorporated herein by this reference.

Section 2. EMC Section 8.05.050, Amended. Section 8.05.050, PCC sections and chapters not adopted of the Edgewood Municipal Code is hereby amended to read as shown in Exhibit B, attached hereto and incorporated herein by this reference.

Section 3. EMC Section 8.09.020, Amended. Section 8.09.020, Definitions of the Edgewood Municipal Code is hereby amended to read as shown in Exhibit B, attached hereto and incorporated herein by this reference.

Section 4. EMC Chapter 12.10, Amended. Sections 12.10.050, Prohibited activities, and 12.10.080, Violation-Penalty of the Edgewood Municipal Code are hereby amended to read as shown in Exhibit B, attached hereto and incorporated herein by this reference.

Section 5. EMC Section 18.90.140, Amended. Section 18.90.140, Performance standards of the Edgewood Municipal Code is hereby amended to read as shown in Exhibit B, attached hereto and incorporated herein by this reference.

Section 6. EMC Section 18.100.110, Amended. Section 18.100.110, Wireless communications facilities of the Edgewood Municipal Code is hereby amended to read as shown in Exhibit B, attached hereto and incorporated herein by this reference.

Section 7. 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 8. Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL ON THE 8TH DAY OF FEBRUARY 2022

Mayor Daryl Eiding

ATTEST/AUTHENTICATED:

Rachel Pitzel, CMC

City Clerk

APPROVED AS TO FORM:

Ann Marie Soto, City Attorney

Date of Publication:

Effective Date:

Exhibit A New Code

Title 8 | HEALTH AND SAFETY Chapter 8.20, Noise Pollution

8.20.010 Purpose.

The City Council has found that inadequately controlled noise may adversely affect the health, safety, and general welfare of people, the value of property, and the quality of the environment. The purpose of this chapter is to minimize the exposure of residents and visitors to the harmful physiological and psychological effects of excessive noise by limiting noise pollution in a manner that promotes commerce; the use, value, and enjoyment of property; sleep and repose; and the quality of the environment.

8.20.020 Noise Pollution.

A. General Prohibition. It is unlawful for any person to cause or for any person who owns or occupies property to allow to originate from the property sound that is a public disturbance noise.

B. Public Disturbances. The following sounds are public disturbance noises in violation of this chapter:

1. The frequent, repetitive, or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law;
2. The creation of frequent, repetitive, or continuous sounds in connection with the starting, operation, repair, rebuilding, or testing of any motor vehicle, motorcycle, off-highway vehicle, or other internal combustion engine within a residential district, so as to unreasonably disturb or interfere with the peace and comfort of owners or occupants of real property;
3. Yelling, shouting, whistling, singing, or other man-made sounds or other artificially created noises on or near public streets, particularly between the hours of 10:00 p.m. and 7:00 a.m., or at any time and place as to unreasonably disturb or interfere with the peace and comfort of owners or occupants of real property;
4. The creation of frequent, repetitive, or continuous sounds which emanate from any building, structure, apartment, or condominium, which unreasonably disturb or interfere with the peace and comfort of owners or occupants of real property, such as sounds from musical instruments, audio sound systems, band sessions, or social gatherings, so as to be audible greater than 100 feet of the source;
5. Sound from motor vehicle audio sound systems, such as tape players, radios, or compact disc players, operated at a volume so as to be audible greater than 50 feet from the vehicle itself;
6. Sound from portable audio equipment, such as tape players, radios or compact disc players, operated at a volume so as to be audible greater than 50 feet from the source when not operated upon the property of the operator, and if operated on the property of the operator, then so as to be audible greater than 50 feet from the boundary of the property;
7. The squealing, screeching, or other such sounds from motor vehicle tires in contact with the ground or other surface because of rapid acceleration, braking, excessive speed around corners, or any other reason, except for sounds resulting from actions necessary to avoid danger;
8. Land development and construction activity noise generated by activities regulated by EMC Titles 12-16, 18, and 20, except as authorized by EMC 18.90.140(G);
9. Sounds originating from residential property relating to temporary projects performed by the homeowner for the maintenance or repair of homes, grounds, or appurtenances, including but not limited to sounds

from lawnmowers, powered hand tools, snow removal equipment, or any other power motorized equipment before 7:00 a.m. and after 10:00 p.m. on weekdays and before 8:00 a.m. and after 10:00 p.m. on weekend days; or

10. Continuing and/or ongoing sounds from motor vehicles including but not limited to engine sounds, horn sounds, hydraulic or air break sounds, or other equipment located on the motor vehicle or attached trailer, audible more than 25 feet away from the vehicle located on or in the vicinity of residential property, which sounds unreasonably cause the annoyance or disturbance of two or more neighbors not residing at the same address, except for to warn of danger or emergencies. For the purposes of this section, such sounds after 10:00 p.m. and before 7:00 a.m. on weekdays or after 10:00 p.m. and before 8:00 a.m. on weekend days shall be presumed to be a public disturbance noise.

C. Exemptions. EMC Chapter 8.20 shall not apply to the following activities.

1. Community and special events subject to an approved permit.

2. Fireworks lawfully discharged within the city.

3. Public safety training activities and the sirens or other warning devices, either on emergency vehicles operated by agencies such as fire departments, police departments, or ambulance services, or stationary devices for warning the general public of threats such as those from natural occurrences such as lahars, necessary in the interests of law enforcement or for the health, safety, or welfare of the community.

4. The performance of emergency work for the immediate safety, health, or welfare of the community or individuals of the community to restore property to a safe condition.

