



**CITY OF EDGEWOOD
REGULAR COUNCIL MEETING AGENDA**

Tues., March 28, 2017 – 7:00 pm. ♦ City Hall – 2224 104th Avenue East ♦ Edgewood, WA

1. CALL TO ORDER

Pledge of Allegiance, Roll Call, Additions/Deletions

2. AUDIENCE COMMENT

3. PROCLAMATION – PC Reads – Linda Case

4. PUBLIC HEARINGS -

- 1.) **AB17-013** (pg. 4), Ordinance No. 17-0495, relating to Planning and Development and Subdivision Code Enforcement, adopting new Planning and Development and Subdivision Code Enforcement procedures which describe violations, explain the process for investigation and enforcement of violations, listing the elements of a notice of violation, describing the procedures for issuance and service of notices of violation, stop work orders and emergency orders, providing for hearings on appeals, describing the hearing process, setting penalties for violations, repealing previous enforcement sections, amending Chapter/Section 16.01.200 and adding a new Chapter 18.85 to the Edgewood Municipal Code
- 2.) **AB17-014** (pg. 18), Ordinance No. 17-0494, relating to Land Use and Zoning, adopting an Interim Zoning Ordinance relating to Quasi-Judicial map amendments, repealing section 18.40.110 of the Edgewood Municipal Code; describing the elements of a complete application, the criteria for approval, deadline for issuance of a final decision, and expiration of the approval, said interim zoning regulations shall be in effect until the City adopts “Permanent” Zoning regulations on the same subject, this Interim Ordinance shall be effective immediately, setting six months as the effective period of the Interim Zoning Ordinance, and establishing the date of a Public Hearing on the Interim Zoning Ordinance

5. MAYOR’S REPORT

- 6. CONSENT AGENDA** (pg. 26): *The consent agenda includes items that are routine in nature and are adopted by one motion. Should Council wish to discuss a consent agenda item, the item would be removed from the consent agenda and discussed under Council Business.*

The following items are presented for Council approval:

- A. Regular City Council Meeting Minutes of March 14, 2017
- B. Study Session Meeting Minutes of March 21, 2017
- C. **AB 17-015**, a motion approving March 2017 Budgeted Expenditures as follows: Nationwide Retirement Solutions Check Numbers 10598-10599 in the amount of \$4,727.76; IRS 941 ACHs; Deferred Compensations Program; Dept. of Retirement Systems and Payroll Direct Deposit in the amount of \$48,642.83; and Vendor Check Numbers 21884-21906 with EFT Payments in the amount of \$190,031.83. Total distributions submitted for review & authorization in the amount of \$243,402.42

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.

- D. **AB17-0359** – Resolution No. 17-0359, authorizing the Mayor to execute the Maintenance Services Agreement with TCMS, Inc. regarding HVAC Maintenance
- E. **AB17-0360**, Resolution No. 17-0360, repealing and replacing Resolution No. 16-0328, making appointments to positions on External Boards, Commission, Committees, and other Organizations for the Year 2017

7. COUNCIL BUSINESS

- A. **AB17-0361** (*pg. 64*), a motion approving Resolution No. 17-0361, accepting as complete, the Jovita Boulevard Slope Stabilization Seismic Wall project
- B. **AB 17-0496** (*pg. 66*), *a motion to accept first reading of Ordinance No. 17-0496, relating to Land Use and Zoning in the Town Center, Commercial, and Mixed Use Residential Zones, amending Section 18.80.080 of the Edgewood Municipal Code including revising the Use Table, Densities, location of Mixed Uses, and providing for Variances; providing for severability; and establishing an effective date*
- C. **AB 17-0493** (*pg. 92*), a motion to accept the second reading and adoption of Ordinance No.17-0493, granting unto the City of Milton, a municipal corporation of the State of Washington, its successors and assigns, the right, privilege, authority and nonexclusive franchise, to construct, maintain, operate, replace and repair water system infrastructure, in, across, over, along, under, through and below the public rights-of-way of the City of Edgewood, Washington; providing for severability; and establishing an effective date

8. COUNCIL COMMENTS

9. EXECUTIVE SESSION

10. ADJOURN

Proclamation of the City of Edgewood

Whereas, the Edgewood City Council recognizes the Pierce County Library System's Pierce County READS, with sponsorship provided by KeyBank Foundation, The News Tribune, Pierce County Library Foundation, The McGavick Conference Center at Clover Park Technical College, and KNKX; and

Whereas, Pierce County READS seeks to engage, involve, and connect people throughout Pierce County; and

Whereas, Pierce County READS is the largest community reading event in the county, when people read an award-winning author's work, participate in free events, join in group discussion, and attend a free event to meet the nationally known, best-selling author on April 28th, 2017, at 7 p.m.; and

Whereas, Pierce County Library is offering this community-wide program in collaboration with numerous community partners.

Now therefore, be it resolved by Daryl Eiding, Mayor of the City of Edgewood, Washington, that March 5th through April 28th is proclaimed as:

Pierce County READS

PROCLAIMED this 28th day of March, 2017.



Daryl Eiding, Mayor

ATTEST:

Rachel Pitzel, City Clerk



CITY OF EDGEWOOD
REQUEST FOR COUNCIL ACTION
Agenda Bill No.: 17-0495 (PUBLIC HEARING)

Date Action Requested: March 28, 2017

Title: **PUBLIC HEARING** - Code Enforcement Ordinance

Attachments: Draft Code Enforcement Ordinance No.17-0495

Submitted By: Aaron Nix, ACA – Municipal Services, Acting Public Works Director
Carol Morris, City Attorney

Approved For Agenda By: Daryl Eidinger, Mayor

Prepared For Agenda By: Aaron Nix, ACA – Municipal Services, Acting Public Work Director, Carol Morris, City Attorney

Recommendation: N/A, as this is a Public Hearing and an opportunity for the Public to comment on the proposed Ordinance pertaining to code enforcement.

Discussion: City Staff have been operating with limited resources/guidance as it pertains to code enforcement procedures and tools with regard to bringing properties into compliance with relevant zoning, subdivision and building/construction codes. The Mayor has asked Staff, with the assistance of the City Attorney to evaluate Edgewood code and work towards providing these resources for designated officials, as problems present themselves, consistent with industry standards as it pertains to traditional code enforcement practices, as well as sufficient flexibility to allow individuals that are willing to come into compliance to do that as effectively and efficiently as possible.

Alternatives: N/A, as this is a Public Hearing and an opportunity for the Public to comment on the proposed Ordinance pertaining to code enforcement.

Fiscal Impact: Under the current draft of the Ordinance, as code cases are brought forward by Staff, the appeal process may subject the City to costs associated with Hearing Examiner fees in order for cases to be heard and decided upon. The City currently maintains a contract with Stephen Cassieux, who serves as the City of Edgewood's Hearing Examiner and charges an hourly rate of \$150.

ORDINANCE NO. 17-0495

AN ORDINANCE OF THE CITY OF EDGEWOOD, WASHINGTON, RELATING TO PLANNING AND DEVELOPMENT AND SUBDIVISION CODE ENFORCEMENT, ADOPTING NEW PLANNING AND DEVELOPMENT AND SUBDIVISION CODE ENFORCEMENT PROCEDURES WHICH DESCRIBE VIOLATIONS, EXPLAIN THE PROCESS FOR INVESTIGATION AND ENFORCEMENT OF VIOLATIONS, LISTING THE ELEMENTS OF A NOTICE OF VIOLATION, DESCRIBING THE PROCEDURES FOR ISSUANCE AND SERVICE OF NOTICES OF VIOLATION, STOP WORK ORDERS AND EMERGENCY ORDERS, PROVIDING FOR HEARINGS ON APPEALS, DESCRIBING THE HEARING PROCESS, SETTING PENALTIES FOR VIOLATIONS, REPEALING PREVIOUS ENFORCEMENT SECTIONS , AMENDING CHAPTER/SECTION 16.01.200 AND ADDING A NEW CHAPTER 18.85 TO THE EDGEWOOD MUNICIPAL CODE.

WHEREAS, the City has decided to update its Planning and Development and Subdivision Code enforcement procedures; and

WHEREAS, the City SEPA Responsible Official has determined that this Ordinance is categorically exempt from SEPA as affecting only procedural and no substantive standards, pursuant to WAC 197-11-800(19); and

WHEREAS, on March 28, 2017, the City Council held a public hearing on this Ordinance; and

WHEREAS, the City Council considered this Ordinance during its regular City Council meetings on March 21, 2017 and _____, Now, Therefore,

THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, ORDAINS
AS FOLLOWS:

Section 1. Chapter/Section 16.01.130 and 18.30.130 of the Edgewood Municipal Code is hereby repealed.

Section 2. Chapter/Section 16.01.200 of the Edgewood Municipal Code is hereby amended, which shall read as follows:

16.01.200 Appeal.

Any administrative decision concerning the interpretation or enforcement of this title shall be subject to the appeal procedures applicable to the specific process of decision (Process I, II, III, or IV) as set forth in Chapter [18.40](#) EMC.

Section 3. A new Chapter 18.85 is hereby added to the Edgewood Municipal Code, which shall read as follows:

**Chapter 18.85
ENFORCEMENT**

Sections:

18.85.010	Intent.
18.85.020	Violations.
18.85.030	Responsibility to Enforce.
18.85.040	Investigation and Notice of Violation.
18.85.050	Time to Comply.
18.85.060	Stop Work Order.
18.85.070	Emergency Order
18.85.080	Appeals.
18.85.090	Appeal Hearing.
18.85.100	Civil Penalty.
18.85.110	Criminal Penalties.
18.85.120	Additional Relief.
18.85.130	Penalties for Subdivision Violations.

18.85.010 Intent. This chapter shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons. It is the intent of this chapter to place the obligation of complying with its requirements upon the owner, occupier or other person responsible for the condition of the land and buildings within the scope of the Planning and Development Code, Title 18 and the Subdivision Code, Title 16. No provision of, or any term used in this chapter, is intended to impose any duty to enforce, or any other duty upon the City or any of its officers or employees which would subject them to damages in a civil action.

18.85.020 Violations.

A. It is a violation of the Planning and Development Code, Title 18, and the Subdivision Code, Title 16, for any person to initiate, maintain or cause to be initiated or maintained, the use of any structure, land or property within the City, without first obtaining the permits or authorizations required for the use by the aforementioned codes.

B. It is a violation of the Planning and Development Code, Title 18, and the Subdivision Code, Title 16, for any person to use, construct, locate, demolish or cause to be used, constructed, located, or demolished any structure, land or property within the City, in any manner that is not permitted by the terms of any permit or authorization issued pursuant to the aforementioned Titles; provided, that the terms or conditions are explicitly stated on the permit or the approved plans.

C. In addition to the above, it is a violation of Titles 18 and 16 to:

1. Remove or deface any sign, notice, complaint or order required by or posted in accordance with the aforementioned Titles; and
2. To misrepresent any material fact in any application, plans or other information submitted to obtain any building or construction authorization.

18.85.030 Responsibility to enforce.

A. The Community Development Director shall have the responsibility to enforce this Chapter. The Director may call upon the police, fire, building, public works or other appropriate City departments to assist in enforcement. As used in this chapter, "Community Development Director" or "Director" shall also mean his or her duly authorized representative.

B. Upon presentation of proper credentials, the Director may, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued inspection warrant, enter at reasonable times any building or premises subject to the consent or warrant, in order to perform the responsibilities imposed by this Chapter.

18.85.040 Investigation and Notice of Violation.

A. Investigation. The Director is authorized to investigate any structure or use which he/she reasonably believes does not comply with the standards and requirements of the Planning and Development Code, Title 18 or the Subdivision Code, Title 16.

B. Notice of Violation. If, after investigation, the Director determines that the standards or requirements of the Planning and Development Code, Title 18, and the Subdivision Code, Title 16 or the provisions of this chapter have been violated, the Director may serve a Notice of Violation upon the owner, tenant or other person responsible for the condition. The Notice of Violation shall contain the following information:

1. The name and address of the person to whom it is directed;
2. The location and specific description of the violation;
3. A statement that the Notice (or Order, in the case of a Stop Work or Emergency Order) is effective immediately upon posting at the site and/or receipt by the person to whom it is directed;
4. The Notice of Violation may include or reference a Stop Work Order or Emergency Order requiring that the violation immediately cease, or that the potential violation be avoided;
5. The Notice of Violation may include or reference a Stop Work or Emergency Order requiring that the person cease all work on the premises until correction and/or remediation of the violation as specified in the Order;
6. A specific identification of each standard, code provision or requirement violated;
7. A specific description of the actions required to correct, remedy or avoid the violation or to comply with the standards, code provision or requirements, including but not limited to, replacement, repair, supplementation, re-vegetation or restoration;
8. A reasonable time for compliance;
9. A statement that the violation may result in the imposition of penalties, and if the violation is not already subject to criminal prosecution, that any subsequent violations may result in criminal prosecution as provided in Section 18.85.110 (or 18.85.130 for subdivision violations);
10. A statement that failure to comply with the Notice of Violation may result in further enforcement actions, including issuance of additional Notices of Violation, civil fines and criminal penalties; and

11. A statement that the Notice of Violation represents a determination that a violation has been committed by the person named in the Notice of Violation, and that the determination shall be final unless appealed as provided in Section 18.85.080, and that the appeal must be timely filed under the procedures set forth in 18.85.080(E) (within 15 calendar days of service of the Notice of Violation).

C. Each Day a Separate Violation. Each day a person or entity fails to comply with the code provision cited in the Notice of Violation may be considered a separate violation for which a citation may be issued.

D. Service. The Notice of Violation shall be served on the owner, tenant or other person responsible for the condition in the manner set forth in RCW 4.28.080 for service of a summons, or personally, as set forth in RCW 4.28.080(15). In lieu of service under RCW 4.28.080(15), where the person cannot with reasonable diligence be served as described, the Notice of Violation may be served as provided in RCW 4.28.080(16).

E. Posting. A copy of the Notice of Violation shall be posted at a conspicuous place on the property, unless posting the notice is not physically possible.

F. Other Actions May Be Taken. Nothing in this chapter shall be deemed to limit or preclude any action or proceeding pursuant to Sections 18.85.060 (Stop Work Order), 18.85.070 (Emergency Order), 18.85.100 (Civil Penalty), 18.85.110 (Criminal Penalties), 18.85.120 (Additional Relief), or 18.85.130 (Subdivision Violations).

G. Additional Notice to Others. The Director may mail, or cause to be delivered to all residential and/or nonresidential rental units in the structure, or post at a conspicuous place on the property, a notice which informs each recipient or resident about the Notice of Violation, Stop Work Order or Emergency Order and the applicable requirements and procedures.

H. Recording. A copy of the Notice of Violation may be filed with the County Auditor when the responsible party fails to correct the violation and no appeal is filed, or the Director requests that the City Attorney take appropriate enforcement action. The Director may choose not to file a copy of the Notice or Order if the Notice or Order is directed only to a responsible person other than the owner of the property.

