



**CITY OF EDGEWOOD
COUNCIL STUDY SESSION AGENDA**

Tuesday, February 4, 2025 – 7:00 PM ♦ City Hall – 2224 104th Avenue East ♦ Edgewood, WA
Meeting Link: <https://cityofedgewood-org.zoom.us/j/86916509308>

1. CALL TO ORDER

Roll Call, Pledge of Allegiance

2. COUNCIL BUSINESS

A. Equity, Diversity, and Inclusion Council Sub-Committee Update

B. Ordinance - Non-Conforming Uses and Lawful Establishment Date

C. Surplus of City Equipment

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



City Of Edgewood Council Agenda Summary Sheet

Subject: Equity, Diversity, and Inclusion Council Sub-Committee Update	Agenda Item #: 2.A
	For Agenda of: 2/4/2025
	Prepared by: Jill Schwerzler-Herrera
Attachments (list):	
Approval of Materials: Jill Schwerzler-Herrera Rachel Pitzel, Assistant City Administrator 1/27/2025 Dave Olson, Mayor 1/27/2025	Expenditure Required:
	Amount Budgeted:
	Timeline: Topic to be added to all future Study Sessions (see item history below)

Summary Statement:

Item History:

The council has asked that this topic be discussed at all study sessions for the foreseeable future. As such, this has been a reoccurring agenda item since September of 2020.

Recommended Action:

N/A

Fiscal Note/Consideration:

N/A



City Of Edgewood Council Agenda Summary Sheet

Subject: Ordinance - Non-Conforming Uses and Lawful Establishment Date	Agenda Item #: 2.B
	For Agenda of: 2/4/2025
	Prepared by: Jeremy Metzler
Attachments (list): 24-009-CODE_SEPA DNS - SIGNED PC Recommendation - Non-Conforming Uses - DRAFT Ordinance 25-0xxx - ExA - EMC Title 18 Amendments	
Approval of Materials: Jeremy Metzler Rachel Pitzel, Assistant City Administrator 1/27/2025 Dave Olson, Mayor 1/27/2025	Expenditure Required: N/A
	Amount Budgeted: N/A
	Timeline: 02/04/2025 SS 02/11/2025 RCM

Summary Statement: When evaluating any use for non-conforming status, an applicant / proponent must prove that the use was lawfully established and existing prior to the effective date of the applicable regulation. There are some ongoing uses within the City of Edgewood that were established prior to our incorporation on February 28, 1996, and researching back beyond that date has proven in several cases to be challenging at best. In an effort to improve efficiencies, staff is interested in limiting any need for research beyond the City's date of incorporation. This might be accomplished by establishing a date in the municipal code before which the use in question is considered to be "self-evident", or in other words, the exact date of existence does not need to be proven if established prior to said specific date.

For reference, in Washington State, a landowner must satisfy the following three key elements to prove that a use was lawfully established or lawfully existing:

- The use must have existed prior to the enactment of a zoning ordinance that contradicts the use.
- The use must have been lawful at the time it was established.
- The landowner must not have abandoned or discontinued the use for over a year prior to the relevant change in the zoning code.

There are two additional scenarios to consider based on relevant case law:

- Clearly state that any trespass or encroachment would not qualify as "legally established", and
- Provide a clear process for how an applicant / property owner can prove continual use as simply as possible.

Following initial conversation with the City Council in July 2024 study session, this was moved forward to the Planning Commission in November 2024 using the City's date of incorporation. Staff prepared draft code redlines for review and discussion, general support was expressed by the commissioners, and no further comment or discussion was provided at their December 2024 meeting. Staff issued a SEPA Determination of Nonsignificance (DNS) on December 22, 2024 (attached), scheduled and held a Public Hearing at the January 2025 Planning Commission meeting, and no public comments were received. The Planning Commission unanimously recommended the Council adopt the code amendments at their January meeting (see attached).

Attached for Council's review is a draft ordinance that would authorize the proposed amendments to Edgewood Municipal Code (EMC) Title 18. This matter is currently scheduled for Council's consideration at next week's regular meeting.