5. Equipment, tools, generators, or other devices used during emergency situations and the associated work performed for the duration of the emergency.

8.20.030 Enforcement.

The Mayor, or designee, and any law enforcement officer are authorized to enforce the Chapter.

8.20.040 Violation – Penalty.

Any person who violates the provisions of this chapter shall be subject to issuance of a civil infraction and a civil penalty of up to \$250.00; provided, that the penalty for a second or subsequent violation within any two-year period shall be a civil penalty of up to \$500.00.

Exhibit B Amended Code(s)

8.05.050 PCC sections and chapters not adopted.

The following provisions of PCC Title 8 are excluded from the scope of this chapter and are expressly not adopted by reference hereunder:

- A. ~~PCC 8.72.090(A)~~; Chapter 8.72 PCC (Motor Vehicle, Public Disturbance, and Public Nuisance Noise);
- B. Chapter 8.08 PCC (Public Nuisances); and
- C. Chapter 8.09 PCC (Chronic Nuisance Properties).

8.09.020 Definitions.

[All other definitions unchanged. Logistical directions only, red text not codified]

“Nuisance” or “Nuisance activity” means and includes:

1. Any general or specific nuisance.
2. Any civil code violation as defined by state law or local ordinance occurring around or near the property including, but not limited to, the following activities, conditions or behaviors:
 - a. Litter and rubbish;
 - b. Fire hazard from vegetation and debris;
 - c. Violations of the fire code as adopted in Chapter 15.05 EMC.
3. Any criminal conduct, including the attempt and/or conspiracy to commit any criminal conduct, as defined by state or local ordinance occurring on, around, near or having a nexus to a property including, but not limited to:
 - a. Reckless endangerment: RCW 9A.36.050;
 - b. Prostitution: RCW 9A.88.030;
 - c. Patronizing a prostitute: RCW 9A.88.110;
 - d. Disorderly house, as defined by: RCW 9A.88.090;
 - e. Indecent exposure: RCW 9A.88.010;
 - f. Lewd conduct: RCW 7.48.050;
 - g. Any firearms or dangerous weapons violations listed in: Chapter 9.41 RCW;
 - ~~h. Noise: Chapter 70.107 RCW;~~
 - ~~h.~~ h. Drug-related activity: Chapter 69.50 RCW;
 - ~~j.~~ i. Gang-related activity: RCW 9.94A.030;

⌘ j. Warrant arrests, or any instance in which a Department of Corrections (DOC) offender is located at a property while in violation of DOC supervision: Chapter 10.31 RCW; RCW 10.88.370;

‡ k. Possession of stolen property: RCW 9A.56.140 through 9A.56.170;

⌘ l. Trafficking in stolen property and/or criminal profiteering: Chapter 9A.82 RCW;

⌘ m. Theft, trafficking, or unlawful possession of commercial metal property: Chapter 19.290 RCW;

⊖ n. Identity theft: RCW 9.35.020.

12.10.050 Prohibited activities.

The following activities are unlawful within city parks:

[A-H unchanged. Logistical directions only, red text not codified]

I. Noise. No person shall make any public disturbance noise or public nuisance noise as defined in EMC Chapter 8.20 ~~Chapter 8.72 of the Pierce County Code~~.

[J-P unchanged. Logistical directions only, red text not codified]

12.10.080 Violation – Penalty.

[A-D unchanged. Logistical directions only, red text not codified]

E. Violations of EMC 12.10.050(I) (“Noise”) shall be punished as set forth in EMC Chapter 8.20 ~~Pierce County Code Section 8.72.130, which provides that the first violation is a class 3 civil infraction under RCW 7.80.120 (\$50.00), the second violation is a class 2 civil infraction under RCW 7.80.120 (\$125.00) and the third violation is a class 1 civil infraction under RCW 7.80.120 (\$250.00) (all of these amounts do not include statutory assessments).~~

[F-K unchanged. Logistical directions only, red text not codified]

18.90.140 Performance standards.

[A-D unchanged. Logistical directions only, red text not codified]

E. Restrictions on Dangerous and Objectionable Elements.

1. ~~The provisions of Chapter 8.76 PCC, Noise Pollution Control (as adopted in EMC Title 8), shall apply. In addition, frequent, repetitive or continuous sounds emanating from any use or facility other than transportation facilities or temporary construction work shall not exceed 75 decibels at the property lines. If the community development director or designee determines it to be necessary or has reason to believe that noise levels are being exceeded, the owner and/or operator of a use or facility shall be required to provide noise reading data for noise levels at all property lines. No noise shall be permitted in violation of Chapter 8.20 EMC or this chapter.~~

2. No vibration shall be permitted which is discernible without instruments at the points of measurement specified in this section.
3. No emission shall be permitted of odorous gases or other odorous matter released from any operation or activity in such quantities so as to exceed the odor threshold beyond lot lines. The odor threshold shall be defined as the concentration in the air of a gas or vapor which will just evoke a response in the human olfactory system.
4. No direct or reflected light or glare, whether from floodlights or from high temperature processes such as combustion or welding or otherwise, so as to be visible at the property lines or skyward beyond the building height of the zone, shall be permitted.
5. The regulations of the federal occupational safety and health standards shall apply for all radioactivity and electrical disturbance unless local codes and ordinances supersede this federal regulation.

[F-G unchanged. Logistical directions only, red text not codified]

18.100.110 Wireless communications facilities.

[A-E unchanged. Logistical directions only, red text not codified]

F. General Development Standards Applicable to WCFs. The following criteria shall be applied in approving, approving with conditions, or denying a permit for a WCF. Unless otherwise provided in this chapter, WCF construction shall be consistent with the development standards of the zoning district in which it is located.