I. Amendment. A Notice or Order may be amended at any time in order to:

1. Correct clerical errors; or
2. Cite additional authority for a stated violation.

18.85.050 Time to comply. When calculating a reasonable time for compliance in the Notice of Violation, the Director shall consider the following criteria:

A. The type and degree of violation cited in the Notice;

- B. The stated intent, if any, of a responsible party to take steps to comply;
- C. The procedural requirements for obtaining a permit to carry out corrective action;
- D. The complexity of the corrective action, including seasonal considerations, construction requirements and the legal prerogatives of landlords and tenants; and
- E. Any other circumstances beyond the control of the responsible party.

18.85.060 Stop Work Order.

A. Whenever a continuing violation of Titles 18 or 16 will materially impair the Director's ability to secure compliance, or when the continuing violation threatens the health or safety of the public, the Director has the authority to issue a Stop Work Order prohibiting any work or other activity at the site. The Stop Work Order shall be in writing and served upon persons engaged in doing such work or causing such work to be done. The Stop Work Order shall be immediately posted on the property. Failure to comply with a Stop Work Order shall constitute a violation of this chapter.

B. The Stop Work Order shall include the information in Section 18.85.040(B)(1) through (8). In addition, the Stop Work Order shall include a statement that the person to whom the Stop Work Order is directed or the property owner may file an appeal and request an expedited hearing with the Hearing Examiner within seven (7) calendar days after service of the Stop Work Order. If no appeal is filed and compliance is not achieved within the compliance date, the Director may ask the City Attorney to seek additional relief under Section 18.85.120 and/or the Director may file a Notice of Violation for the violation pursuant to 18.85.040, seeking compliance and describing penalties.

C. Expedited appeal. The Hearing Examiner shall hold the expedited appeal hearing on a Stop Work Order according to the applicable procedures in Section 18.85.090. If the Hearing Examiner finds that a violation has occurred which has not been corrected by the deadline established for compliance, the Director may ask the City Attorney to seek additional relief under Section 18.85.120 and/or the Director may issue a Notice of Violation for the violation pursuant to 18.85.040, describing penalties.

18.85.070 Emergency order.

A. Whenever any use or activity in violation of Title 18 or Title 16 threatens the health and safety of the occupants of the premises or any member of the public, the Director has the authority to issue an Emergency Order directing that the use or activity be discontinued and the condition causing the threat to the public health and safety be corrected. The Emergency Order shall be immediately posted on the property and served on the person(s) responsible. Failure to comply with an Emergency Order shall constitute a violation of this Chapter.

B. The Emergency Order shall include all of the information in Section 18.85.040(B)(1) through (8). In addition, the Emergency Order shall include a statement that the person to whom the Emergency Order is directed may file an appeal and request an expedited hearing with the Hearing Examiner within seven (7) calendar days after service or posting of the Emergency Order. If no appeal is filed and compliance is not achieved, the Director may ask the City Attorney to seek additional relief under Section 18.85.120 and/or the Director may issue a Notice of Violation pursuant to 18.85.040, seeking compliance and penalties.

C. Expedited appeal. The Hearing Examiner shall hold the expedited appeal hearing on an Emergency Order according to the applicable procedures in 15.85.090. If the Hearing Examiner finds that the violation described in the Emergency Order occurred or exist, any condition described in the Emergency Order which is not corrected within the time specified is hereby declared to be a public nuisance and the Director may ask that the City Attorney take action to obtain a warrant of abatement for the property in Superior Court. The owner or person responsible (or both) shall be responsible for the costs associated with the abatement, in the manner provided by law.

18.85.080 Appeals.

A. No appeal of a Notice of Violation citing criminal penalties. There is no administrative appeal of a Notice of Violation issued pursuant to 18.85.040 for violations which would subject the violator to criminal prosecution and/or the imposition of criminal penalties. A Notice of Violation or citation for a violation that subjects the violator to criminal penalties is enforced in municipal court.

B. Expedited Appeal Hearings on Stop Work and Emergency Orders. An expedited public hearing shall be held by the Hearing Examiner, according to the procedures in this Section, on an appeal of a Stop Work or Emergency Order, regardless of whether the violations described in the Stop Work Order or Emergency Order would eventually subject the violator to civil or criminal prosecution and/or the imposition of civil or criminal penalties. The expedited appeal hearing shall be for the sole purpose of determining whether the Stop Work or Emergency Order was correctly issued and/or whether a violation occurred. If a violation occurred, the Director may issue a Notice of Violation.

C. Appeal Hearings on Notices of Violations Citing Civil Penalties. Unless an appeal of a Notice of Violation is filed with the Director in accordance with this Section, or an appeal involving an expedited hearing is filed, the Notice of Violation shall become the Final Order of the Director. The Final Order, including the collection of penalties, may be enforced by the City Attorney in Superior Court.

D. Standing to file appeal.

1. *Notice of Violation.* Only parties of record have standing to file an appeal of a Notice of Violation. Parties of record are defined to mean:

- a. The property owner or the person responsible for the condition of the property;
- b. Any person who can demonstrate that he/she is aggrieved by the decision; and
- c. The City Council.

2. *Stop Work Order and Emergency Order.* Only the property owner or the person responsible for the condition of the property may request an expedited appeal hearing for a Stop Work Order or Emergency order.

E. Time to file appeal.

1. Notice of Violation under 18.85.040. The party of record must file an appeal with the Director within fifteen (15) calendar days of service of the Notice of Violation.

2. Stop Work or Emergency Orders under 18.85.060 or 18.85.070. The property owner or the person responsible for the condition of the property may request an expedited appeal hearing within seven (7) calendar days after service of the Stop Work or Emergency Order.

3. Computing deadline for filing appeal. For purposes of computing the time for filing an appeal, the day the decision issued shall not be counted. If the last day of the deadline for filing the appeal is a Saturday, Sunday or holiday designated by RCW 1.16.050 or city ordinance, then the appeal must be filed on the next business day. Appeals shall be delivered to the Director by mail, by personal delivery or by fax before 5:00 p.m. on the last business day of the appeal period. Appeals received by mail after 5:00 p.m. on the last day of the appeal period will not be accepted, no matter when such appeals were mailed or postmarked.

E. Content of appeal. Appeals shall be in writing, be accompanied by the required appeal fee, and contain the following information:

1. Appellant's name, address and phone number;
2. A statement describing appellant's standing to appeal;
3. Appellant's statement of grounds for appeal and the facts upon which the appeal is based with specific references to the facts in the record;
4. The specific relief sought;
5. A statement that the appellant has read the appeal and believe the contents to be true, followed by the appellant's signature.

F. Effect. The timely filing of an appeal shall stay any enforcement action based on a Stop Work Order, Emergency Order or Notice of Violation until the Hearing Examiner's decision issues unless the Director finds that the violation causes an immediate threat to public health or safety.

18.85.090 Appeal Hearing.

A. The public hearing on an appeal shall include the following elements and be conducted as follows:

1. The Hearing Examiner shall set the time and place of the hearing, and arrange for notice of the public hearing to be provided, except in cases involving an expedited hearing. For expedited hearings, notice of the hearing shall be provided to the appellant and every reasonable effort shall be made to schedule the hearing within one week after receipt of the appeal.

2. A party to the hearing may participate personally or by an attorney.

4. The Hearing Examiner shall, at the appropriate stage in the proceeding, give all parties full opportunity to submit and respond to motions and file briefs and objections.

5. If the person requesting the hearing fails to attend or participate in the hearing (other than filing the timely request for an appeal hearing as provided in this chapter), the Hearing Examiner may issue a default order of dismissal.

6. To the extent necessary for full disclosure of all relevant facts and issues, the Hearing Examiner shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross-examination and submit rebuttal evidence.

7. The Hearing Examiner shall cause the hearing to be recorded by a method chosen by the City, which shall allow preparation of a verbatim transcript.

8. The hearing shall be open to public observation.

9. All testimony of parties and witnesses shall be made under oath or affirmation.

10. Ex parte communications shall be addressed as set forth in chapter 42.36 RCW.

11. The scope and standard of review shall be de novo. The City shall have the initial burden of proof in cases involving notices of violation, stop work orders, emergency orders or penalties, to demonstrate by a preponderance of the evidence the existence of a violation or that the legal standard for imposing the penalty has been met. The Examiner shall

grant substantial weight or otherwise accord deference whenever directed by ordinance or statute.

12. After the conclusion of the public hearing, the Hearing Examiner may allow the parties a designated time for the submission of memos, briefs or proposed findings, as long as the Hearing Examiner can still issue his/her final decision according to any applicable deadline established by this chapter.

13. At or after the appeal hearing on a Notice of Violation, the Hearing Examiner may:

- (a) Sustain the notice of violation;
- (b) Withdraw the notice of violation;
- (c) Continue the review to a date certain for receipt of additional information;
- (d) Modify the notice of violation, which may include an extension of the compliance date.

D. Except with regard to expedited hearings, the Hearing Examiner shall issue written findings of fact and conclusions of law within ten (10) calendar days of the date of the completion of the hearing and shall cause the same to be mailed by regular first class mail to the person(s) named on the notice of violation, mailed to the complainant, if possible. A copy of the final decision may be recorded against the property in the County Auditor's office. The decision on expedited hearings shall issue within five (5) business days after the completion of the hearing.

E. The decision of the Hearing Examiner on appeal shall be final, and no further administrative appeal may be filed. In order to appeal the decision of the Hearing Examiner, a person with standing must file an appeal of the decision to superior court as provided under Chapter 36.70C RCW within the deadline set forth in RCW 36.70C.040.

18.85.100 Civil Penalty.

A. In addition to any other sanction or remedial procedure which may be available, any person violating or failing to comply with any of the provisions of this chapter relating to the Planning and Development Code (Title 18), shall be subject to a cumulative penalty in the amount of five hundred dollars (\$500.00) per day for each violation from the date set for compliance until compliance is achieved. Each day of noncompliance shall constitute a separate offense.

B. The penalty imposed by this section shall be collected by civil action brought in the name of the City. The Director shall notify the City Attorney in writing of the name of any

person subject to the penalty, and the City Attorney shall, with the assistance of the Director, take appropriate action to collect the penalty.

C. The violator may show as full or partial mitigation of liability:

1. That the violation giving rise to the action was caused by the willful act, or neglect, or abuse of another; or
2. That correction of the violation was commenced promptly upon receipt of the notice thereof, but that full compliance within the time specified was prevented by inability to obtain necessary materials or labor, inability to gain access to the subject structure, or other condition or circumstance beyond the control of the defendant.

18.85.110 Criminal penalties.

A. Any person violating or failing to comply with any of the provisions of this chapter or the Planning and Development Code (Title 18) who has had a judgment entered against him or her pursuant to 18.85.100 or 18.85.110(B) for the same violation within the past five years shall be subject to criminal prosecution and upon conviction of a subsequent violation shall be fined in a sum not exceeding five thousand dollars (\$5,000) or be imprisoned for a term not exceeding one year or be both fined and imprisoned. Each day of noncompliance shall constitute a separate offense.

B. The above criminal penalty may also be imposed:

1. For any other violation of this chapter or the Planning and Development Code, Title 18, for which corrective action is not possible; and
2. For any willful, intentional, or bad faith failure or refusal to comply with the standards or requirements of this chapter or the Planning and Development Code, Title 18.

18.85.120 Additional relief.

The Director may seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of the Planning and Development Code, Title 18 or Title 16, the Subdivision Code, when civil or criminal penalties are inadequate to effect compliance.

18.85.130 Penalties for Subdivision Violations.

A. Any person, firm, corporation or association or any agency or any person, firm, corporation or association who violates any provision of Subdivisions, Title 16, relating to the sale, offer for sale, lease or transfer of any lot, tract, or parcel of land, shall be guilty of a gross misdemeanor and each sale, offer for sale, lease or transfer of each separate lot, tract or parcel of

land in violation of any provision of Subdivisions, Title 16, shall be deemed a separate and distinct offense and subject to a separate citation.

B. Whenever land within a subdivision granted final approval is used in a manner or for a purpose which violates any provision of Subdivisions, Title 16, or any condition of plat approval prescribed for the plat by the city, the City Attorney may commence an action to restrain and enjoin such use and compel compliance with the provisions of Subdivisions, Title 16, or with such terms and conditions. The costs of such action shall be taxed against the violator.

Section 2. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be 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. This Ordinance shall become effective five days after publication as provided by law.

ADOPTED by the City Council of the City of Edgewood, signed by the Mayor and attested by the City Clerk in authentication of such passage on this ____ day of _____, 2017.

Mayor, Daryl Eidinger

ATTEST/AUTHENTICATED:

City Clerk, Rachel Pitzel

APPROVED AS TO FORM:

City Attorney, Carol Morris

Public Hearing Version



CITY OF EDGEWOOD
REQUEST FOR COUNCIL ACTION
Agenda Bill No.: 17-014 (PUBLIC HEARING ONLY)

Date Action Requested: March 28, 2017

Title: **Public Hearing** Ordinance No. 17-0494 – Interim Zoning Code Update (Quasi-Judicial Rezones)

Attachments: Exhibit A, Ordinance 17-0494

Submitted By: Kevin Stender, Community Development Director

Approved For Agenda By: Daryl Eiding, Mayor

Prepared For Agenda By: Kevin Stender, Community Development Director

Recommendation: N/A

Discussion: The Council passed an Emergency Ordinance on February 28, 2017 consistent with Section 36.70A.390 of the RCW to repeal EMC 18.40.110 regarding Quasi-Judicial Rezones and temporarily replace it with a new EMC 18.40.110 that was much clearer. As part of the adoption of Emergency Interim measures the City Council is required to conduct a Public Hearing within 60 days of passage of the interim regulations. The Council set that Public Hearing date for March 28, 2017.

For reference, the quasi-judicial rezone code defines the process required to acquire a rezone that is consistent with the existing Comprehensive Plan and the associated Future Land Use Map.

Fiscal Impact: N/A

**CITY OF EDGEWOOD, WASHINGTON
ORDINANCE NO. 17-0494**

AN ORDINANCE OF THE CITY OF EDGEWOOD, WASHINGTON, RELATING TO LAND USE AND ZONING, ADOPTING AN INTERIM ZONING ORDINANCE RELATING TO QUASI-JUDICIAL MAP AMENDMENTS, REPEALING SECTION 18.40.110 OF THE EDGEWOOD MUNICIPAL CODE; DESCRIBING THE ELEMENTS OF A COMPLETE APPLICATION, THE CRITERIA FOR APPROVAL, DEADLINE FOR ISSUANCE OF A FINAL DECISION, AND EXPIRATION OF THE APPROVAL, SAID INTERIM ZONING REGULATIONS SHALL BE IN EFFECT UNTIL THE CITY ADOPTS “PERMANENT” ZONING REGULATIONS ON THE SAME SUBJECT, THIS INTERIM ORDINANCE SHALL BE EFFECTIVE IMMEDIATELY, SETTING SIX MONTHS AS THE EFFECTIVE PERIOD OF THE INTERIM ZONING ORDINANCE, AND ESTABLISHING THE DATE OF A PUBLIC HEARING ON THE INTERIM ZONING ORDINANCE

WHEREAS, the City’s regulations relating to quasi-judicial rezones in Edgewood Municipal Code (EMC) Section 18.40.110 are unclear and require modification; and

WHEREAS, Section 36.70A.390 of the Revised Code of Washington authorizes the City Council to adopt an interim zoning ordinance, to be effective for a period of up to six months provided that a public hearing is held within at least sixty days of its adoption; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDGEWOOD DOES ORDAIN AS FOLLOWS:

Section 1. Section 18.40.110 of the Edgewood Municipal Code is hereby repealed.