Item History:

07/16/2024 Council SS - <https://vimeo.com/985745206> (starting at 1hr 16min)

11/06/2024 Planning Commission Meeting - <https://edgewoodwa.portal.civicclerk.com/event/1011/overview>

12/09/2024 Planning Commission Meeting - <https://edgewoodwa.portal.civicclerk.com/event/961/overview>

01/13/2025 Planning Commission Meeting - <https://edgewoodwa.portal.civicclerk.com/event/1064/overview>

Recommended Action:

Hold a discussion and provide staff guidance regarding Ordinance - Non-Conforming Uses and Lawful Establishment Date

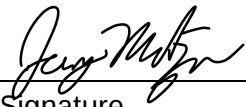
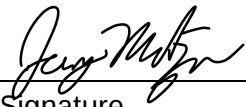
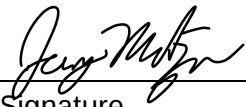
Fiscal Note/Consideration:

N/A



State Environmental Policy Act (SEPA) Determination of Nonsignificance (DNS)

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

Issued:	December 22, 2024				
File:	#24-009-CODE, EMC Title 18 Amendments for Nonconforming Uses and Lawful Establishment Date				
Lead Agency:	City of Edgewood				
Staff Contact:	Jeremy Metzler, Community Development Director 253-952-3299 comdev@cityofedgewood.org				
Proponent:	City of Edgewood				
Location:	City of Edgewood located in northern Pierce County, Washington. The proposal is for all areas within the City of Edgewood municipal boundaries.				
Proposal:	Amendments to Edgewood Municipal Code (EMC) Title 18 as related to nonconforming use regulations and a lawful establishment date.				
Existing Documents:	All existing environmental documents and studies associated with this proposal are available on the City of Edgewood Permit Portal via portal.cityofedgewood.org by searching the File No. 24-009-CODE. • SEPA Environmental Checklist; • DRAFT Title 18 Code Amendments;				
SEPA:	The City of Edgewood 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). This decision was made after review of an Environmental Checklist and other information on file with the City. This DNS is issued under WAC 197-11-340(2). A final decision will not be made on this proposal until after January 28, 2025. SEPA Responsible Official: <table><tr><td></td><td>12/19/2024</td></tr><tr><td>Signature</td><td>Date</td></tr></table> Jeremy Metzler, PE, Community Development Director		12/19/2024	Signature	Date
	12/19/2024				
Signature	Date				
Comment Period:	Written comments may be submitted until January 13, 2025 by 5:00 PM via email, mail, or in-person via comdev@cityofedgewood.org or City of Edgewood, 2224 104th Avenue East, Edgewood, WA 98372. Verbal comments may be submitted during the Planning Commission public hearing.				
Public Hearing:	The City of Edgewood Planning Commission will convene a hybrid public hearing on the matter at 6:00pm on Monday, January 13, 2025. Members of the public can attend and participate in person at Edgewood City Hall, Council Chambers, 2224 104th Ave East, Edgewood, WA 98372 or virtually via Zoom by visiting zoom.us/join using Meeting ID: 970 6596 9184. Meeting information is available at cityofedgewood.org/calendar .				
Appeals:	Appeals for this threshold determination must be made to the City of Edgewood pursuant to EMC 20.05.250(J). Per EMC 20.05.250(E) appeals will be accepted until 5:00 PM on January 28, 2025. Appeals must be submitted in writing along with the appeal fee via the City's permit portal: portal.cityofedgewood.org .				



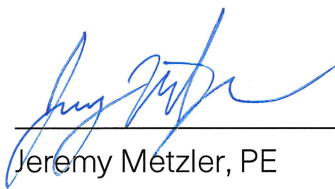
CITY OF EDGEWOOD
PLANNING COMMISSION
RECOMMENDATION

The Planning Commission voted 7-0 to recommend that the City Council adopt the proposed amendments to Edgewood Municipal Code (EMC) Title 18 relating to Non-Conforming Uses and Lawful Establishment Date, as presented herewith.

RECOMMENDED BY THE CITY OF EDGEWOOD PLANNING COMMISSION
ON THE 13TH DAY OF JANUARY 2025.


JoAnn Overfield
Planning Commission Chair

Attest by:


Jeremy Metzler, PE
Community Development Director

ORDINANCE NO. 25-0xxx

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON, RELATING TO NON-CONFORMING USES AND THE LAWFUL ESTABLISHMENT DATE THEREOF; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of Edgewood has established process and procedures for existing non-conformities under Edgewood Municipal Code (EMC) Section 18.90.110; and

WHEREAS, when evaluating any use for non-conforming status, an applicant / proponent must prove that the use was lawfully established and existing prior to the effective date of the applicable regulation; and

WHEREAS, to improve efficiencies and reduce the need for extensive research, the City proposes establishing a specific date in the municipal code, such that any use in question existing before this date will be deemed “self-evident” for the purpose of demonstrating that it was lawfully “established”; and