[F.1-6 unchanged. Logistical directions only, red text not codified]

7. Noise. ~~At no time shall transmission equipment or any other associated equipment (including, but not limited to, heating and air conditioning units) at any wireless communication facility emit noise that exceeds the applicable limit(s) established in EMC 18.90.140(E).~~ Facilities utilizing passive cooling or other cooling methods that do not emit noise are to be utilized when feasible. If not feasible, cooling methods using low noise profile equipment shall be utilized. In no event shall transmission equipment or any other associated equipment (including, but not limited to, heating and air conditioning units) at any wireless communication facility emit noise that exceeds the applicable limit(s) established in EMC 18.90.140(E).

Chapter 8.76

NOISE POLLUTION CONTROL

Sections:

- 8.76.010 Scope and Authority.**
- 8.76.020 Definitions.**
- 8.76.030 Noise Control Officer – Creation.**
- 8.76.040 Noise Control Officer – Powers and Duties.**
- 8.76.050 Identification of Environments.**
- 8.76.060 Maximum Permissible Environmental Noise Levels.**
- 8.76.070 Exemptions.**
- 8.76.080 Noise Control Hearings Board.**
- 8.76.090 Variances and Implementation Schedules.**
- 8.76.100 Enforcement Policy.**
- 8.76.110 Appeals.**
- 8.76.120 Violation – Penalty.**
- 8.76.130 Other Rights, Remedies, Powers, Duties and Functions.**

8.76.010 Scope and Authority.

This Chapter shall apply to the control of all sound originating within the unincorporated areas of Pierce County and is adopted pursuant to RCW Chapter [70.107](#), the Noise Control Act of 1974, in order to establish maximum noise levels permissible in identified environments, and to provide use standards relating to the reception of noise within such environments.

(Ord. 81-52 § 1 (part), 1981; Prior Code § 66.10.010)

8.76.020 Definitions.

As used in this Chapter, unless the context or subject matter clearly requires otherwise, the following words or phrases shall have the following meanings:

- A. "Background sound level" means the level of all sounds in a given environment, independent of the specific source being measured.
- B. "dBA" means the sound pressure level, in decibels measured using the "A" weighting network on a sound level meter. The sound pressure level, in decibels, of a sound is 20 times the logarithm to the base 10 of the ratio of the pressure of sound to a reference pressure of 20 micropascals.

- C. "EDNA" means the environmental designation for noise abatement, being an area of zone (environment) within which maximum permissible noise levels are established.
- D. "Health Department" means the Tacoma-Pierce County Health Department.
- E. "Health Officer" means the Director of the Tacoma-Pierce County Health Department, or his authorized representative.
- F. "Multi-family units" includes, but is not limited to, duplexes, triplexes, apartment houses and condominiums. The property lines of such units shall include the wall, ceilings and floors of each unit.
- G. "Noise" means the intensity, duration and character of sounds, from any and all sources.
- H. "Noise Control Hearing Board" means a Board which is designated by the Health Department to hear and decide noise variance cases.
- I. "Noise Control Office" means that division of the Health Department which has the duties and powers established by this Chapter.
- J. "Owner" includes the owner or owners of the premises or lesser estate therein, a mortgage or vendee in possession, an assignee for rents, receiver, executor, trustee or other person, firm or corporation in control of a building or property.
- K. "Person" means any individual, corporation, partnership or association and the agents, employees, servants and legal successors thereof; or agency of state, county or municipal government; or agency of the federal government which is subject to the jurisdiction of the State of Washington.
- L. "Property boundary" means the surveyed line at ground surface, which separates the real property owned, rented, or leased by one or more persons, from that owned, rented, or leased by one or more other persons, and its vertical extension.
- M. "Racing event" means any motor vehicle competition conducted under a permit issued by a governmental authority having jurisdiction or, if such permit is not required, then under the auspices of a recognized sanctioning body.
- N. "Receiving property" means real property within which the maximum permissible noise levels specified herein shall not be exceeded from sources outside such property.
- O. "Shoreline" means the existing intersection of water with the ground surface or with any permanent shore connected facility.
- P. "Sound level meter" means a device which measures sound pressure levels and conforms to Type 1, S1A, 2 or S2A as specified in the American national Standards Institute Specifications.

(Ord. 81-52 § 1 (part), 1981; Prior Code § 66.10.020)

8.76.030 Noise Control Officer – Creation.

There is created a position of Noise Control Officer within the Health Department.

(Ord. 81-52 § 1 (part), 1981; Prior Code § 66.10.030)

8.76.040 Noise Control Officer – Powers and Duties.

In order to implement this Chapter, the Noise Control Officer or his designee shall:

- A. Conduct, or cause to be conducted, research, monitoring and other studies related to sound;
- B. Conduct programs or public education related to causes, effects and methods to abate and control noise;
- C. Encourage the participation of public interest groups in such public information efforts;
- D. Coordinate with the noise control activities of all County departments;
- E. Cooperate with all appropriate state and federal agencies;
- F. Draft needed noise control regulations;
- G. Enter into contracts with the approval of the Health Officer and the County Executive for providing technical and enforcement services;
- H. Review public and private projects and advise whether such projects are likely to cause violations of this Chapter;
- I. Require the owner or operator of any commercial or industrial activity to establish and maintain records regarding noise emissions and make such reports as the Noise Control Officer may reasonably prescribe;
- J. Require the owner or operator of any commercial or industrial activity to measure the sound level from any source in accordance with the methods and procedures and at such locations and times as the Noise Control Officer may reasonably prescribe and to furnish reports of the results of such measurements to the Noise Control Officer. The Noise Control Officer may require the measurements to be conducted in the presence of his enforcement officials;
- K. Delegate functions, where appropriate under this Chapter, to personnel within the Health Department and to other agencies or departments, subject to approval of the Health Officer;
- L. Administer noise program grants and other funds and gifts from public and private sources;
- M. Evaluate and report to the Health Officer every year following the effective date of this Chapter on the effectiveness of the County Noise Control Program and make recommendations for any legislative or budgetary changes necessary to improve the program.