Section 2. A new Section 18.40.110 is hereby added to the Edgewood Municipal Code, which shall read as follows:

18.40.110 Quasi-judicial Map Amendments -- Purpose. The purpose of Sections 18.40.110 through 18.40.117 is to establish procedures for amendment of the City’s Official Zoning Map. The Official Zoning Map is the map of the City which depicts the zoning designations on property, and implements or gives effect to the Comprehensive Plan. Quasi-judicial amendments are those amendments of the Official Zoning Map that involve the application of existing policy to a specific development application, and do not involve the adoption of new policy (which occurs through legislative decisions).

Section 3. A new Section 18.40.111 is hereby added to the Edgewood Municipal Code, which shall read as follows:

18.40.111 Administration of Quasi-Judicial Map Amendments.

A. Quasi-Judicial Map Amendments, Generally. The Director is authorized and directed to administer the provisions of this Chapter relating to Quasi-Judicial Map Amendments. The authority to hold a public hearing and provide a final recommendation is granted to the Hearing Examiner and the City Council has the authority to make the final decision after a closed record hearing. If approved, the City Council will adopt an ordinance amending the City's Official Zoning Map.

B. Development Agreement. The City shall not process any Quasi-Judicial Map Amendments with Development Agreements under the interim zoning ordinance.

Section 4. A new Section 18.40.112 is hereby added to the Edgewood Municipal Code, which shall read as follows:

18.40.112 Procedure for Quasi-Judicial Map Amendments. The following steps shall be followed in the processing of Quasi-Judicial Amendments.

- A. Determination of Complete Application;
- B. Notice of Application;
- C. SEPA;
- D. Determination of Consistency;
- E. Notice of Public Hearing;
- F. Preparation of Staff Report;
- G. Public Hearing; and
- H. Issuance of Recommendation to City Council;
- I. City Council Closed Record Hearing
- J. If Quasi-Judicial Map Amendment is adopted, an ordinance is adopted to change the Official Land Zoning Map.

Section 5. A new Section 18.40.113 is hereby added to the Edgewood Municipal Code, which shall read as follows:

18.40.113 Requirements for a Complete Quasi-Judicial Map Amendment Application. The following materials shall be submitted to the City for a complete Quasi-Judicial Amendment (site specific rezone):

- A. Application Form: Seven (7) copies of the completed application form;
- B. Date, name, address, telephone number and e-mail of the applicant;

- C. Name, address, telephone number and e-mail of the owner of the property identified in the application;
- D. Legal description of the subject property;
- E. Identification of all sections of the comprehensive plan policies and map addressing the property subject to the application, including identification of the comprehensive plan map designation;
- F. Description of any proposed development of the property under the proposed zoning designation;
- G. Any plans, information and/or studies that accurately depict existing and proposed use(s) and improvements;
- H. An explanation of the rationale for the proposed amendment;
- I. An explanation of how the proposed amendment and associated development proposal(s), if any, conform to, conflict with, or relate to the criteria set forth in Section 18.40.114, as applicable;
- J. A completed SEPA checklist including the supplement sheet for nonproject actions; and
- K. A title report dated within 30 days of submittal for the subject property.
- L. The application fee, as established by the City.

Section 6. A new Section 18.40.114 is hereby added to the Edgewood Municipal Code, which shall read as follows:

18.40.114. Criteria for Approval of Quasi-Judicial Map Amendment.

A. The following general rules apply to Quasi-Judicial Map Amendment applications:

- 1. There is no presumption of validity favoring the action of rezoning;
- 2. The proponents of the rezone have the burden of proof to demonstrate that conditions have changed since the original zoning; and
- 3. The rezone must bear a substantial relationship to the public health, safety, morals or welfare.

B. Implementation of the general rules in subsection A above involves analysis of the following criteria in order to approve a Quasi-Judicial Map Amendment:

- 1. Consistency with the existing comprehensive plan (the comprehensive plan that has been approved and is in place at the time the application was submitted);
- 2. Consistency with the purpose of the proposed zoning district;
- 3. Consistency between zone criteria and area characteristics;

4. Zoning history and precedential effect. Previous and potential zoning changes both in and around the area identified in the application shall be examined;

5. The impact of more intense zones on less intense zones or industrial and commercial zones on other zones shall be minimized by the use of transitions or buffers, if possible. A gradual transition between zoning categories, including height limits, is preferred.

Physical buffers may provide an effective separation between different uses and intensities of development. The following elements may be considered as buffers:

- a. Natural features including but not limited to topographical breaks, lakes, streams, and ravines;
- b. Major traffic arterials and railroad tracks;
- c. Distinct change in street layout and block orientation;
- d. Open space and greenspaces.

6. Zone boundaries.

a. In establishing boundaries, the following element shall be considered:

i. Physical buffers as described in subsection A(5) above; and

ii. Platted lot lines.

b. Boundaries between commercial and residential areas shall generally be established so that commercial uses face each other across the street on which they are located, and face away from adjacent residential areas. An exception may be made when physical buffers can provide a more effective separation between uses.

7. Height limits. In general, height limits greater than thirty five (35) feet should be limited to areas where higher height limits would be consistent with the comprehensive plan or where the designation would be consistent with the existing built character of the area;

8. Impact Evaluation. The evaluation of the changes that would result from approval of the application shall consider the possible negative and positive impacts on the affected area and its surroundings. Factors to be examined include, but are not limited to, the following:

- a. Housing;
- b. Public services;
- c. Environmental factors, such as noise, air and water quality, terrestrial and aquatic flora and fauna, glare, odor, shadows and energy conservation;
- d. Pedestrian safety;
- e. Manufacturing activity;
- f. Employment activity;
- g. Character of areas recognized for architectural or historic value;
- h. Shoreline view, public access and recreation;

i. Service capacities. Development which can be reasonably anticipated based on the proposed development potential shall not exceed the service capacities which can reasonably be anticipated in the area, including: street access to the area; street capacity in the area; transit service; parking capacity; utility and sewer capacity; shoreline navigation.

9. Changed Circumstances. Consideration of changed circumstances shall be limited to elements or conditions included in the criteria for the relevant zone designations in the Zoning Code;

10. Critical Areas. If the area is located in or adjacent to a critical area, the effect of the rezone on the critical area shall be considered.

Section 7. A new Section 18.40.115 is hereby added to the Edgewood Municipal Code, which shall read as follows:

18.40.115 Conditioning. A Quasi-Judicial Map Amendment may be conditioned based on the criteria set forth in 18.40.114 and RCW 43.21C.060 (SEPA). Conditions shall be included in a Development Agreement recorded against the subject property.

Section 8. A new Section 18.40.116 is hereby added to the Edgewood Municipal Code, which shall read as follows:

18.40.116 Deadline for Final Decision. A Quasi-Judicial Map Amendment shall be approved, approved with conditions or denied within one hundred-twenty (120) days after the application has been determined complete.

Section 9. A new Section 18.40.117 is hereby added to the Edgewood Municipal Code, which shall read as follows:

18.40.117 Expiration.

A. A Quasi-Judicial Amendment approval with or without a development agreement shall expire three years from the effective date of the approval, unless;

1. If, prior to the end of the three-year period, a complete application is filed for a building permit that is subsequently issued; or
2. Another time for expiration is specified in the final decision or development agreement.

B. When a Quasi-Judicial Amendment expires, the Official Land Use Map shall be amended so that the zoning designation in effect immediately prior to the approval shall re-apply to the subject property, except as otherwise expressly provided in the original ordinance adopting the Quasi-Judicial Amendment.

Section 10. Purpose of Interim Zoning Ordinance. The purpose of this Interim Zoning Ordinance is to allow the City to consider and process applications for Quasi-Judicial Map Amendments during the interim period until the City drafts and considers a new “permanent” or interim zoning ordinance adopting “permanent” regulations on the same subject. The City will consider adoption and enforcement of such an ordinance during the next six months, while this Interim Zoning Ordinance is in effect.

Section 11. Interim Ordinance Adopted. This Interim Ordinance is immediately adopted for a period of six months in order to provide the City adequate time to:

A. Review a new interim or “permanent” zoning ordinance to regulate Quasi-Judicial Map Amendments. It is likely that the City Staff will begin work starting with this Ordinance.

B. During the interim period, the City expects to hold a public hearing(s) on the draft ordinance, perform SEPA, obtain public input on such ordinances, allow the Planning Commission to make recommendations to the City Council, for the City Council to review the draft ordinance and, if desired, to adopt new regulations on Quasi-Judicial Map Amendments. This work will begin immediately.

Section 12. Effect of Interim Zoning Ordinance. This Interim Zoning Ordinance will allow the City, during the next six months, to accept applications for Quasi-Judicial Map Amendment applications and to process them under the regulations in this ordinance. Those applications conforming to the regulations in this ordinance may be approved and those that are not consistent with this ordinance may be denied. Issuance of permits and/or appeals of any decisions under this Interim Zoning Ordinance shall proceed in the same manner as set forth in chapter 18.40 EMC.

Section 13. Duration of Interim Zoning Ordinance. This Interim Zoning Ordinance shall be immediately effective upon adoption. As long as the City holds a public hearing on the Interim Zoning Ordinance and adopts findings and conclusions in support of the Interim Zoning Ordinance (as contemplated by Section 14 herein), the Interim Zoning Ordinance shall not terminate until six (6) months after the date of adoption, unless repealed earlier by the Council, or at the time when all of the events described in Section 11 have been accomplished, whichever is sooner.

Section 14. Public Hearing on Interim Zoning Ordinance. Pursuant to RCW 36.70A.390 and RCW 35.63.200, the City Council shall hold a public hearing on this interim zoning ordinance within sixty (60) days of its adoption, or before April 25, 2017. During the next Council meeting immediately following the public hearing, the City Council shall adopt findings of fact on the subject of this interim zoning ordinance and either justify its continued imposition or repeal this ordinance.

Section 15. Declaration of Emergency. The City Council hereby declares that an emergency exists necessitating that this interim zoning ordinance take effect immediately upon passage by a majority vote plus one of the whole membership of the Council, and that the same is not subject to a referendum. If this interim zoning ordinance is not adopted immediately, applications for

Quasi-Judicial Map Amendments zone may be submitted with applications for permits subject to the vested rights doctrine. If this occurs, the City may be required to consider both applications as vested, and process them under the City's old regulations, leading to confusion and possible incompatibility of regulations/development. Therefore, the interim zoning ordinance must be adopted immediately as an emergency measure to protect the public health, safety and welfare, and to allow the submission of applications to the City for Quasi-Judicial Map Amendments while the City is working on "permanent" regulations covering this subject.

Section 16. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful 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 17. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 18. Effective Date. This Ordinance shall take effect and be in full force immediately upon passage, having received the vote of a majority plus one of the entire Council.

**PASSED BY THE CITY COUNCIL OF THE CITY OF EDGEWOOD THIS 28TH DAY
OF FEBRUARY, 2017.**

Daryl Eidinger, Mayor

AUTHENTICATED:

Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

Carol Morris, City Attorney



**CITY OF EDGEWOOD
REGULAR COUNCIL MEETING SUMMARY**

Tues., March 14, 2017 – 7:00 p.m. ♦ City Hall – 2224 104th Avenue East ♦ Edgewood, WA

1. CALL TO ORDER

Mayor Eidinger called the meeting to order at 7:00pm. Councilmember Meyers led the attendees in the Pledge of Allegiance.

ROLL CALL

Present: Mayor Daryl Eidinger (Not voting), Councilmember Donna O'Ravez, Councilmember Mark Creley, Councilmember Luke Meyers, Deputy Mayor Tyron Christopherson, Councilmember Rosanne Tomy, Councilmember Nate Lowry. **Excused:** Councilmember Stephanie Shook.

Staff Present: Assistant City Administrator Dave Gray, Assistant City Administrator Aaron Nix, City Clerk Rachel Pitzel, Community Development Director Kevin Stender, Police Chief Micah Lundborg.

Additions/Deletions to the Agenda

There were no additions or deletions to the agenda.

2. AUDIENCE COMMENT

There were no audience comments.

3. MAYOR'S REPORT

Mayor Eidinger spoke about the following:

- State Representative Morgan Irwin hosted a Town Hall meeting, with Phil Fortunato in attendance last Saturday;
- Updated folks on the next two outreach events, Friday, March 17th at 6:30pm Movie Night – Secret Life of Pets; and on Saturday from 9:30-11:30am Connect over Coffee with the Mayor and Councilmembers O'Ravez and Creley;
- Tour of MTVE facilities with Aaron Nix and discussed ways that we can continue to work together for the good of all citizens;
- RFQ interviews for development of the City Stormwater Management Plan, final selection of a contractor will be done by the end of the week;
- Continual bi-weekly meetings with the Puyallup School District, they will be finalizing plans for the sewer extension to Edgemont Jr. High in the next couple of weeks- he noted as soon as he can he will update everyone when plans and timing become firm;
- Met with Pierce County Sheriff contract team to discuss next steps with our Code Enforcement Plans.

Assistant City Administrator Nix briefed on the following:

- Received comments back from Milton staff regarding the Franchise Agreement, which has now been sent to our Attorney for review and will come back to Council at the next study session and up for adoption at the subsequent Regular Council meeting;
- Should Council a photo that was taken at Westridge regarding a landslide, noted he has been working with Conner Homes who is actively addressing the issue;

- Noted he did not hear much regarding the Code Enforcement draft from last Study Session and is planning on moving forward with it and bringing it forward to the next study session meeting and Public Hearing and possible adoption on March 28th regular council meeting; he will also be bring forward traffic concurrency;
- With the weather, we are having, he noted himself, and Jeremy and Taylor have been out in the field addressing issues. Citizens have been very receptive and thankful for the motivation the City has and updating the Stormwater Comprehensive Plan.

Chief Lundborg briefed on the following:

- Received the Pierce County Law Enforcement Officer of the Year award, which will be awarded on the 29th of March;
- Crime incidents update;
- Noted events happening in the City: March 21st Coffee with a Cop at Simon's Mill on March 21st, Public Safety Meeting at City Hall, 6:30pm on March 29th, and the Shredding Event sponsored by Bank of America on April 29th.

4. CONSENT AGENDA

The consent agenda includes items that are routine in nature and are adopted by one motion. Should Council wish to discuss a consent agenda item, the item would be removed from the consent agenda and discussed under Council Business.