WHEREAS, after initial conversation with City Council in July 2024, the Planning Commission reviewed suggested amendments to EMC Title 18 that would establish said date as the City’s date of incorporation, February 28, 1996; and

WHEREAS, in accordance with the State Environmental Policy Act (SEPA), the City's SEPA Responsible Official issued a Determination of Nonsignificance (DNS) on December 22, 2024, under file # 24-009-CODE, and the threshold determination was not appealed; and

WHEREAS, on January 14, 2025, the Planning Commission held a duly-noticed public hearing on the proposed code amendments; and

WHEREAS, on January 14, 2025 the Planning Commission voted unanimously to recommend adoption of the proposed amendments to EMC Title 18 relating to Non-Conforming Uses and Lawful Establishment Date to Council; and

WHEREAS, the City Council has determined that an update of the EMC is required to establish a date certain for non-conforming uses; and

WHEREAS, the City Council considered the proposed code amendments at their regular meetings held on February 4, 2025, and February 11, 2025;

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

Section 1. EMC Title 18 Amended. Amendments to Sections 18.20.170, 18.90.110, 18.100.070 and 18.100.080 EMC relating to Non-Conforming Uses and Lawful Establishment Date are attached hereto as Exhibit A, incorporated by reference.

Section 2. Corrections. Upon the approval of the city attorney and/or the city clerk, the code publisher is authorized to make any necessary technical corrections to this ordinance,

including but not limited to the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

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 and shall take effect and be in full force five (5) days after publication as provided by law.

PASSED BY THE CITY COUNCIL ON THE 11TH DAY OF FEBRUARY, 2025

Dave Olson, Mayor

ATTEST/AUTHENTICATED:

Jill Schwerzler-Herrera, CMC
City Clerk

APPROVED AS TO FORM:

Maili C. Barber, City Attorney

Date of Publication: February 14, 2025

Effective Date: February 19, 2025

Exhibit A
Edgewood Municipal Code (EMC) Title 18 Amendments
Non-Conforming Uses and Lawful Establishment Date

18.20.170 N Definitions.

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“Nonconforming lot” means a lot which does not conform to the design or density requirements of the zoning district in which it is located. A nonconforming lot is a lot that was legal when it was created (see EMC 16.01.040(D) for criteria), but no longer meets the current area, width, or depth dimensional requirements for the zoning district in which the property is located. Nonconforming lots may be occupied by any permitted use in the district; provided, that all other development regulations in effect at the time of development are met.

“Nonconforming structure” is one which was lawfully erected in conformance with the regulations in effect at the time of its construction, but which no longer conforms to current development standards including, but not limited to, design, height, setback or coverage requirements of the zoning district in which it is located.

“Nonconforming use” means the use of land, a building or a structure lawfully existing prior to the effective date of this title or subsequent amendments thereto, which does not conform with the regulations of the district in which it is located.

“Nonconformity” means any land use, structure, lot or sign that is proven to have existed legally established prior to the effective date of this title or subsequent amendment, on or before February 28, 1996, that was not a criminal use at the time or currently, or that was legally established after February 28, 1996 and prior to the effective date of this title or subsequent amendment, which that is no longer permitted by or in full compliance with the regulations of this title.

...

18.90.110 Nonconformities.

...

- I. The burden of demonstrating that nonconformity existed on or before February 28, 1996, or is otherwise lawful under this title, rests with the property or business owner. The exact date need not be proven, only that the nonconformity existed on or before February 28, 1996. Additionally, the nonconformity must not have been criminal at the time under City, State, or Federal law, nor can it be criminal under current law. Some examples of evidence that may indicate legal nonconforming status include: tax assessment records, construction or other permit records, personal or business income tax records, business license records, dated past advertising, dated business receipts to customers, dated rent receipts, affidavits from neighbors or tenants, testamentary documents, photographs whose date may be clearly ascertained, and other such information which is competent and factual. The city may, at its discretion, request such records from a property or business owner as a basis for determining whether nonconformity was legally established and preexisting.

J. Termination of Nonconforming Status.

1. A nonconforming development or use shall terminate under the following conditions:

- a. When the use has been vacated or abandoned for a period of ~~six~~twelve (12) or more months.
- b. When the structure, which is nonconforming, has been damaged or destroyed to an extent exceeding 50 percent or more of its fair market value as indicated by the records of the Pierce County assessor.

2. Provided, that damaged uses that are allowed to reestablish, as provided in subsection (K) of this section, Damage or Destruction, shall not be considered to be terminated. Once terminated, the use shall not be reestablished, and any subsequent use must comply with the regulations of the zoning district in which it is located.