(Ord. 81-52 § 1 (part), 1981; Prior Code § 66.10.040)

8.76.050 Identification of Environments.

A. The EDNA of any property shall be based on the following typical uses:

1. *Class A EDNA*. Lands where human beings reside and sleep. Typically, Class EDNA will be the following types of property used for human habitation:
 - a. Residential;
 - b. Multiple-family living accommodations;
 - c. Recreational and entertainment (e.g., camps, parks, camping facilities and resorts);
 - d. Community service (e.g., orphanages, homes for the aged, hospitals, health and correctional facilities);
2. *Class B EDNA*. Lands involving uses requiring protection against noise interference with speech. Typically, Class B EDNA will be the following types of property:
 - a. Commercial living accommodations;
 - b. Commercial dining establishments;
 - c. Motor vehicle services;
 - d. Retail services;
 - e. Banks and office buildings;
 - f. Miscellaneous commercial services;
 - g. Recreation and entertainment; property not used for human habitation (e.g., theaters, stadiums, fairgrounds and amusement parks);
 - h. Community services; property not used for human habitation (e.g., educational, religious, governmental, cultural and recreational facilities).
3. *Class C EDNA*. Lands involving economic activities of such a nature that higher noise levels than experienced in other areas are to be anticipated. Persons working in these areas are normally covered by noise control regulations or the Department of Labor and Industries. Uses typical of Class A EDNA are generally not permitted within such areas. Typically, Class C EDNA will be the following types of property:
 - a. Storage, warehouse and distribution facilities;
 - b. Industrial property used for the production and fabrication of durable and nondurable manmade goods;
 - c. Agricultural and silvicultural property used for the production of crops, wood products or livestock.

B. Subject to subsection [D](#) of this Section, EDNA land classification shall conform with the County zoning codes as follows:

1. Zones primarily utilized for residential purposes in the County include: RE, SR, ST, RR, RML, RM, RMH, RMP and SA – Class A EDNA. Any future zoning change will also control the EDNA classification, i.e., if zoned R-2 is changed to M-1, the M-1 EDNA would apply.
2. Zones primarily utilized for commercial purposes in the County include: C-1, C 2, C-3, PS-1, PS-2, PSC, FS, HAS and PE – Class B EDNA.
3. Zones primarily utilized or potentially utilized for industrial purposes in the County include: M-1, M 2, MP, A – Class C EDNA. EDNA designations shall be amended as necessary to conform to zone changes under the zoning ordinance.
4. The general use zone in the County shall be governed on the basis of current use; therefore, if a residential area abuts an industrial or commercial use, it will be considered a Class A EDNA.

C. Subject to subsection [D](#) of this Section, in areas not covered by a local zoning ordinance but within the coverage of an adopted Pierce County comprehensive plan, EDNA's shall conform with the comprehensive plan as follows:

1. Primarily residential areas – Class A EDNA;
2. Primarily commercial areas – Class B EDNA;
3. Primarily industrial areas – Class C EDNA.

EDNA designations shall be amended as necessary to conform to changes in the comprehensive plan.

D. Where in the County there is neither a zoning ordinance in effect nor an adopted comprehensive plan, the Health Department shall designate EDNA's which conform to the criteria in subsections [A.1](#), [2](#) and [3](#) of this Section.

E. Where no specific prior designation of EDNA's has been made, the appropriate EDNA for properties involved in any enforcement activity will be made by the Noise Control Officer on the basis of the criteria of subsections [A.1](#), [2](#) and [3](#) of this Section.

F. The Health Department may make special designations of lands where serenity, tranquility or quiet are essential to the quality of the environment and serves an important public need. If so approved, such designation will not be effective until approved by the County Executive and the Washington State Department of Ecology and until maps of such designations are available for public inspection in the Health Department.

(Ord. 81-52 § 1 (part), 1981; Prior Code § 66.10.050)

8.76.060 Maximum Permissible Environmental Noise Levels.

- A. No person shall cause or permit noise to intrude into the property of another person which noise exceeds the maximum permissible noise levels set forth in subsection [B](#) of this Section.
- B. 1. The noise limitations established are as set forth in the following table after any applicable adjustments provided for in this Chapter are applied.

EDNA of Noise Source	EDNA of Receiving Property		
	Class A	Class B	Class C
Class A	55 dBA	57 dBA	60 dBA
Class B	57 dBA	60 dBA	65 dBA
Class C	60 dBA	65 dBA	70 dBA

2. Between the hours of 10 p.m. and 7 a.m., the noise limitations of the foregoing table shall be reduced by 10 dBA for receiving property within Class A EDNA's.
3. At any hour of the day or night the applicable noise limitations in subsections [B.1](#) and [2](#) of this Section may be exceeded for any receiving property by no more than:
- 5 dBA for a total of 15 minutes in any 1-hour period; or
 - 10 dBA for a total of 5 minutes in any 1-hour period; or
 - 15 dBA for a total of 1.5 minutes in any 1-hour period.