The following items are presented for Council approval:

- A. Regular City Council Meeting Minutes of February 28, 2017,
- B. Study Session Meeting Minutes of March 7, 2017.
- C. **AB 17-012**, a motion approving March 2017 Budgeted Expenditures as follows: Nationwide Retirement Solutions Check Numbers 10596-10597 in the amount of \$4,709.44; IRS 941 ACHs; AWC Employee Benefit Trust; Deferred Compensations Program; Dept. of Retirement Systems and Payroll Direct Deposit in the amount of \$70,197.53; and Vendor Check Numbers 21866-21883 with EFT Payments in the amount of \$335,485.91. Total distributions submitted for review & authorization in the amount of \$410,392.88

Motion: As Read, **Action:** Approve, **Moved by** Councilmember Rosanne Tomin, **Seconded by** Deputy Mayor Tyron Christopherson. **Motion passed unanimously (6-0).**

5. COUNCIL BUSINESS

- A. **AB 17-0358**, a motion approving Resolution No. 17-0358, authorizing the Mayor to approve a contract with Environmental Science Associates (ESA) for professional services in connection with the City of Edgewood Critical Areas and Best Available Science Update

Assistant City Administrator Nix briefed on the agenda item.

Motion: As Read, **Action:** Approve, **Moved by** Councilmember Nate Lowry, **Seconded by** Councilmember Luke Meyers. **Motion passed unanimously (6-0).**

6. COUNCIL COMMENTS

Deputy Mayor Christopherson noted he is on the Board of the Milton Police Foundation which is having their Annual Award dinner which is being held at Mill Ridge Village, he noted he has 5 tickets available.

Councilmember Tomya noted on 32nd St. between 110th and 112th there is a tree on the lower lines; she has called PSE, but it is still there.

Councilmember Creley thanked staff regarding the water that looked like it had washed the culvert out, he noted staff took care of it right away, and wanted to thank them for the quick response.

Mayor Eidinge wanted to remind everyone that Pierce Transit is free this week.

Councilmember Meyers noted on March 9th in the early afternoon, a tree came down at the bottom of Edgewood Drive, where the tree fell, was not in our jurisdictional area- but, he is concerned with all the rain we are receiving and the large trees, that the city will be seeing this more often on that hill.

Assistant City Administrator Nix stated the city did have a contract with Bobs Tree service to take out a significant amount of vegetation in that area, he noted we may want to consider doing a tree survey to evaluate specific trees that may need to be removed and to help address Council's issues regarding this specific item.

Councilmember Meyers also noted that further up the hill on Edgewood Drive someone ran off the road recently, and there is a track now that is running through that paved canal.

Councilmember Lowry asked about the Jovita Wall and if there was any debris behind them.

7. EXECUTIVE SESSION

There was no executive session.

8. ADJOURN

Mayor Eidinge adjourned the meeting at 7:36 pm.

Rachel Pitzel, City Clerk

Daryl Eidinge, Mayor



**CITY OF EDGEWOOD
COUNCIL STUDY SESSION SUMMARY**

Tues., March 21, 2017 – 7:00 PM ♦ City Hall – 2224 104th Avenue East ♦ Edgewood, WA

1. CALL TO ORDER

Mayor Eiding called the meeting to order at 7:00pm and led attendees in the Pledge of Allegiance.

ROLL CALL

Present: Mayor Daryl Eiding (Not voting), Councilmember Donna O'Ravez, Councilmember Mark Creley, Councilmember Luke Meyers, Deputy Mayor Tyron Christopherson, Councilmember Stephanie Shook, Councilmember Rosanne Tomin, Councilmember Nate Lowry. **Staff Present:** Assistant City Administrator Dave Gray, Assistant City Administrator Aaron Nix, City Clerk Rachel Pitzel, Community Development Director Kevin Stender, Police Chief Micah Lundborg.

2. COUNCIL BUSINESS

- A. Review/Discussion** - RFQ- Surface Water Management Plan Update – Consultant Contract
Assistant City Administrator Aaron Nix and Community Development Director Kevin Stender briefed Council on this agenda item.
Discussion followed between staff and the Council.
- B. Review/Discussion** - Jovita Seismic Wall Project
Assistant City Administrator Aaron Nix briefed Council on this agenda item
Discussion followed between staff and the Council regarding the other areas on Jovita and what needs to be done for those areas. Staff noted that a Resolution to accept the project will be brought forward at the next regular council meeting.
- C. Review/Discussion** - Town Center/Mix Residential Code Change
Community Development Director Kevin Stender briefed Council on this agenda item.
Discussion followed between staff and the Council.
Council action: Council recommended staff to bring forward to the next regular council meeting for a first reading.
- D. Review/Discussion** - Interim Code for Rezone Applications (Quasi-Judicial actions)
Community Development Director Kevin Stender briefed Council on this agenda item.
Discussion followed between staff and the Council.
- E. Review/Discussion** - Concurrency Ordinance
Assistant City Administrator Aaron Nix briefed Council on this agenda item, he noted this is just an introduction; it still needs to go through the Planning Commission- Council will see this again late April and for adoption in early May hopefully.
Discussion followed between staff and the Council.
- F. Review/Discussion** - City of Milton Franchise Agreement
Assistant City Administrator Aaron Nix briefed Council on this agenda item.
Discussion followed between staff and the Council. Mr. Nix noted that with the conversations with the city of Milton, it looks like the franchise agreement is ready to be brought forward to the next regular council meeting for adoption.

G. Review/Discussion - Code Enforcement Ordinance

Assistant City Administrator Aaron Nix briefed Council on this agenda item. Mr. Nix stated he took what City Attorney Morris provided Council at the last Study Session with the documents he provided and merged them. Intent is to come forward to Council at the next regular council meeting for a public hearing.

Discussion followed between staff and the Council.

H. Review/Discussion – TCMS, Inc. HVAC Maintenance Agreement

Assistant City Administrator Dave Gray briefed Council on this agenda item.

Discussion followed between staff and the Council. Council agreed to have this item placed on the consent agenda at the next regular council meeting.

3. OTHER COUNCIL ISSUES

Mayor stated a resolution is coming forward at the next Council meeting for the PCRC representative, which will now be Nate Lowry.

Kevin Stender discussed the Economic Development piece and looking at how that is going to function and what our goals are. He noted staff is working on things that will be worked on and putting together a task force, so we have a group to bounce things off of and be a go-between. He noted that Councilmember Lowry expressed interest in being on this committee; Councilmember Tomyne stated she was interested as well.

Mayor Eiding discussed the fatality that occurred at the Arbors that day.

Councilmember Meyers stated he was concerned about the standing water at Lake Chalet.

Discussion took place regarding Stormwater issues.

4. ADJOURN

Mayor Eiding adjourned the meeting at 8:35pm.

Rachel Pitzel, City Clerk

Daryl Eiding, Mayor



CITY OF EDGEWOOD
REQUEST FOR COUNCIL ACTION
Agenda Bill No.: 17-015

Date Action Requested: March 28, 2017

Title: **AB 17-015**, a motion approving March 2017 Budgeted Expenditures as follows: Nationwide Retirement Solutions Check Numbers 10598-10599 in the amount of \$4,727.76; IRS 941 ACHs; Deferred Compensations Program; Dept. of Retirement Systems and Payroll Direct Deposit in the amount of \$48,642.83; and Vendor Check Numbers 21884-21906 with EFT Payments in the amount of \$190,031.83. Total distributions submitted for review & authorization in the amount of \$243,402.42

Attachments: Payment Distribution Review & Authorization, Voucher Directory

Submitted By: Dave Gray, Assistant City Administrator, Finance

Approved For Agenda By: Mayor Daryl Eiding

Prepared For Agenda By: Rachel Pitzel, City Clerk

Recommendation: Move to Approve AB17-015

Discussion: Approval of Claims and Payroll Expenditures.

Alternatives: 1) Do not approve. 2) Refer to Council Study Session for Further Review.

Fiscal Impact: An increase in the sum of \$243,402.42 to authorized Budgeted Expenditures.

Number	Name	Print Date	Amount
US Bank PAYROLL ACCOUNT DISTRIBUTION			
10597 Last Number Issued Previous Authorization			
<u>10598</u>	Nationwide Retirement Solutions-401	3/15/2017	\$4,690.26
<u>10599</u>	Nationwide Retirement Solutions-Council	3/15/2017	\$37.50
	Total		\$4,727.76
<u>DCP EFT 3/15/17</u>	Deferred Compensation Program	3/15/2017	\$1,585.38
<u>Direct Deposit Run -</u>	Payroll Vendor	3/15/2017	\$34,760.18
<u>DRS EFT 3/15/17</u>	Dept of Retirement Systems	3/15/2017	\$6,882.11
<u>IRS 941 3/15/17</u>	IRS 941	3/15/2017	\$5,415.16
	Total		\$48,642.83
	Grand Total		\$53,370.59

Number	Name	Print Date	Amount
CLAIM VOUCHER ACCOUNT DISTRIBUTION			
21883 Last Number Issued Previous Authorization			
<u>21884</u>	Bob's Property Solutions, Inc.	3/28/2017	\$3,846.50
<u>21885</u>	Cannon Construction, Inc.	3/28/2017	\$13,204.58
<u>21886</u>	Code Publishing Inc.	3/28/2017	\$1,038.75
<u>21887</u>	Comcast	3/28/2017	\$101.26
<u>21888</u>	Comcast Business	3/28/2017	\$797.83
<u>21889</u>	Copiers Northwest	3/28/2017	\$29.53
<u>21890</u>	Daryl Eiding	3/28/2017	\$147.45
<u>21891</u>	Gray & Osborne, Inc	3/28/2017	\$3,415.40
<u>21892</u>	Int'l Assoc.- Chiefs of Police	3/28/2017	\$150.00
<u>21893</u>	JCG Technologies	3/28/2017	\$850.00
<u>21894</u>	Kyocera Document Solutions NW	3/28/2017	\$721.46
<u>21895</u>	Mt. View-Edgewood Water Co.	3/28/2017	\$427.23
<u>21896</u>	National Barricade Co., LLC	3/28/2017	\$175.20
<u>21897</u>	Office Depot	3/28/2017	\$185.49
<u>21898</u>	Olympic Embroidery	3/28/2017	\$706.33
<u>21899</u>	O'Reilly Auto Parts	3/28/2017	\$5.91
<u>21900</u>	Pierce County Budget & Finance Sheriff	3/28/2017	\$156,212.17
<u>21901</u>	Puget Sound Energy	3/28/2017	\$1,707.32
<u>21902</u>	Revize LLC	3/28/2017	\$1,800.00
<u>21903</u>	Smarsh, Inc.	3/28/2017	\$171.55
<u>21904</u>	Transpo Group	3/28/2017	\$2,262.50
<u>21905</u>	Washington Tractor	3/28/2017	\$922.13
<u>21906</u>	WMCA	3/28/2017	\$75.00
<u>EFT Payment 3/22/2017</u>	Pitney Bowes Global Financial Services	3/28/2017	\$212.51
<u>EFT Payment 3/22/2017</u>	Shell	3/28/2017	\$413.71
<u>EFT Payment 3/22/2017</u>	Wells Fargo Financial Leasing	3/28/2017	\$85.53
<u>EFT Payment 3/22/2017</u>	Wells Fargo Vendor Fin Serv	3/28/2017	\$366.49
	Grand Total		\$190,031.83

Total Claims Voucher Distribution	\$190,031.83
Total Distribution Submitted for Review & Authorization	\$243,402.42
Authorization Adjustments:	\$0.00
Total Distribution Net of Prior Authorized Adjustments	\$243,402.42

Claims Voucher Approval: I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due and unpaid obligation against the City of Edgewood, and that I am authorized to authenticate and certify to said claim.

Mayor, Daryl Eiding

Council Member



Voucher Directory

Vendor	Number	Reference	Account Number	Description	Amount
Bob's Property Solutions, Inc.	21884			2017 - March - 2nd Council Meeting	
		030317-Bob's			
			March Services		
			101-000-000-542-70-48-04	Road Maint ROW Veg Maint Contractor	\$3,846.50
				Maple Tree Removal-3306/3318 Meridian	
		Total 030317-Bob's			\$3,846.50
	Total 21884				\$3,846.50
Total Bob's Property Solutions, Inc.					\$3,846.50
Cannon Construction, Inc.	21885			2017 - March - 2nd Council Meeting	
		25314			
			Mach Services-Job 17046		
			410-000-000-594-31-64-64	Infrastructure Spot Improvement	\$13,204.58
				Caldwell Culvert-PW Contract 17-001	
		Total 25314			\$13,204.58
	Total 21885				\$13,204.58
Total Cannon Construction, Inc.					\$13,204.58
Code Publishing Inc.	21886			2017 - March - 2nd Council Meeting	
		55802			
			March Services		
			001-014-000-514-30-41-01	Professional Services	\$1,038.75
				EMC Updates	
		Total 55802			\$1,038.75
	Total 21886				\$1,038.75
Total Code Publishing Inc.					\$1,038.75
Comcast	21887			2017 - March - 2nd Council Meeting	
		8498 35 021 0458551 3/25-4/24/17			
			3/25-4/24/17 Services		
			001-018-000-518-30-42-01	Telecommunications Charges	\$101.26
				City Hall Internet	
		Total 8498 35 021 0458551 3/25-4/24/17			\$101.26
	Total 21887				\$101.26
Total Comcast					\$101.26

Vendor	Number	Reference	Account Number	Description	Amount
Comcast Business					
	21888			2017 - March - 2nd Council Meeting	
		51450821			
			3/15-4/14/17 Services		
			001-018-000-518-30-42-01	Telecommunications Charges	\$797.83
				City Hall Phones	
		Total 51450821			\$797.83
	Total 21888				\$797.83
Total Comcast Business					
Copiers Northwest					
	21889			2017 - March - 2nd Council Meeting	
		INV1535720			
			2/14-3/13/17 Overage Charges		
			001-018-000-518-30-45-06	Copier Lease	\$29.53
				Lexmark Printers	
		Total INV1535720			\$29.53
	Total 21889				\$29.53
Total Copiers Northwest					
Daryl Eidinger					
	21890			2017 - March - 2nd Council Meeting	
		032217-DE			
			Expense Reimbursement		
			001-013-000-513-10-31-05	Meeting Meals Expense	\$30.00
				Police Officer Awards Annual Dinner	
			001-013-000-513-10-31-05	Meeting Meals Expense	\$17.45
				Coffee-Saturday Coffee w/Council	
			001-076-000-576-80-41-01	Professional Services	\$100.00
				Bee Keeping Presentation	
		Total 032217-DE			\$147.45
	Total 21890				\$147.45
Total Daryl Eidinger					
Gray & Osborne, Inc					
	21891			2017 - March - 2nd Council Meeting	
		32-G&O Prj 14590.00			
			February Services		
			340-000-000-595-80-41-02	STPUL HLP 3290(010) Jovita Seismic Walls Construction Mgmt	\$3,105.46
		Total 32-G&O Prj 14590.00			\$3,105.46
		5-G&O Prj 16463.02			
			February Services		
			410-000-000-531-38-41-01	Professional Service	\$309.94