N. The community development director or designee is hereby empowered to prohibit or condition any nonconforming use that poses a risk to public health, safety, or the environment, even if the use existed prior to February 28, 1996. The director or designee may also impose conditions to remediate or mitigate any such risks to ensure compliance with current standards.

18.100.070 Home business.

H. An ongoing home business may be granted nonconforming status; provided, that it was ~~previously~~ permitted ~~under Pierce County authority prior to Edgewood's incorporation~~ and has been in continuous operation since initial approval. The burden of providing a home business's nonconforming status rests with the property owner or tenant, pursuant to EMC 18.90.110. A home business ~~without city or county approval~~ which cannot prove nonconforming status shall be considered in violation of this section and shall cease until the appropriate approvals have been granted.

18.100.080 Limited home business.

H. An ongoing home business may be granted nonconforming status; provided, that it was ~~previously~~ permitted ~~under Pierce County authority prior to Edgewood's incorporation~~ and has been in continuous operation since initial approval. The burden of providing a home business's nonconforming status rests with the property owner or tenant, pursuant to EMC 18.90.110. A home business ~~without city or county approval~~, which cannot prove nonconforming status, shall be considered in violation of this section and shall cease until the appropriate approvals have been granted.



City Of Edgewood Council Agenda Summary Sheet

Subject: Surplus of City Equipment	Agenda Item #: 2.C
	For Agenda of: 2/4/2025
	Prepared by: Chuck Hendricksen
Attachments (list): 1. RESOLUTION 25-0XXX, AUTHORIZING THE MAYOR TO DECLARE MISCELLANEOUS OBSOLETE COMPUTER EQUIPMENT ELECTRONICS AND AUTOMOBILES AS SURPLUS 2. Surplus Equipment Exhibit A	
Approval of Materials: Chuck Hendricksen Rachel Pitzel, Assistant City Administrator 1/29/2025 Dave Olson, Mayor 1/29/2025	Expenditure Required: N/A Amount Budgeted: N/A Timeline: 2/4/2025 - SS Discussion 2/11/2025 - RCM Action under Consent Agenda

Summary Statement:

Staff continues to work to identify and prepare to dispose of miscellaneous obsolete computer equipment, electronics, and automobiles that are no longer in use or being retired as obsolete. By approval of this resolution, council will be authorizing the Mayor to work with staff to determine the most appropriate method to surplus the equipment and documenting any proceeds which will be returned to the general fund.

Item History:

Recommended Action:

Hold a discussion and provide staff guidance regarding the Equipment and Vehicle Surplus resolution.

Fiscal Note/Consideration:

Any revenues generated from the surplus activity will be deposited in to the General Fund.

RESOLUTION NO. 25-0XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO DECLARE MISCELLANEOUS OBSOLETE COMPUTER EQUIPMENT, ELECTRONICS, AND AUTOMOBILES AS SURPLUS, AND ADMINISTER THE DONATION OR SALE OF THE ITEMS

WHEREAS, City staff have been working to identify and prepare to dispose of miscellaneous obsolete computer equipment, electronics, and automobiles; and

WHEREAS, it is in the best interest of the City to free up valuable space that is currently not available due to storage of unused & obsolete items; and

WHEREAS, the City has donated and recycled obsolete computer equipment and electronics with little to no value in the past, for possible re-use by other government and non-profit organizations; and

WHEREAS, the City Council desires to formally authorize the Mayor to surplus said obsolete equipment;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Surplus Declaration. The City Council hereby declares these items surplus and authorizes the Mayor to administer the sale of items with a value greater than the disposal cost, donation of items that serve the public interest but have nominal or no value to the City, and finally to dispose of or recycle those items remaining. A list of items is attached as Exhibit A. All City data shall be permanently removed from all data devices prior to loss of custody by the City with a certificate provided stating such disposal was done according to the highest industry standards.

Section 2. Effective Date. This resolution will take effect immediately upon passage by the City Council.

ADOPTED THIS 11TH DAY OF FEBRUARY, 2025

Dave Olson, Mayor

ATTEST:

Jill Schwerzler-Herrera, CMC
City Clerk

Exhibit A
(Insert Exhibit here if applicable)

EXHIBIT A

City of Edgewood
Resolution No. 25-07XX
Surplus Property List
February 4, 2025

Description of Item
Tow behind reader board trailer
3x white holding tanks
DR field and brush mower
John Deere skid steer planer attachment

Description of item	Value
2013 Ford Escape	\$5000
2014 Ford Escape	\$5000

- Final values to be determined upon sale of items, to be attached to the Original Resolution.