(Ord. 81-52 § 1 (part), 1981; Prior Code § 66.10.060)

8.76.070 Exemptions.

- A. The following shall be exempt from Section [8.76.060](#) between the hours of 7 a.m. and 10 p.m.:
- Sounds originating from residential property relating to temporary projects for the construction, maintenance or repair of homes, grounds and appurtenances;
 - Sounds created by the discharge of firearms on authorized shooting or firing ranges;
 - Sounds created by blasting;
 - Sounds created by aircraft engine testing and maintenance not related to flight operations, provided that aircraft testing and maintenance shall be conducted at remote sites whenever possible;
 - Sounds created by the installation or repair of essential utility services.

B. The following shall be exempt from subsection B.2. of Section [8.76.060](#):

1. Noise from electrical substations and existing stationary equipment used in the conveyance of water or wastewater by a utility;
2. Noise from existing industrial installations which exceed the standards contained in these regulations and which, over the previous three years, have consistently operated in excess of 15 hours per day as a consequence of process necessity and/or demonstrated routine normal operation. Changes in working hours which would effect exemptions under this regulation require approval of the Noise Control Officer.

C. The following shall be exempt from Section [8.76.060](#), except insofar as such provisions relate to the reception of noise within Class A EDNA's between the hours of 10 p.m. and 7 a.m.:

1. Sounds originating from temporary construction sites as a result of construction activity;
2. Sounds originating from forest harvesting and silvicultural activity.

D. The following shall be exempt from Section [8.76.060](#):

1. Sounds created by motor vehicles when regulated by WAC Chapter [173-62](#);
2. Sounds originating from aircraft in flight and sounds that originate at airports which are directly related to flight operations;
3. Sounds created by surface carriers engaged in interstate commerce by railroad;
4. Sounds created by warning devices not operated continuously for more than five minutes or bells, chimes and carillons;
5. Sounds created by safety and protective devices where noise suppression could defeat the intent of the device, or is not economically feasible;
6. Sounds created by emergency equipment and work necessary in the interests of law enforcement or for health, safety or welfare of the community;
7. Sounds originating from motor vehicle or motorcycle racing events at existing authorized facilities, or being sanctioned by a responsible authority;
8. Sounds originating from officially sanctioned parades and other public events;
9. Sounds emitted from petroleum refinery boilers during startup of said boilers; provided, that the startup operation is performed during daytime hours whenever possible;
10. Sounds created by the discharge of firearms in the course of hunting;
11. Sounds caused by natural phenomena and unamplified human voices;
12. Animal noises which are already regulated;

13. Sounds created by motor vehicles, licensed or unlicensed, when operated off public highways except when such sounds are received in Class A EDNA's;

14. Sounds created by watercraft are excluded from this Chapter when regulated by Chapter [8.88](#) of this Code.

(Ord. 81-52 § 1 (part), 1981; Prior Code § 66.10.070)

8.76.080 Noise Control Hearings Board.

The Board of Health shall designate an Appeal Board which shall hear and decide requests for noise variance cases. The Appeal Board may also hear appeals from rulings of the Noise Control Officer. Subject to approval of the Health Officer, the Board shall adopt such rules and regulations as may be necessary to administer its responsibility.

(Ord. 81-52 § 1 (part), 1981; Prior Code § 66.10.100)

8.76.090 Variances and Implementation Schedules.

A. Variances may be granted to any person from any other particular requirement of this Chapter if findings are made by the Appeal Board that immediate compliance with such requirements cannot be achieved because of special circumstances rendering immediate compliance unreasonable in light of economic or physical factors, encroachment upon an existing noise source, or because of nonavailability of feasible technology or control methods. Any such variance or renewal thereof shall be granted only for the minimum time period found to be necessary under the facts and circumstances.

B. An implementation schedule for achieving compliance with this Chapter shall be incorporated into any variance issued.

C. Variances shall be issued only upon application in writing and after providing such information as may be requested. No variance shall be issued for a period of more than 30 days except upon due notice to the public with opportunity to comment.

D. Sources of noise, subject to this Chapter, upon which construction begins after the effective date of the ordinance codified in this Chapter, shall immediately comply with the requirements of this Chapter, except in extraordinary circumstances where overriding considerations of public interest dictate the issuance of a variance.

(Ord. 81-52 § 1 (part), 1981; Prior Code § 66.10.110)

8.76.100 Enforcement Policy.

Noise measurement for the purposes of enforcing the provisions of Section [8.76.060](#) shall be measured in dBA with a sound level meter with the point of measurement being at any point within the receiving property. Such enforcement shall be undertaken only upon receipt of a complaint made by a person who resides, owns property, or is employed in the area affected by the noise complained of, except for parks, recreational areas and wildlife sanctuaries.

(Ord. 81-52 § 1 (part), 1981; Prior Code § 66.10.120)

8.76.110 Appeals.

Any person aggrieved by any decision of the Noise Control Officer in relation to the enforcement of the maximum permissible noise levels provided for in this Chapter or the granting or denial of a variance may appeal to the Appeals Board.

(Ord. 81-52 § 1 (part), 1981; Prior Code § 66.10.130)

8.76.120 Violation – Penalty.

For enforcement purposes, each day is defined as the 24-hour period beginning at 12:01 a.m., in which violation of this Chapter occurs, and shall constitute a separate violation. Any violation of this Chapter shall be punishable by a fine not to exceed \$500.00 for each violation.