Vendor	Number	Reference	Account Number	Description	Amount
				108th Ave E Hydrologic SW Report	
		Total 5-G&O Prj 16463.02			\$309.94
	Total 21891				\$3,415.40
Total Gray & Osborne, Inc					\$3,415.40
Int'l Assoc.- Chiefs of Police					
	21892			2017 - March - 2nd Council Meeting	
		030117-IACP			
			2017 Membership-Chief Micah Lundborg		
			001-021-000-521-10-49-01	Dues & Memberships	\$150.00
		Total 030117-IACP			\$150.00
	Total 21892				\$150.00
Total Int'l Assoc.- Chiefs of Police					\$150.00
JCG Technologies					
	21893			2017 - March - 2nd Council Meeting	
		5689			
			5/1/17-4/30/18 Renewal		
			001-014-000-518-80-49-03	Computer Subscriptions	\$850.00
				Meeting Recorder Software	
		Total 5689			\$850.00
	Total 21893				\$850.00
Total JCG Technologies					\$850.00
Kyocera Document Solutions NW					
	21894			2017 - March - 2nd Council Meeting	
		55T1016233			
			12/19/16-3/18/17 Overage Charges		
			001-018-000-518-20-45-06	Copier Lease	\$721.46
				Kyocera	
		Total 55T1016233			\$721.46
	Total 21894				\$721.46
Total Kyocera Document Solutions NW					\$721.46
Mt. View-Edgewood Water Co.					
	21895			2017 - March - 2nd Council Meeting	
		15563-6386 1/11-3/10/17			
			1/11/17-3/10/17 Service		
			001-018-000-518-20-47-02	Water	\$58.04
				1425 110th Ave E	
		Total 15563-6386 1/11-3/10/17			\$58.04

Vendor	Number	Reference	Account Number	Description	Amount
		2746-3401 1/11-3/10/17			
		1/11/17-3/10/17 Service			
		001-018-000-518-20-47-02	Water		\$312.19
			City Hall		
		Total 2746-3401 1/11-3/10/17			\$312.19
		2823-3409 1/11-3/10/17			
		1/11/17-3/10/17 Service			
		001-018-000-518-20-47-02	Water		\$57.00
			10311 22nd Ave E		
		Total 2823-3409 1/11-3/10/17			\$57.00
	Total 21895				\$427.23
Total Mt. View-Edgewood Water Co.					\$427.23
National Barricade Co., LLC					
21896			2017 - March - 2nd Council Meeting		
	269182				
		March Services			
		101-000-000-542-30-31-01	Operational Supplies		\$175.20
	Total 269182				\$175.20
	Total 21896				\$175.20
Total National Barricade Co., LLC					\$175.20
Office Depot					
21897			2017 - March - 2nd Council Meeting		
	911283552001				
		March Purchases			
		001-018-000-518-20-31-01	Office & Operational Supplies		\$56.69
			Labels,Pens,Post It Pads, Air Fresheners		
	Total 911283552001				\$56.69
	911287475001				
		March Purchases			
		001-018-000-518-20-31-01	Office & Operational Supplies		\$14.74
			Stapler,3 Hole Punch		
	Total 911287475001				\$14.74
	911924086001				
		March Purchases			
		001-018-000-518-20-31-01	Office & Operational Supplies		\$114.06
			Markers, TP, Paper Towels		
	Total 911924086001				\$114.06
	Total 21897				\$185.49
Total Office Depot					\$185.49

Vendor	Number	Reference	Account Number	Description	Amount
Olympic Embroidery	21898			2017 - March - 2nd Council Meeting	
		16801			
			March Purchases		
			001-018-000-518-20-31-01	Office & Operational Supplies	\$706.33
				COE Employee Jackets	
		Total 16801			\$706.33
	Total 21898				\$706.33
Total Olympic Embroidery					\$706.33
O'Reilly Auto Parts	21899			2017 - March - 2nd Council Meeting	
		3725-119158			
			February Purchases		
			001-018-000-518-30-48-07	Maintenance & Repairs-Vehicles	\$5.91
				Truck Light Bulb	
		Total 3725-119158			\$5.91
	Total 21899				\$5.91
Total O'Reilly Auto Parts					\$5.91
Pierce County Budget & Finance Sheriff	21900			2017 - March - 2nd Council Meeting	
		CI-229886			
			March Services		
			001-021-000-521-20-51-01	Police Services	\$156,212.17
		Total CI-229886			\$156,212.17
	Total 21900				\$156,212.17
Total Pierce County Budget & Finance Sheriff					\$156,212.17
Pitney Bowes Global Financial Services					
	EFT Payment 3/22/2017 3:57:41 PM - 1			2017 - March - 2nd Council Meeting	
	3302942192				
			12/30/16-3/29/17 Lease		
			001-018-000-518-20-45-03	Postage Meter Lease	\$212.51
				Postage Meter Lease	
		Total 3302942192			\$212.51
	Total EFT Payment 3/22/2017 3:57:41 PM - 1				\$212.51
Total Pitney Bowes Global Financial Services					\$212.51
Puget Sound Energy	21901			2017 - March - 2nd Council Meeting	
		030617-PSE			
			February Statement		
			001-018-000-518-20-47-01	Electricity	\$1,707.32
		Total 030617-PSE			\$1,707.32
	Total 21901				\$1,707.32
Total Puget Sound Energy					\$1,707.32

Vendor	Number	Reference	Account Number	Description	Amount
Revize LLC	21902			2017 - March - 2nd Council Meeting	
		5360			
			4/1/17-3/31/18 Services		
			001-014-000-518-80-41-02	Web Site Services	\$1,800.00
				CMS Support	
		Total 5360			\$1,800.00
	Total 21902				\$1,800.00
Total Revize LLC					\$1,800.00
Shell					
	EFT Payment 3/22/2017 3:57:41 PM - 2			2017 - March - 2nd Council Meeting	
	8000093974703				
		February Purchases			
		001-018-000-518-30-32-01		Fuel	\$413.71
		Total 8000093974703			\$413.71
	Total EFT Payment 3/22/2017 3:57:41 PM - 2				\$413.71
Total Shell					\$413.71
Smarsh, Inc.	21903			2017 - March - 2nd Council Meeting	
		INV00215809			
		February Services			
		001-014-000-518-80-49-03		Computer Subscriptions	\$171.55
		Total INV00215809			\$171.55
	Total 21903				\$171.55
Total Smarsh, Inc.					\$171.55
Transpo Group	21904			2017 - March - 2nd Council Meeting	
		20061			
		Feb Svcs-Prj 0.13312.00			
		001-058-000-558-60-41-01		Reim.Engineering - Prof. Serv	\$2,262.50
				Northwood Elementaru 16-5676	
		Total 20061			\$2,262.50
	Total 21904				\$2,262.50
Total Transpo Group					\$2,262.50
Washington Tractor	21905			2017 - March - 2nd Council Meeting	
		1210934			
		March Purchases			
		410-000-000-531-38-35-05		Equipment - Surface Water	\$922.13
				Trash Pump Hoses	
		Total 1210934			\$922.13
	Total 21905				\$922.13
Total Washington Tractor					\$922.13

Vendor	Number	Reference	Account Number	Description	Amount
Wells Fargo Financial Leasing					
		EFT Payment 3/22/2017 3:57:41 PM - 3	2017 - March - 2nd Council Meeting		
		5003800059			
			4/4-5/3/17 Lease		
			001-018-000-518-30-45-06	Copier Lease	\$85.53
		Total 5003800059			\$85.53
		Total EFT Payment 3/22/2017 3:57:41 PM - 3			\$85.53
Total Wells Fargo Financial Leasing					\$85.53
Wells Fargo Vendor Fin Serv					
		EFT Payment 3/22/2017 3:57:41 PM - 4	2017 - March - 2nd Council Meeting		
		66484381			
			April Kyocera Lease Payment		
			001-018-000-518-30-45-06	Copier Lease	\$366.49
		Total 66484381			\$366.49
		Total EFT Payment 3/22/2017 3:57:41 PM - 4			\$366.49
Total Wells Fargo Vendor Fin Serv					\$366.49
WMCA					
	21906		2017 - March - 2nd Council Meeting		
		032217-WMCA			
			Membership-J.Schwerzler Herrera		
			001-018-000-518-20-49-01	Memberships	\$75.00
			J.Schwerzler-Herrera 2016-2017 Dues		
		Total 032217-WMCA			\$75.00
	Total 21906				\$75.00
Total WMCA					\$75.00
Grand Total					
		Vendor Count	27		\$190,031.83



**CITY OF EDGEWOOD
REQUEST FOR COUNCIL ACTION
AGENDA BILL NO. : 17-0359**

Date Action Requested: March 28, 2017

Title: TCMS, INC. HVAC 3 Year Maintenance Agreement

Attachments: TCMS HVAC 3 Year Maintenance Agreement

Submitted By: Dave Gray, ACA/Finance Director

Approved For Agenda By: Daryl Eiding, Mayor

Discussion: The City went out for RFQs for HVAC maintenance in 2016. We selected TCMS, the provider since the construction of City Hall on an “as needed vendor” basis due to their familiarity with the building systems, which politely stated, are challenging (geothermal with obsolete control systems). The City would like to turn over the control systems as well; however, vendors (including TCMS) were not interested in contracting for their service until significant upgrades could be made. TCMS is willing to maintain all HVAC systems excluding the control system, until the City replaces them. They would be willing to re-write a total HVAC system maintenance agreement at that time to include the control system (upgraded). The City has an estimate to upgrade the system of \$60,000.00. The City intends to ask the City Council to approve the expenditure in the 2018 budget.

Recommendation: To authorize the Mayor to execute the TCMS, Inc. HVAC 3 year Maintenance Agreement.

Fiscal Impact: The contract cost is \$18,900 .00 for 2017, increasing to \$19,848.00 for 2018 through January 31, 2020. City Staff believes this will reduce the City’s annual HVAC maintenance cost, as currently we pay on an as needed repair basis. City Staff also believe there will be fewer disruptions in HVAC operations such as the summertime failures experienced in 2016 and the winter heating failures in 2015.

RESOLUTION NO. 17-0359

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF EDGEWOOD, PIERCE COUNTY, WASHINGTON
AUTHORIZING THE MAYOR TO EXECUTE A THREE
YEAR MAINTENANCE AGREEMENT WITH TCMS, INC.
FOR HVAC SERVICES AT CITY HALL**

WHEREAS, TCMS, Inc. has been providing HVAC maintenance service for City Hall since the City occupied the building in 2009; and

WHEREAS, the City has been pleased with the service provided and in particular the knowledge of the system (Ground Thermal Heat Sink) TCMS brings to what has been determined by Staff as a somewhat unique combination of mechanical and electronic controls; and

WHEREAS, City staff and the Mayor reviewed other providers proposals in detail and found TCMA's pricing to be competitive;

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

Section 1. The Mayor is hereby authorized to execute a three year Agreement for HVAC maintenance substantially in the form attached hereto as the Goods & Services Agreement for Ordinary Maintenance between the City of Edgewood and TCMS.

PASSED BY THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 28TH DAY OF MARCH, 2017.

Daryl Eidinger, Mayor

ATTEST:

Rachel Pitzel, City Clerk

**GOODS & SERVICES AGREEMENT
FOR
ORDINARY MAINTENANCE
between the City of Edgewood and
TCMS**

THIS AGREEMENT is made by and between the City of Edgewood, a Washington municipal corporation (hereinafter the "City"), and TCMS, Inc., a corporation organized under the laws of the State of Washington, located and doing business at 8310 30th Ave NE; Lacey, WA 98516 (hereinafter the "Vendor").

AGREEMENT

I. DESCRIPTION OF WORK.

Vendor shall provide the following goods and materials and/or perform the following services for the City:

Scope of Work & Schedule pursuant to Appendix A and Schedule 1, page 2 - 10 attached hereto and incorporated herein.

Vendor acknowledges and understands that it is not the City's exclusive provider of these goods, materials, or services and that the City maintains its unqualified right to obtain these goods, materials, and services through other sources.

II. TIME OF COMPLETION. Upon the effective date of this Agreement, Vendor shall complete the work and provide all goods, materials, and services customary and usual for an ongoing comprehensive HVAC maintenance agreement as outlined in Exhibit A, Scope of Work. The TERM of the agreement shall be three years unless terminated pursuant to article VI.

III. COMPENSATION. The City shall pay the Vendor an amount not to exceed \$4,725 per quarter until February 01, 2018 at which time the rate shall increase to \$4,962 per quarter until January 31, 2020, including applicable Washington State Sales Tax, for the goods, materials, and services contemplated in this Agreement. The City shall pay the Vendor the following amounts according to the following schedule:

Vendor shall be paid monthly upon submission of a monthly invoice detailing the quarterly agreed upon base fee, together with any charges identified in Exhibit A as additional cost. The City will endeavor to process vendors invoice promptly and in no instance will a properly authorized and presented invoice, that is not disputed, be paid later than 30 days after receipt.

If the City objects to all or any portion of an invoice, it shall notify Vendor and reserves the option to only pay that portion of the invoice not in dispute. In that event, the parties will immediately make every effort to settle the disputed portion.

- A. Defective or Unauthorized Work. The City reserves its right to withhold payment from Vendor for any defective or unauthorized goods, materials or services. If Vendor is unable, for any reason, to complete any part of this Agreement, the City may obtain the goods, materials or services from other sources, and Vendor shall be liable to the City for any additional costs incurred by the City. "Additional costs" shall mean all reasonable costs, including legal costs and attorney fees, incurred by the City beyond the maximum Agreement price specified above. The City further reserves its right to deduct these additional costs incurred to complete this Agreement with other sources, from any and all amounts due or to become due the Vendor.
- B. Final Payment: Waiver of Claims. VENDOR'S ACCEPTANCE OF FINAL PAYMENT SHALL CONSTITUTE A WAIVER OF CLAIMS, EXCEPT THOSE PREVIOUSLY AND PROPERLY MADE AND IDENTIFIED BY VENDOR AS UNSETTLED AT THE TIME REQUEST FOR FINAL PAYMENT IS MADE.

IV. PREVAILING WAGES. Vendor shall file a "Statement of Intent to Pay Prevailing Wages," with the State of Washington Department of Labor & Industries prior to commencing the Contract work. Vendor shall pay prevailing wages in effect on the date the bid is accepted or executed by Vendor, and comply with Chapter 39.12 of the Revised Code of Washington, as well as any other applicable prevailing wage rate provisions. The latest prevailing wage rate revision issued by the Department of Labor and Industries is attached.

V. INDEPENDENT CONTRACTOR. The parties intend that an Independent Contractor-Employer Relationship will be created by this Agreement and that the Vendor has the ability to control and direct the performance and details of its work, the City being interested only in the results obtained under this Agreement.

VI. TERMINATION. Either party may terminate this Agreement with 30 days' notice prior to the anniversary date, with or without cause, written notice at its address set forth on the signature block of this Agreement.