(Ord. 81-52 § 1 (part), 1981; Prior Code § 66.10.140)

8.76.130 Other Rights, Remedies, Powers, Duties and Functions.

A. Nothing in this Chapter shall be construed to deny, abridge or alter alternative right of action or remedies in equity or under common law or statutory law, criminal or civil.

B. Nothing in this Chapter shall deny, abridge or alter any powers, duties and functions relating to noise abatement and control now or hereafter vested in any State agency, nor shall this Chapter be construed as granting jurisdiction over the industrial safety and health of employees in work places, as now or hereafter vested in the Department of Labor and industries.

(Ord. 81-52 § 1 (part), 1981; Prior Code § 66.10.150)

The Pierce County Code is current through Ordinance 2022-11s, passed March 15, 2022.

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Chapter 173-60 WAC
MAXIMUM ENVIRONMENTAL NOISE LEVELS

Last Update: 12/6/00

WAC

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WAC 173-60-010 Authority and purpose. These rules are adopted pursuant to chapter 70.107 RCW, the Noise Control Act of 1974, in order to establish maximum noise levels permissible in identified environments, and thereby to provide use standards relating to the reception of noise within such environments. Vessels, as defined in RCW 88.12.010(21) and regulated for noise under chapter 88.12 RCW (Regulation of recreational vessels), shall be exempt from chapter 173-60 WAC.

[Statutory Authority: Chapter 70.107 RCW. WSR 94-12-001 (Order 92-41), § 173-60-010, filed 5/18/94, effective 6/18/94; Order 74-32, § 173-60-010, filed 4/22/75, effective 9/1/75.]

WAC 173-60-020 Definitions. (1) "Background sound level" means the level of all sounds in a given environment, independent of the specific source being measured.

(2) "dBA" means the sound pressure level in decibels measured using the "A" weighting network on a sound level meter. The sound pressure level, in decibels, of a sound is 20 times the logarithm to the base 10 of the ratio of the pressure of the sound to a reference pressure of 20 micropascals.

(3) "Department" means the department of ecology.

(4) "Director" means the director of the department of ecology.

(5) "Distribution facilities" means any facility used for distribution of commodities to final consumers, including facilities of utilities that convey water, waste water, natural gas, and electricity.

(6) "EDNA" means the environmental designation for noise abatement, being an area or zone (environment) within which maximum permissible noise levels are established.

(7) "Existing" means a process, event, or activity in an established area, producing sound subject to or exempt from this chapter, prior to the effective date of September 1, 1975.

(8) "Local government" means county or city government or any combination of the two.

(9) "Noise" means the intensity, duration and character of sounds, from any and all sources.

(10) "Person" means any individual, corporation, partnership, association, governmental body, state agency or other entity whatsoever.

(11) "Property boundary" means the surveyed line at ground surface, which separates the real property owned, rented, or leased by

one or more persons, from that owned, rented, or leased by one or more other persons, and its vertical extension.

(12) "Racing event" means any motor vehicle competition conducted under a permit issued by a governmental authority having jurisdiction or, if such permit is not required, then under the auspices of a recognized sanctioning body.

(13) "Receiving property" means real property within which the maximum permissible noise levels specified herein shall not be exceeded from sources outside such property.

(14) "Sound level meter" means a device which measures sound pressure levels and conforms to Type 1 or Type 2 as specified in the American National Standards Institute Specification S1.4-1971.

[Statutory Authority: Chapter 70.107 RCW. WSR 94-12-001 (Order 92-41), § 173-60-020, filed 5/18/94, effective 6/18/94; WSR 83-15-046 (Order DE 82-42), § 173-60-020, filed 7/19/83; Order DE 77-1, § 173-60-020, filed 6/1/77; Order 74-32, § 173-60-020, filed 4/22/75, effective 9/1/75.]

WAC 173-60-030 Identification of environments. (1) Except when included within specific prior designations as provided in subsections (2), (3), and (4) of this section, the EDNA of any property shall be based on the following typical uses, taking into consideration the present, future, and historical usage, as well as the usage of adjacent and other lands in the vicinity.

(a) Class A EDNA - Lands where human beings reside and sleep. Typically, Class A EDNA will be the following types of property used for human habitation:

- (i) Residential
- (ii) Multiple family living accommodations
- (iii) Recreational and entertainment, (e.g., camps, parks, camping facilities, and resorts)
- (iv) Community service, (e.g., orphanages, homes for the aged, hospitals, health and correctional facilities)

(b) Class B EDNA - Lands involving uses requiring protection against noise interference with speech. Typically, Class B EDNA will be the following types of property:

- (i) Commercial living accommodations
- (ii) Commercial dining establishments
- (iii) Motor vehicle services
- (iv) Retail services
- (v) Banks and office buildings
- (vi) Miscellaneous commercial services, property not used for human habitation
- (vii) Recreation and entertainment, property not used for human habitation (e.g., theaters, stadiums, fairgrounds, and amusement parks)
- (viii) Community services, property not used for human habitation (e.g., educational, religious, governmental, cultural and recreational facilities).

(c) Class C EDNA - Lands involving economic activities of such a nature that higher noise levels than experienced in other areas is normally to be anticipated. Persons working in these areas are normally covered by noise control regulations of the department of labor and industries. Uses typical of Class A EDNA are generally not permitted

within such areas. Typically, Class C EDNA will be the following types of property:

- (i) Storage, warehouse, and distribution facilities.
- (ii) Industrial property used for the production and fabrication of durable and nondurable man-made goods
- (iii) Agricultural and silvicultural property used for the production of crops, wood products, or livestock.

(d) Where there is neither a zoning ordinance in effect nor an adopted comprehensive plan, the legislative authority of local government may, by ordinance or resolution, designate specifically described EDNAs which conform to the above use criteria and, upon departmental approval, EDNAs so designated shall be as set forth in such local determination.

(e) Where no specific prior designation of EDNAs has been made, the appropriate EDNA for properties involved in any enforcement activity will be determined by the investigating official on the basis of the criteria of (a), (b), and (c) of this subsection.

(2) In areas covered by a local zoning ordinance, the legislative authority of the local government may, by ordinance or resolution designate EDNAs to conform with the zoning ordinance as follows:

- (a) Residential zones - Class A EDNA
- (b) Commercial zones - Class B EDNA
- (c) Industrial zones - Class C EDNA

Upon approval by the department, EDNAs so designated shall be as set forth in such local determination. EDNA designations shall be amended as necessary to conform to zone changes under the zoning ordinance.

(3) In areas not covered by a local zoning ordinance but within the coverage of an adopted comprehensive plan the legislative authority of the local government may, by ordinance or resolution designate EDNAs to conform with the comprehensive plan as follows:

- (a) Residential areas - Class A EDNA
- (b) Commercial areas - Class B EDNA
- (c) Industrial areas - Class C EDNA

Upon approval by the department EDNAs so designated shall be as set forth in such local determination. EDNA designations shall be amended as necessary to conform to changes in the comprehensive plan.

(4) The department recognizes that on certain lands, serenity, tranquillity, or quiet are an essential part of the quality of the environment and serve an important public need. Special designation of such lands with appropriate noise level standards by local government may be adopted subject to approval by the department. The director may make such special designation pursuant to the procedures of the Administrative Procedure Act, chapter 34.04 RCW.

[Order 74-32, § 173-60-030, filed 4/22/75, effective 9/1/75.]

WAC 173-60-040 Maximum permissible environmental noise levels.

(1) No person shall cause or permit noise to intrude into the property of another person which noise exceeds the maximum permissible noise levels set forth below in this section.

(2)(a) The noise limitations established are as set forth in the following table after any applicable adjustments provided for herein are applied.

EDNA OF NOISE SOURCE	EDNA OF RECEIVING PROPERTY		
	Class A	Class B	Class C
CLASS A	55 dBA	57 dBA	60 dBA
CLASS B	57	60	65
CLASS C	60	65	70

(b) Between the hours of 10:00 p.m. and 7:00 a.m. the noise limitations of the foregoing table shall be reduced by 10 dBA for receiving property within Class A EDNAs.

(c) At any hour of the day or night the applicable noise limitations in (a) and (b) above may be exceeded for any receiving property by no more than:

- (i) 5 dBA for a total of 15 minutes in any one-hour period; or
- (ii) 10 dBA for a total of 5 minutes in any one-hour period; or
- (iii) 15 dBA for a total of 1.5 minutes in any one-hour period.

[Order 74-32, § 173-60-040, filed 4/22/75, effective 9/1/75.]

WAC 173-60-050 Exemptions. (1) The following shall be exempt from the provisions of WAC 173-60-040 between the hours of 7:00 a.m. and 10:00 p.m.:

(a) Sounds originating from residential property relating to temporary projects for the maintenance or repair of homes, grounds and appurtenances.

(b) Sounds created by the discharge of firearms on authorized shooting ranges.

(c) Sounds created by blasting.

(d) Sounds created by aircraft engine testing and maintenance not related to flight operations: Provided, That aircraft testing and maintenance shall be conducted at remote sites whenever possible.

(e) Sounds created by the installation or repair of essential utility services.

(2) The following shall be exempt from the provisions of WAC 173-60-040 (2)(b):

(a) Noise from electrical substations and existing stationary equipment used in the conveyance of water, waste water, and natural gas by a utility.

(b) Noise from existing industrial installations which exceed the standards contained in these regulations and which, over the previous three years, have consistently operated in excess of 15 hours per day as a consequence of process necessity and/or demonstrated routine normal operation. Changes in working hours, which would affect exemptions under this regulation, require approval of the department.

(3) The following shall be exempt from the provisions of WAC 173-60-040, except insofar as such provisions relate to the reception of noise within Class A EDNAs between the hours of 10:00 p.m. and 7:00 a.m.

(a) Sounds originating from temporary construction sites as a result of construction activity.

(b) Sounds originating from forest harvesting and silvicultural activity.

(4) The following shall be exempt from all provisions of WAC 173-60-040:

(a) Sounds created by motor vehicles when regulated by chapter 173-62 WAC.

(b) Sounds originating from aircraft in flight and sounds that originate at airports which are directly related to flight operations.

(c) Sounds created by surface carriers engaged in interstate commerce by railroad.

(d) Sounds created by warning devices not operating continuously for more than five minutes, or bells, chimes, and carillons.

(e) Sounds created by safety and protective devices where noise suppression would defeat the intent of the device or is not economically feasible.

(f) Sounds created by emergency equipment and work necessary in the interests of law enforcement or for health safety or welfare of the community.

(g) Sounds originating from motor vehicle racing events at existing authorized facilities.

(h) Sounds originating from officially sanctioned parades and other public events.

(i) Sounds emitted from petroleum refinery boilers during startup of said boilers: Provided, That the startup operation is performed during daytime hours whenever possible.

(j) Sounds created by the discharge of firearms in the course of hunting.

(k) Sounds caused by natural phenomena and unamplified human voices.

(l) Sounds created by motor vehicles, licensed or unlicensed, when operated off public highways EXCEPT when such sounds are received in Class A EDNAs.