VII. CHANGES. The City may issue a written change order for any change in the goods, materials or services to be provided during the performance of this Agreement. If the Vendor determines, for any reason, that a change order is necessary, Vendor must submit a written change order request to the person listed in the notice provision section of this Agreement, section XIV(D), within fourteen (14) calendar days of the date Vendor knew or should have known of the facts and events giving rise to the requested change. If the City determines that

the change increases or decreases the Vendor's costs or time for performance, the City will make an equitable adjustment. The City will attempt, in good faith, to reach agreement with the Vendor on all equitable adjustments. However, if the parties are unable to agree, the City will determine the equitable adjustment as it deems appropriate. The Vendor shall proceed with the change order work upon receiving either a written change order from the City or an oral order from the City before actually receiving the written change order. If the Vendor fails to require a change order within the time allowed, the Vendor waives its right to make any claim or submit subsequent change order requests for that portion of the contract work. If the Vendor disagrees with the equitable adjustment, the Vendor must complete the change order work; however, the Vendor may elect to protest the adjustment as provided in subsections A through E of Section VII, Claims, below.

The Vendor accepts all requirements of a change order by: (1) endorsing it, (2) writing a separate acceptance, or (3) not protesting in the way this section provides. A change order that is accepted by Vendor as provided in this section shall constitute full payment and final settlement of all claims for contract time and for direct, indirect and consequential costs, including costs of delays related to any work, either covered or affected by the change.

VIII. CLAIMS. If the Vendor disagrees with anything required by a change order, another written order, or an oral order from the City, including any direction, instruction, interpretation, or determination by the City, the Vendor may file a claim as provided in this section. The Vendor shall give written notice to the City of all claims within fourteen (14) calendar days of the occurrence of the events giving rise to the claims, or within fourteen (14) calendar days of the date the Vendor knew or should have known of the facts or events giving rise to the claim, whichever occurs first. Any claim for damages, additional payment for any reason, or extension of time, whether under this Agreement or otherwise, shall be conclusively deemed to have been waived by the Vendor unless a timely written claim is made in strict accordance with the applicable provisions of this Agreement.

At a minimum, a Vendor's written claim shall include the information set forth in subsections A, items 1 through 5 below.

FAILURE TO PROVIDE A COMPLETE, WRITTEN NOTIFICATION OF CLAIM WITHIN THE TIME ALLOWED SHALL BE AN ABSOLUTE WAIVER OF ANY CLAIMS ARISING IN ANY WAY FROM THE FACTS OR EVENTS SURROUNDING THAT CLAIM OR CAUSED BY THAT DELAY.

A. Notice of Claim. Provide a signed written notice of claim that provides the following information:

1. The date of the Vendor's claim;
2. The nature and circumstances that caused the claim;
3. The provisions in this Agreement that support the claim;
4. The estimated dollar cost, if any, of the claimed work and how that estimate was determined; and
5. An analysis of the progress schedule showing the schedule change or disruption if the Vendor is asserting a schedule change or disruption.

B. Records. The Vendor shall keep complete records of extra costs and time incurred as a result of the asserted events giving rise to the claim. The City shall have access to any of the Vendor's records needed for evaluating the protest.

The City will evaluate all claims, provided the procedures in this section are followed. If the City determines that a claim is valid, the City will adjust payment for work or time by an equitable adjustment. No adjustment will be made for an invalid protest.

- C. Vendor's Duty to Complete Protested Work. In spite of any claim, the Vendor shall proceed promptly to provide the goods, materials and services required by the City under this Agreement.
- D. Failure to Protest Constitutes Waiver. By not protesting as this section provides, the Vendor also waives any additional entitlement and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).
- E. Failure to Follow Procedures Constitutes Waiver. By failing to follow the procedures of this section, the Vendor completely waives any claims for protested work and accepts from the City any written or oral order (including directions, instructions, interpretations, and determination).

IX. LIMITATION OF ACTIONS. VENDOR MUST, IN ANY EVENT, FILE ANY LAWSUIT ARISING FROM OR CONNECTED WITH THIS AGREEMENT WITHIN 120 CALENDAR DAYS FROM THE DATE THE CONTRACT WORK IS COMPLETE OR VENDOR'S ABILITY TO FILE THAT SUIT SHALL BE FOREVER BARRED. THIS SECTION FURTHER LIMITS ANY APPLICABLE STATUTORY LIMITATIONS PERIOD.

X. WARRANTY. This Agreement is subject to all warranty provisions established under the Uniform Commercial Code, Title 62A, Revised Code of Washington. Vendor warrants goods are merchantable, are fit for the particular purpose for which they were obtained, and will perform in accordance with their specifications and Vendor's representations to City. The Vendor shall correct all defects in workmanship and materials within one (1) year from the date of the City's acceptance of the Contract work. In the event any part of the goods are repaired, only original replacement parts shall be used—rebuilt or used parts will not be acceptable. When defects are corrected, the warranty for that portion of the work shall extend for one (1) year from the date such correction is completed and accepted by the City. The Vendor shall begin to correct any defects within seven (7) calendar days of its receipt of notice from the City of the defect. If the Vendor does not accomplish the corrections within a reasonable time as determined by the City, the City may complete the corrections and the Vendor shall pay all costs incurred by the City in order to accomplish the correction.

XI. DISCRIMINATION. In the hiring of employees for the performance of work under this Agreement or any sub-contract, the Vendor, its sub-contractors, or any person acting on behalf of the Vendor or sub-contractor shall not, by reason of race, religion, color, sex, age, sexual orientation, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

XII. INDEMNIFICATION. Vendor shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorney fees, arising out of or in

connection with the Vendor's performance of this Agreement, except for that portion of the injuries and damages caused by the City's negligence.

The City's inspection or acceptance of any of Vendor's work when completed shall not be grounds to avoid any of these covenants of indemnification.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE VENDOR'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER.

The provisions of this section shall survive the expiration or termination of this Agreement.

XIII. INSURANCE. The Vendor shall procure and maintain for the duration of the Agreement, insurance of the types and in the amounts described in Exhibit B, attached and incorporated by this reference.

XIV. WORK PERFORMED AT VENDOR'S RISK. Vendor shall take all necessary precautions and shall be responsible for the safety of its employees, agents, and subcontractors in the performance of the contract work and shall utilize all protection necessary for that purpose. All work shall be done at Vendor's own risk, and Vendor shall be responsible for any loss of or damage to materials, tools, or other articles used or held for use in connection with the work.

XV. MISCELLANEOUS PROVISIONS.

A. Recyclable Materials. Pursuant to Chapter 3.80 of the Edgewood City Code, the City requires its contractors and consultants to use recycled and recyclable products whenever practicable. A price preference may be available for any designated recycled product.

B. Non-Waiver of Breach. The failure of the City to insist upon strict performance of any of the covenants and agreements contained in this Agreement, or to exercise any option conferred by this Agreement in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements or options, and the same shall be and remain in full force and effect.

C. Resolution of Disputes and Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. If the parties are unable to settle any dispute, difference or claim arising from the parties' performance of this Agreement, the exclusive means of resolving that dispute, difference or claim, shall only be by filing suit exclusively under the venue, rules and jurisdiction of the Pierce County Superior Court, Pierce County, Washington, unless the parties agree in writing to an alternative dispute resolution process. In any claim or lawsuit for damages arising from the parties' performance of this Agreement, each party shall pay all its legal costs and attorney's fees incurred in defending or bringing such claim or lawsuit, including all appeals, in addition to any other recovery or award provided by law; provided, however, nothing in this paragraph shall be construed to limit the City's right to indemnification under Section XII of this Agreement.

D. Written Notice. All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the Agreement, unless notified to the contrary. Any written notice hereunder shall become effective three (3) business days after the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Agreement or such other address as may be hereafter specified in writing.

E. Assignment. Any assignment of this Agreement by either party without the written consent of the non-assigning party shall be void. If the non-assigning party gives its consent to any assignment, the terms of this Agreement shall continue in full force and effect and no further assignment shall be made without additional written consent.

F. Modification. No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and Vendor.

G. Entire Agreement. The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner this Agreement. All of the above documents are hereby made a part of this Agreement. However, should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, the terms of this Agreement shall prevail.

H. Compliance with Laws. The Vendor agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or in the future become applicable to Vendor's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of those operations.

I. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute an original, and all of which will together constitute this one Agreement.

IN WITNESS, the parties below execute this Agreement, which shall become effective on the last date entered below.

VENDOR:	CITY OF EDGEWOOD:
By: _____ (signature)	By: _____ (signature)
Print Name: <u>Todd Wyche</u>	Print Name: <u>Daryl Eidinger</u>
Its <u>General Manager</u> (title)	Its <u>Mayor</u>
DATE: _____	DATE: _____

NOTICES TO BE SENT TO: VENDOR: Todd Wyche, General Manager TCMS, Inc. 8310 30th Ave NE Lacey, WA 98516 360.493.8870 (telephone)	NOTICES TO BE SENT TO: CITY OF EDGEWOOD: City Clerk City of Edgewood 2224 104th Avenue East Edgewood, WA 98372-1513 (253)952.3299 (telephone) cityclerk@cityofedgewood (email)
	APPROVED AS TO FORM: _____ City Attorney, Carol Morris

EXHIBIT A, PAGE 1 OF 10

GUARANTEED LIFETIME PROTECTION

Proposal Date	Proposal Number	Agreement No.
09/02/2016	PG16240	

This GUARANTEED LIFETIME PROTECTION (GLP) program provides the Customer with an ongoing, comprehensive maintenance program for the lifetime of the contract and all renewals thereof. The GLP program will be initiated, scheduled, administered, monitored and updated by the Contractor. The service activities will be directed and scheduled, on a regular basis, by our comprehensive equipment maintenance scheduling system based on manufacturers' recommendations, equipment location, application, type, run time, and Contractor's own experience. The Customer is informed of the program's progress and results on a continuing basis via a detailed Service Report, presented after each service call for Customer's review, approval signature and record.

CONTRACTOR WILL PROVIDE THE FOLLOWING PROFESSIONAL MAINTENANCE SERVICES FOR THE BUILDING ENVIRONMENTAL MECHANICAL SYSTEM(S) COMPRISED OF THE EQUIPMENT LISTED ON SCHEDULE 1 (INVENTORY OF EQUIPMENT):

TEST AND INSPECT: Job labor, travel labor and travel and living expenses required to visually INSPECT and TEST equipment to determine its operating condition and efficiency. Typical activities include:
 -TESTING for excessive vibration; motor winding resistance; refrigerant charge; fan RPM; refrigerant oil (acid); water condition; flue gas analysis; safety controls; combustion and draft; crankcase heaters; control system(s), etc.
 -INSPECTING for worn, failed or doubtful parts; mountings; drive couplings; oil level; rotation; soot; flame composition and shape; pilot and igniter; steam, water, oil and/or refrigerant leaks, etc.

PREVENTIVE MAINTENANCE: Job labor, travel labor and travel and living expenses required to clean, align, calibrate, tighten, adjust, lubricate and paint equipment. These activities are intended to extend equipment life and assure proper operating condition and efficiency. Typical activities include:
 -CLEANING coil surfaces; fan impellers and blades; electrical contacts; burner orifices; passages and nozzles; pilot and igniter; cooling tower baffles, basin, sump and float; chiller, condenser and boiler tubes, etc.
 -ALIGNING belt drives; drive couplings; air fins, etc.
 -CALIBRATING safety controls; temperature and pressure controls, etc.
 -TIGHTENING electrical connections; mounting bolts; pipe clamps; refrigerant piping fittings; damper sections, etc.
 -ADJUSTING belt tension; refrigerant charge; super heat; fan RPM; water chemical feed and feed rate; burner fuel/air ratios; gas pressure; set point of controls and limits; compressor cylinder unloaders; damper close-off; sump floats, etc.
 -LUBRICATING motors; fan and damper bearings; valve stems; damper linkages; fan vane linkages, etc.
 -PAINTING, for corrosion control, as directed by our scheduling system and on an as-needed basis.

REPAIR AND REPLACE: Job labor, travel labor, parts procurement labor (locating, ordering, expediting and transporting) and travel and living expenses required to REPAIR or REMOVE AND REPLACE broken, worn and/or doubtful components and or parts.

TROUBLE CALLS: Job labor and travel labor, including overtime, plus travel and living expenses required for unscheduled work resulting from an abnormal condition.

COMPONENTS, PARTS AND SUPPLIES: The cost of COMPONENTS, PARTS AND SUPPLIES required to keep the equipment operating properly and efficiently.

Inventory Of Equipment

Proposal Date	Proposal Number	Agreement No.
09/02/2016	PG16240	

City of Edgewood

Qty	Description	Manufacturer	Model	Serial #	Rating	Location
1	Air Handler(s) HRU - 1 1 - Supply Fan Motor	Greenheck			1.5 HP	
1	Package Unit(s) WWHP - 1 1 - Evaporator Fan Motor 1 - Heating Section 1 - Compressor 1 - Compressor	Climate Master			3 HP 5 Tons 5 Tons	
1	GSHP - 1 1 - Evaporator Fan Motor 1 - Heating Section 1 - Compressor	Climate Master			0.3 HP 3 Tons	
1	GSHP 2 1 - Evaporator Fan Motor 1 - Heating Section 1 - Compressor	Climate Master			0.25 HP 2 Tons	
1	GSHP 3 1 - Evaporator Fan Motor 1 - Heating Section 1 - Compressor	Climate Master			0.25 HP 2 Tons	
1	GSHP 4 1 - Evaporator Fan Motor 1 - Heating Section 1 - Compressor	Climate Master			0.25 HP 2 Tons	
1	GSHP 5 1 - Evaporator Fan Motor	Climate Master			0.25 HP	

Inventory Of Equipment

Proposal Date	Proposal Number	Agreement No.
09/02/2016	PG16240	

City of Edgewood

Qty	Description	Manufacturer	Model	Serial #	Rating	Location
	Package Unit(s)					
	1 - Heating Section					
	1 - Compressor				1 Tons	
1	GSHP 6	Climate Master				
	1 - Evaporator Fan Motor				1 HP	
	1 - Heating Section					
	1 - Compressor				5 Tons	
1	GSHP 2-1	Climate Master				
	1 - Evaporator Fan Motor				0.25 HP	
	1 - Heating Section					
	1 - Compressor				1 Tons	
1	GSHP 2-2	Climate Master				
	1 - Evaporator Fan Motor				0.25 HP	
	1 - Heating Section					
	1 - Compressor				1 Tons	
1	GSHP 2-3	Climate Master				
	1 - Evaporator Fan Motor				0.25 HP	
	1 - Heating Section					
	1 - Compressor				1 Tons	
1	GSHP 2-4	Climate Master				
	1 - Evaporator Fan Motor				0.25 HP	
	1 - Heating Section					
	1 - Compressor				1 Tons	
1	GSHP 2-5	Climate Master				
	1 - Evaporator Fan Motor				0.25 HP	
	1 - Heating Section					
	1 - Compressor				1 Tons	