(m) Sounds originating from existing natural gas transmission and distribution facilities. However, in circumstances where such sounds impact EDNA Class A environments and complaints are received, the director or his designee may take action to abate by application of EDNA Class C source limits to the facility under the requirements of WAC 173-60-050(5).

(6) Nothing in these exemptions is intended to preclude the department from requiring installation of the best available noise abatement technology consistent with economic feasibility. The establishment of any such requirement shall be subject to the provisions of the Administrative Procedure Act, chapter 34.04 RCW.

[Statutory Authority: Chapter 70.107 RCW. WSR 94-12-001 (Order 92-41), § 173-60-050, filed 5/18/94, effective 6/18/94; WSR 83-15-046 (Order DE 82-42), § 173-60-050, filed 7/19/83; Order DE 77-1, § 173-60-050, filed 6/2/77; Order 75-18, § 173-60-050, filed 8/1/75; Order 74-32, § 173-60-050, filed 4/22/75, effective 9/1/75.]

WAC 173-60-060 Nuisance regulations not prohibited. Nothing in this chapter or the exemptions provided herein, shall be construed as preventing local government from regulating noise from any source as a nuisance. Local resolutions, ordinances, rules or regulations regulating noise on such a basis shall not be deemed inconsistent with this chapter by the department.

[Order 74-32, § 173-60-060, filed 4/22/75, effective 9/1/75.]

WAC 173-60-070 Reserved. Reserved.

[Statutory Authority: Chapter 70.107 RCW. WSR 00-24-134 (Order 00-24), § 173-60-070, filed 12/6/00, effective 1/6/01; WSR 94-12-001 (Order 92-41), § 173-60-070, filed 5/18/94, effective 6/18/94; Order DE 77-1, § 173-60-070, filed 6/1/77; Order 74-32, § 173-60-070, filed 4/22/75, effective 9/1/75.]

WAC 173-60-080 Variances and implementation schedules. (1) Variances may be granted to any person from any particular requirement of this chapter, if findings are made that immediate compliance with such requirement cannot be achieved because of special circumstances rendering immediate compliance unreasonable in light of economic or physical factors, encroachment [encroachment] upon an existing noise source, or because of nonavailability of feasible technology or control methods. Any such variance or renewal thereof shall be granted only for the minimum time period found to be necessary under the facts and circumstances.

(2) An implementation schedule for achieving compliance with this chapter shall be incorporated into any variance issued.

(3) Variances shall be issued only upon application in writing and after providing such information as may be requested. No variance shall be issued for a period of more than 30 days except upon due notice to the public with opportunity to comment. Public hearings may be held, when substantial public interest is shown, at the discretion of the issuing agency.

(4) Sources of noise, subject to this chapter, upon which construction begins after the effective date hereof shall immediately comply with the requirements of this chapter, except in extraordinary circumstances where overriding considerations of public interest dictate the issuance of a variance.

[Order 74-32, § 173-60-080, filed 4/22/75, effective 9/1/75.]

WAC 173-60-090 Enforcement policy. Noise measurement for the purposes of enforcing the provisions of WAC 173-060-040 shall be measured in dBA with a sound level meter with the point of measurement being at any point within the receiving property. Such enforcement shall be undertaken only upon receipt of a complaint made by a person who resides, owns property, or is employed in the area affected by the noise complained of, EXCEPT for parks, recreational areas, and wildlife sanctuaries. For enforcement purposes pursuant to RCW 70.107.050, each day, defined as the 24-hour period beginning at 12:01 a.m., in which violation of the noise control regulations (chapter 173-60 WAC) occurs, shall constitute a separate violation.

[Order DE 76-5, § 173-60-090, filed 2/5/76; Order 74-32, § 173-60-090, filed 4/22/75, effective 9/1/75.]

WAC 173-60-100 Appeals. Any person aggrieved by any decision of the department in relation to the enforcement of the maximum permissible noise levels provided for herein, the granting or denial of a variance or the approval or disapproval of a local resolution or ordinance for noise abatement and control may appeal to the pollution con-

trol hearings board pursuant to chapter 43.21B RCW under the procedures of chapter 371-08 WAC.

[Order 74-32, § 173-60-100, filed 4/22/75, effective 9/1/75.]

WAC 173-60-110 Cooperation with local government. (1) The department conceives the function of noise abatement and control to be primarily the role of local government and intends actively to encourage local government to adopt measures for noise abatement and control. Wherever such measures are made effective and are being actively enforced, the department does not intend to engage directly in enforcement activities.

(2) No ordinance or resolution of any local government which imposes noise control requirements differing from those adopted by the department shall be effective unless and until approved by the director. If approval is denied, the department, following submission of such local ordinance or resolution to the department, shall deliver its statement or order of denial, designating in detail the specific provision(s) found to be objectionable and the precise grounds upon which the denial is based, and shall submit to the local government, the department's suggested modification.

(3) The department shall encourage all local governments enforcing noise ordinances pursuant to this chapter to consider noise criteria and land use planning and zoning.

[Statutory Authority: Chapter 70.107 RCW. WSR 87-06-056 (Order 86-40), § 173-60-110, filed 3/4/87; Order 74-32, § 173-60-110, filed 4/22/75, effective 9/1/75.]

WAC 173-60-120 Effective date. This chapter shall become effective on September 1, 1975. It is the intention of the department to periodically review the provisions hereof as new information becomes available for the purpose of making amendments as appropriate.

[Order 74-32, § 173-60-120, filed 4/22/75, effective 9/1/75.]