Inventory Of Equipment

Proposal Date	Proposal Number	Agreement No.
09/02/2016	PG16240	

City of Edgewood

Qty	Description	Manufacturer	Model	Serial #	Rating	Location
	Package Unit(s)					
1	GSHP 2-6 1 - Evaporator Fan Motor 1 - Heating Section 1 - Compressor	Climate Master			0.3 HP 3 Tons	
1	GSHP 2-7 1 - Evaporator Fan Motor 1 - Heating Section 1 - Compressor	Climate Master			0.5 HP 4 Tons	
1	GSHP 2-8 1 - Evaporator Fan Motor 1 - Heating Section 1 - Compressor	Climate Master			0.5 HP 3 Tons	
1	GSHP 2-9 1 - Evaporator Fan Motor 1 - Heating Section 1 - Compressor	Climate Master			0.12 HP 1 Tons	
1	GSHP 2-10 1 - Evaporator Fan Motor 1 - Heating Section 1 - Compressor	Climate Master			0.12 HP 1 Tons	
1	GSHP 2-11 1 - Evaporator Fan Motor 1 - Heating Section 1 - Compressor	Climate Master			0.25 HP 2 Tons	
1	GSHP 2-12	Climate Master				

Inventory Of Equipment

Proposal Date	Proposal Number	Agreement No.
09/02/2016	PG16240	

City of Edgewood

Qty	Description	Manufacturer	Model	Serial #	Rating	Location
	Package Unit(s)					
	1 - Evaporator Fan Motor				0.12 HP	
	1 - Heating Section					
	1 - Compressor				1 Tons	
1	GSHP 2-13	Climate Master				
	1 - Evaporator Fan Motor				0.25 HP	
	1 - Heating Section					
	1 - Compressor				2 Tons	
1	GSHP 2-14	Climate Master				
	1 - Evaporator Fan Motor				0.12 HP	
	1 - Heating Section					
	1 - Compressor				1 Tons	
1	GSHP 2-15	Climate Master				
	1 - Evaporator Fan Motor				0.12 HP	
	1 - Heating Section					
	1 - Compressor				1 Tons	
1	GSHP 2-16	Climate Master				
	1 - Evaporator Fan Motor				0.25 HP	
	1 - Heating Section					
	1 - Compressor				2 Tons	
1	GSHP 2-17	Climate Master				
	1 - Evaporator Fan Motor				0.75 HP	
	1 - Heating Section					
	1 - Compressor				5 Tons	
1	GSHP 2-18	Climate Master				
	1 - Evaporator Fan Motor				0.5 HP	
	1 - Heating Section					

Inventory Of Equipment

Proposal Date	Proposal Number	Agreement No.
09/02/2016	PG16240	

City of Edgewood

Qty	Description	Manufacturer	Model	Serial #	Rating	Location
	Package Unit(s)					
	1 - Compressor				3 Tons	
1	GSHP 2-19	Climate Master				
	1 - Evaporator Fan Motor				0.75 HP	
	1 - Heating Section					
	1 - Compressor				5 Tons	
1	GSHP 2-20	Climate Master				
	1 - Evaporator Fan Motor				0.75 HP	
	1 - Heating Section					
	1 - Compressor				5 Tons	
	Special Pump(s)					
1	P-1	Taco			0.5 HP	
1	P-2	Taco			0.5 HP	
	Includes thermostats related to equipment.					

Air Filter Service

Proposal Date	Proposal Number	Agreement No.
09/02/2016	PG16240	

CONTRACTOR WILL FURNISH AND INSTALL AIR FILTER MATERIAL(S) AS LISTED BELOW:

Unit	Qty	Size	Type	Changes/Yr
Package/Split System(s)				
WWHP - 1	4	20 X 20 X 1	Ext. Surface Pleated	2
GSHP - 1	1	12 X 20 X 2	Ext. Surface Pleated	2
GSHP - 1	1	20 X 25 X 2	Ext. Surface Pleated	2
GSHP 2	2	18 X 18 X 2	Ext. Surface Pleated	2
GSHP 3	2	18 X 18 X 2	Ext. Surface Pleated	2
GSHP 4	2	18 X 18 X 2	Ext. Surface Pleated	2
GSHP 5	1	10 X 10 X 2	Ext. Surface Pleated	2
GSHP 6	2	20 X 20 X 2	Ext. Surface Pleated	2
GSHP 2-6	2	15 X 30 X 2	Ext. Surface Pleated	2
GSHP 2-7	1	20 X 20 X 2	Ext. Surface Pleated	2
GSHP 2-7	1	20 X 24 X 2	Ext. Surface Pleated	2
GSHP 2-8	1	20 X 25 X 2	Ext. Surface Pleated	2
GSHP 2-8	1	12 X 20 X 2	Ext. Surface Pleated	2

THE SERVICES DESCRIBED ABOVE ARE GOVERNED BY THE TERMS AND CONDITIONS OF THE PROGRAM OF WHICH THIS SCHEDULE IS A PART.

If this program is terminated, Contractor reserves the right to remove Contractor's frames.

*Should experience show that more or less frequent media changes are required, the Agreement price will be adjusted based on Contractor's rate then in effect.

Confidential and Proprietary. No Unauthorized Reproduction or Use.

Air Filter Service

Proposal Date	Proposal Number	Agreement No.
09/02/2016	PG16240	

CONTRACTOR WILL FURNISH AND INSTALL AIR FILTER MATERIAL(S) AS LISTED BELOW:

Unit	Qty	Size	Type	Changes/Yr
GSHP 2-9	1	10 X 20 X 1	Ext. Surface Pleated	2
GSHP 2-10	1	10 X 20 X 2	Ext. Surface Pleated	2
GSHP 2-11	2	18 X 18 X 2	Ext. Surface Pleated	2
GSHP 2-12	1	10 X 20 X 2	Ext. Surface Pleated	2
GSHP 2-13	2	18 X 18 X 2	Ext. Surface Pleated	2
GSHP 2-14	1	10 X 20 X 2	Ext. Surface Pleated	2
GSHP 2-15	1	10 X 20 X 2	Ext. Surface Pleated	2
GSHP 2-16	2	18 X 18 X 2	Ext. Surface Pleated	2
GSHP 2-17	2	18 X 30 X 2	Ext. Surface Pleated	2
GSHP 2-18	1	20 X 25 X 2	Ext. Surface Pleated	2
GSHP 2-18	1	12 X 20 X 2	Ext. Surface Pleated	2
GSHP 2-19	2	16 X 30 X 2	Ext. Surface Pleated	2
GSHP 2-19	1	12 X 20 X 2	Ext. Surface Pleated	2
GSHP 2-20	2	16 X 30 X 2	Ext. Surface Pleated	2

THE SERVICES DESCRIBED ABOVE ARE GOVERNED BY THE TERMS AND CONDITIONS OF THE PROGRAM OF WHICH THIS SCHEDULE IS A PART.

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Air Filter Service

Proposal Date	Proposal Number	Agreement No.
09/02/2016	PG16240	

CONTRACTOR WILL FURNISH AND INSTALL AIR FILTER MATERIAL(S) AS LISTED BELOW:

Unit	Qty	Size	Type	Changes/Yr
GSHP 2-20	1	12 X 20 X 2	Ext. Surface Pleated	2
Air Handler(s) HRU - 1	6	16 X 25 X 2	Ext. Surface Pleated	2

THE SERVICES DESCRIBED ABOVE ARE GOVERNED BY THE TERMS AND CONDITIONS OF THE PROGRAM OF WHICH THIS SCHEDULE IS A PART.

If this program is terminated, Contractor reserves the right to remove Contractor's frames.

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Schedule 5

Special Services/Provisions

Proposal Date	Proposal Number	Agreement No.
09/02/2016	PG16240	

The Delta control system is not covered under the Guaranteed Lifetime Protection program due to the unavailability of replacement parts.

THE SERVICES DESCRIBED ABOVE ARE GOVERNED BY THE TERMS AND CONDITIONS OF THE PROGRAM OF WHICH THIS SCHEDULE IS A PART.

EXHIBIT B INSURANCE REQUIREMENTS

Insurance. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance

Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named by endorsement as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington and Employer's Liability Insurance.

B. Minimum Amounts of Insurance

Consultant 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 \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Employer's Liability insurance each accident \$1,000,000; Employer's Liability Disease each employee \$1,000,000; and Employer's Liability Disease – Policy Limit \$1,000,000.

C. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, and Commercial General Liability insurance:

1. The Consultant's insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

Revised 2/26/15

2. The Consultant's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.
3. The City will not waive its right to subrogation against the Consultant. The Consultant's insurance shall be endorsed acknowledging that the City will not waive their right to subrogation. The Consultant's insurance shall be endorsed to waive the right of subrogation against the City, or any self-insurance, or insurance pool coverage maintained by the City.
4. If any coverage is written on a "claims made" basis, then a minimum of a three (3) year extended reporting period shall be included with the claims made policy, and proof of this extended reporting period provided to the City.

D. Acceptability of Insurers

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

E. Verification of Coverage

Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.



**CITY OF EDGEWOOD
REQUEST FOR COUNCIL ACTION
Agenda Bill No.: 17-0360**

Date Action Requested: March 28, 2017

Title: Appointments to positions on External Boards, Commissions, Committees, and other Organizations for the Year 2017.

Attachments: Proposed Resolution, and Exhibit A – Board Appointments

Submitted By: Mayor Daryl Eiding

Approved For Agenda By: Mayor Daryl Eiding

Prepared For Agenda By: Rachel Pitzel, City Clerk

Recommendation: Move to adopt Resolution No. 17-0360, repealing and replacing Resolution 16-0328, making appointments to positions on External Boards, Commissions, Committees, and other Organizations for the Year 2017.

Discussion: There are several opportunities for Councilmembers to serve on local and Regional Boards, Committees, or Commissions as a Representative of the City of Edgewood and the City Council. Changes in the make-up of the City Council, and in some cases interests among individual members, require the need to update these Council liaison assignments from time to time; typically for a two-year period.

Once adopted, this list will be provided to each of the organizations designated therein to make them aware of any changes in Edgewood's representation.

Alternatives: 1) Do Not Adopt. 2) Forward to a Study Session for Further Review.

Fiscal Impact: None Known.

RESOLUTION NO. 17-0360

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, REPEALING AND REPLACING RESOLUTION NO. 16-0328 MAKING APPOINTMENTS TO POSITIONS ON EXTERNAL BOARDS, COMMISSIONS, COMMITTEES, AND OTHER ORGANIZATIONS FOR THE YEAR 2017

WHEREAS, the City Council adopted Resolution 16-0328 to establish a list of City Council representatives to serve on various external Boards, Commissions, Committees and other organizations in 2016; and

WHEREAS, Resolution 16-0328, repealed and replaced Resolution 14-0306, which repealed and replaced Resolution No. 11-281; and

WHEREAS, the City Council wishes to repeal the resolutions identified herein and establish the 2017 list of designees to represent the City.

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

Section 1. City Council representatives are hereby appointed and/or reappointed to serve on the designated external Board(s), Commission(s), Committee(s) and/or other organization(s) as indicated on the list of Council representatives, attached hereto as Exhibit A.

Section 2. The term of these appointments shall be for the calendar year 2017, or until a replacement is appointed by Council.

Section 3. The Clerk shall provide a copy of this Resolution to organizations named in Exhibit A.

Section 4. This Resolution will take effect immediately upon passage by the City Council.

ADOPTED THIS 28th DAY OF MARCH, 2017.

Mayor, Daryl Eiding

ATTEST/AUTHENTICATED:

Rachel Pitzel, City Clerk

CITY OF EDGEWOOD
2017 Council Representatives

Exhibit A

Organization	Representative(s)	2016 Meeting Information
Joint City/County Open Space Taxation Determination Board	Councilmember Tyron Christopherson <i>Councilmember Donna O’Ravez (Alt)</i>	Will be Announced <i>Chad Williams (253) 798-3683</i>
Pierce County Regional Council	Mayor Daryl Eiding <i>Councilmember Nate Lowry (Alt)</i>	Meet the 3 rd Thursday of each month (no meetings in August or December) - 6:00 pm Pierce County Annex (<i>with the exception of the General Assembly meeting</i>) <i>Cindy Anderson (253) 798-2630</i>
Pierce County Cities & Towns Association	Mayor Daryl Eiding <i>Councilmember Stephanie Shook (Alt)</i>	Meet the 1 st Thursday of each month – 7:00pm, 6:30pm social hour – Poodle Dog Restaurant in Fife, <i>Katie Bolam (253) 517-2705</i>
Puyallup River Watershed Council	Councilmember Nate Lowry	Meet the 4 th Thursday at 3:30pm at Puyallup City Hall, Fifth floor conference area each month -January thru October. <i>Patty Denny (253) 335-6235</i>
Mayor’s Breakfast	Mayor Daryl Eiding <i>Deputy Mayor Tyron Christopherson (Alt)</i>	Meet the 4 th Friday of each month - 7:30am – Poodle Dog Restaurant in Fife. – (<i>Nov. & Dec. subject to change</i>) <i>Sue Rawlings (253)798-7477</i>
Fife Area Chamber of Commerce	Councilmember Donna O’Ravez <i>Deputy Mayor Tyron Christopherson (Alt)</i>	Chamber Luncheon Meets the 2 nd Wednesday of each month – 11:30am at 5580 Pacific Hwy E, Fife (Emerald Queen Conf. Center. <i>Julie Watts (253) 922-9320</i> The Chamber has a variety of special events, please check their website for additional information: www.fmechamber.org Fife Chamber Board – Meets the 3 rd Tuesday of each month – 4:00pm, 3700 Pacific Highway East, Suite 150.
Mt. View Edgewood Water Company	Councilmember Mark Creley <i>Councilmember Luke Meyers (Alt)</i>	Meets the 2 nd Wednesday of each month – 6:00pm – as long as it falls after the 10 th . If so, default to the next Wednesday. Meets at the Mt. View Edgewood Water Company – <i>Jacki Masters (253)863-7348</i>



CITY OF EDGEWOOD
REQUEST FOR COUNCIL ACTION
Agenda Bill No.: 17-0361

Date Action Requested: March 28, 2017

Title: Jovita Boulevard Stabilization Seismic Wall Project Acceptance Resolution

Attachments: Resolution 17-0361

Submitted By: Aaron C. Nix, ACA – Municipal Services, Acting PW Director

Approved For Agenda By: Daryl Eiding, Mayor

Prepared For Agenda By: Aaron C. Nix, ACA – Municipal Services, Acting PW Director

Recommendation: Move that the Edgewood City Council accept the Jovita Boulevard Stabilization Seismic Wall Project.

Discussion: The Jovita Boulevard Stabilization Seismic Wall Project has reached its conclusion and Staff have prepared a Resolution in order to have the Council accept the project as complete. Both City Staff and the City's consultant Engineer, Gray and Osbourne are satisfied with the work product and concur that the work can be accepted.

Alternatives: 1) Do not adopt. 2) Forward to Study Session for further review

Fiscal Impact: The total project cost, including design, project management and construction was estimated at \$1,255,376.00. The final close-out cost of the project is \$1,224,853.40, all funded by grant money the City received from both State and Federal resources.

RESOLUTION NO. 17-0361

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, ACCEPTING AS COMPLETE THE JOVITA BOULEVARD SLOPE STABILIZATION SEISMIC WALL PROJECT

WHEREAS, the City of Edgewood applied for and received both State and Federal grant resources to design, construct and fund the Jovita Boulevard Slope Stabilization Seismic Wall Project in the amount of \$1,255,400; and

WHEREAS, the Jovita Boulevard Slope Stabilization Seismic Wall Project consisted of constructing approximately 800 linear feet of soldier pile walls, approximately 5 feet in height, for debris catchment along the south side of Jovita Boulevard, including the installation of storm drainage improvements and a concrete barrier in this same area; and

WHEREAS, the City entered into a contract with Gray and Osborne in October of 2014 to begin work on design of the project and to aide staff in project management and construction of the approved design proposal; and

WHEREAS, the City of Edgewood gained approval from the relevant State granting agencies on the design of the project and was allowed to move forward with the construction of the project in July of 2016 and proceeded to advertise for bids in accordance with RCW 35.23.352; and

WHEREAS, the City selected the lowest competitive bid and awarded the contract to R. W. Scott at their August 23, 2016 Council meeting to construct the Jovita Boulevard Slope Stabilization Seismic Wall Project in the amount of \$887,594.00; and

WHEREAS, R.W. Scott completed the project for the dollar amount of \$921,605.08 and City Staff and the City's Engineering Consultant are in agreement that the project can be accepted and deemed complete by the City Council;

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

Section 1. Completion of the Jovita Boulevard Slope Stabilization Seismic Wall Project.
The City Council hereby deems the Jovita Boulevard Stabilization Seismic Wall project complete.

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

ADOPTED THIS 28TH DAY OF MARCH, 2016

Daryl Eiding, Mayor

ATTEST:

Rachel Pitzel, City Clerk



CITY OF EDGEWOOD
REQUEST FOR COUNCIL ACTION
Agenda Bill No.: 17-0496

Date Action Requested: March 28, 2017

Title: Ordinance 17-0496, Town Center, Commercial and Mixed Use Residential Code Updates to EMC 18.80.080 related to Commercial and Mixed Use Development within the City of Edgewood.

Attachments: DRAFT Ordinance 17-0496

Submitted By: Kevin Stender, Community Development Director

Approved For Agenda By: Daryl Eidinger, Mayor

Prepared For Agenda By: Kevin Stender, Community Development Director

Recommendation: Move to accept first reading of Ordinance 17-0496, an ordinance of the City of Edgewood, Washington, relating to land use and zoning in the Town Center, Commercial and Mixed Use Residential Zones, amending Section 18.80.080 of the Edgewood Municipal Code including revising the use table, densities, location of mixed uses and providing for variances, providing for severability; and establishing an effective date.

Discussion: The City Council began discussion with Staff regarding the development regulations that govern the Town Center zone in early spring of 2015 after concern was raised by Council regarding low- density multifamily housing and not the desired mix of housing and commercial or “mixed use development” that Council desires and is supported by the Comprehensive Plan. Since that time the Planning Commission has been tasked with finding solution(s) to this issue. Beginning in 2015 with help from 3-Square Blocks and Community Attributes Inc. (CAI) the Planning Commission was able to use our Consultant’s expertise in helping to guide appropriate changes to meet the intent of the Comprehensive Plan while not requiring too much commercial given our commercial absorption estimates of approximately 50,000 square feet of retail space from our Market Analysis prepared by CAI.

With the direction and help of our consultant team, City Staff prepared DRAFT code changes for the Planning Commission to review and modify accordingly based on their comments and limited comments from the general public. Following the March 6, 2017 planning commission meeting, the Planning Commission asked that the code changes be brought to a Public Hearing. The planning commission conducted a Public Hearing on

March 20, 2017 and after that hearing made a recommendation on proposed code changes. That DRAFT was placed in Ordinance format to review with Council at the March 21, 2017 Study Session and in discussion suggested modifications have been made by the Council and also by Legal Counsel and are presented in the text of the DRAFT Ordinance attached in red-line format.

Alternatives: 1) Do not adopt. 2) Forward to Study Session for further review

Fiscal Impact: N/A

ORDINANCE NO. 17-~~XXXX~~0496

AN ORDINANCE OF THE CITY OF EDGEWOOD, WASHINGTON, RELATING TO LAND USE AND ZONING IN THE TOWN CENTER, COMMERCIAL, AND MIXED USE RESIDENTIAL ZONES, AMENDING SECTION 18.80.080 OF THE EDGEWOOD MUNICIPAL CODE INCLUDING REVISING THE USE TABLE, DENSITIES, LOCATION OF MIXED USES, AND PROVIDING FOR VARIANCES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council accepted the Town Center and Meridian Corridor Master Plan in Fall of 2004, which established a vision for the Town Center and Meridian Corridor; and

WHEREAS, the City Council incorporated the Town Center and Meridian Corridor Master Plan into the 20XX Comprehensive Plan as reference material and defined the zones within the Meridian Corridor including the Town Center, Commercial and Mixed Use Residential zones based on the Master Plan; and

WHEREAS, the Edgewood City Council upon entitlement approval and construction of several new single-use apartment projects in 2015 in the Town Center, Commercial and Mixed Use Residential zones voiced concern over a loss of opportunity to realize the vision from the 2004 Town Center and Meridian Corridor master plan; and

WHEREAS, the existing code allows single-use multifamily residential without requiring a proportional commercial or mixed use component in conflict with the City's established vision for the Town Center and Meridian Corridor; and

WHEREAS, the Edgewood Municipal Code (EMC) Section 18.80.080 Town Center, Mixed Use Residential, Commercial, and Business Park zoning districts regulates development standards for these zones in the City of Edgewood; and

WHEREAS, the Edgewood City Council held numerous discussions during regularly scheduled Council meetings starting in March 2015 regarding ways to preserve commercial development opportunities in the Meridian Corridor on single-use residential projects without prohibiting the development of said projects, the City's development regulations pertaining to the Meridian Corridor and Town Center, Commercial, and Mixed Use Residential zoning districts, and the City's Comprehensive Plan Goals and Policies; and

WHEREAS, the Edgewood City Council approved a scope of work and authorized City Staff to work with 3 Square Blocks, a consulting firm, to further review regulatory options for the Town Center zone; and

WHEREAS, the Planning Commission held numerous meetings reviewing the results from reports generated by 3 Square Blocks and Community Attributes Inc, discussing various methods to preserve commercial development opportunities in the Town Center as well as Commercial and Mixed Use Residential zoning districts; and

WHEREAS, the Edgewood City Council and Planning Commission conducted a joint special meeting on September 21, 2015 to further review the regulatory options, concerns and potential changes to the City's development regulations; and

WHEREAS, the Edgewood City Council enacted Ordinance No. 15-0450, adopting interim Chapter 18.80 EMC code amendments for a duration of 6 months, with an effective date of November 3, 2015 sunset date of May 3, 2016; and

WHEREAS, to allow additional study potential TC, C, and MUR zoning code changes, the Edgewood City Council enacted two extensions of the interim chapter (via Ordinance No. 16-0460 and Ordinance No. 16-0479) that sunset on April 20, 2017; and

WHEREAS, the Edgewood City Council approved a scope of work and authorized City Staff to work with Community Attributes Inc. (CAI) to help determine retail opportunities in the City given current trends and to determine what code changes may be appropriate given the findings; and

WHEREAS, the CAI technical analysis identified opportunity for Edgewood to increase its share of retail, commercial, and mixed use development capture in the region; and

WHEREAS, the City Council and Planning Commission met several times to discuss the CAI analysis, options provided by Three Square Blocks, the Comprehensive Plan goals and policies for the Town Center and Meridian Corridor, consistent with the 2004 Town Center Master Plan; and

WHEREAS, the Planning Commission reviewed a DRAFT code amendment to Section 18.80.080 - Town Center, Commercial, Mixed Use Residential and Business Park zoning districts at the February 27th and March 6, 2017 regular Planning Commission meetings; and

WHEREAS, the proposed DRAFT code amendment to Section 18.80.080 – Town Center, Commercial, Mixed Use Residential and Business Park zoning districts identifies a clear process to implement the City's vision from the Comprehensive Plan and Town Center Meridian Corridor Master Plan, requiring preservation of space for, or development of, retail- or office-type commercial uses in single-use multifamily residential proposals; and

WHEREAS, a State Environmental Policy Act (SEPA) checklist was prepared and a Determination of Nonsignificance (DNS) was issued, a legal notice was published in the City's official newspaper on March 4, 2017, and no appeals were filed; and

WHEREAS, the Washington State Department of Commerce granted expedited review of the proposed changes on March 13, 2017; and

WHEREAS, on March 20, 2017, the Planning Commission held a public hearing to receive public comments on the proposed changes to the Town Center, Commercial, Mixed Use Residential and Business Park zoning districts code; and

WHEREAS, as a result of the City's efforts, numerous Council and Planning Commission meetings the public has had opportunity to participate in the review process and all persons desiring to comment during these scheduled meetings were given a full and complete opportunity to be heard; and

WHEREAS, the Planning Commission unanimously recommended changes to EMC 18.80.080 following the public hearing during regular commission business; and

WHEREAS, the City Council reviewed the Planning Commission's recommendation at the March 21, 2018 Study Session; and

WHEREAS, the City Council unanimously moved the DRAFT ordinance through first reading at the March 28, 2017 regular council meeting; and

WHEREAS, the City Council reviewed the Ordinance and discussed the upcoming public hearing regarding the DRAFT ordinance at the April 4, 2017 Council Study Session; and

WHEREAS, on April 11, 2017, the City Council held a public hearing to receive public comments on the proposed changes to the Town Center, Commercial, Mixed Use Residential and Business Park zoning districts code; and

**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 staff reports of September 29, 2015, March 15, 2016, April 5, 2016, August 30, 2016, January 29, 2017, March 21, 2017, April 4, 2017 as well as Council regular sessions on October 27, 2015, April 12, 2016, March 28, 2017 and April 11, 2017 as well as the Planning Commission recommendations of March 20, 2017 and the included agenda bill as additional findings.

Section 2. EMC 18.80.080 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

Table 1: Permitted Use Table

	TC	C	MUR	BP
Use Categories				
Residential (1)				
Dwelling Unit, Accessory	NP	NP	P (1a)	NP
Dwelling Unit, Single-Family Attached	NP	C	P	NP

	TC	C	MUR	BP
Dwelling Unit, Single-Family Detached or Cottage Housing	NP	NP	P	NP
Dwelling Unit, Multifamily	P	P	P	C (1c)
Senior Citizen Assisted Housing	P	P	P	C (1c)
Commercial (2)				
Day Care Center or Home	P	P	P	P
Drive-Through Use	C	P	P	P
Gambling and Card Rooms	NP	P	NP	NP
Home Business	P	P	P	NP
Personal and Beauty Services	P	P	P	P
Professional Office	P	P	P	P
Retail Trade and Services – less than 50,000 sq. ft. for all structures (5)	P (4)	P	P (3)(4)	P (3)
Retail Trade and Services – over 50,000 sq. ft. for all structures	C (4)	P	NP	C
Storage/Self-Storage	NP	P (11)	C (11)	P
Temporary Lodging, Hotel, Motel and Bed and Breakfast	P	P	C	C
Recreation/Cultural				
Cinema, Performing Arts and Museums	P	P	P	NP
Group Assembly/Meeting Hall	P	P	C	P
Private Recreation, Indoor or Outdoor	C	P	P	P
Religious	C	P	C	P
Health Services				
Hospital or Emergency Care Facility	C	C	NP	C
Medical Office/Outpatient Clinic	P	P	P	P
Nursing and Personal Care Facility	C	P	C	P
Group Home – Type I (1b)	P	P	P	NP

	TC	C	MUR	BP
Group Home – Type II and III (1b)	NP	C	NP	NP
Agriculture (5)				
Animal or Crop Processing	NP	NP	NP	C
Family Farm	C	P	P	P
Industrial/Manufacturing (6)				
Light Industrial and Light Manufacturing	NP	C (7)	C (7)	P (7)
Heavy Industrial and Heavy Manufacturing	NP	NP	NP	NP
Civic and Other (8)				
Administrative Government Facilities	P	P	P	P
Essential Public Facilities	NP	P	C	P
Major Utility Facility	NP	C	C	C
Minor Utility Facility	P (9)	P	P	P
Public Park	P	P	P	P
Schools: Compulsory, Vocational and Higher Education	P	P	P	P
Wireless Communication Facilities (10)	C	C	C	C

1. Permit Use Conditions. (Use notes from Table 1 above.)

(1) Residential uses subject to the requirements of EMC Title [16](#), Subdivisions.

- a. Accessory unit is only allowed in association with a single-family detached unit.
- b. Subject to the provisions of EMC [18.70.050](#)(D), (E) or (F).
- c. Provided that multifamily use in BP zone is subject to the development standards contained in Chapter [18.95](#) EMC.

(2) Sexually oriented business is only allowed in the BP district with a conditional use permit.

(3) This use is further restricted to a maximum of 20,000 gross square feet within the MUR and BP districts.

- (4) Services, sales, storage and operations other than customer parking and “sidewalk” style merchandise display and outdoor seating must be fully contained within a structure. Gasoline service stations are not permitted in the Town Center.
- (5) Farmer’s markets, farm stands and public markets are permitted in all districts. If such a market is temporary, then it requires a temporary use permit.
- (6) The director shall determine whether a use is classified as light industrial or heavy industrial based on the industrial classification and its potential to cause negative impacts on residential, civic and commercial uses.
- (7) All structures for light industrial uses must meet the required setbacks, landscaping and all other standards contained in this chapter. Equipment storage and manufacturing activities shall be enclosed in a structure or fully screened with Type I landscaping from Meridian Avenue. Warehouse and distribution uses require a conditional use permit in the Commercial district.
- (8) Maintenance yards, substations and solid waste transfer stations are not permitted outside of the BP district and must be fully screened with 20 feet of Type IV landscaping.
- (9) Minor utility facilities, such as telecom, fiber optics, Internet and similar facilities, shall be located within a fully enclosed structure, unless the director determines this is not feasible.
- (10) Please see EMC [18.100.110](#), Personal wireless communications facilities, for additional requirements. In the event of a conflict between the requirements of that section and the requirements of this chapter, the standards contained in EMC [18.100.110](#) shall apply.

(11) Storage/Self Storage project proposals within the C₇ and MUR zones on combined project areas 2 acres or larger must shall provide retail- or office-commercial type uses or preserve for future retail-or office-commercial type uses equivalent to 30 percent of the project area, within the first 150 feet from an arterial ROW line. develop or retain the front 150 feet deep from the lot line abutting at least one arterial as retail or office commercial type use in order to proceed. In unique situations, the applicant may request relief from this requirement by submitting a written request and associated fee to the City of Edgewood (processed as an Administrative Approval – EMC 18.40.080)

Table 2: Development Standards Table

	TC	C	MUR	BP
Standards (4)				

Comment [cm1]: I don’t understand this. When you say it must “develop or retain the front 150 feet deep from the lot line” what does that mean? Is there a setback 150 feet or not? Retain or develop mean opposite things to me in this context.

Comment [cm2]: The City should not be creating procedures to deviate from the code in the table of permitted uses. Is this a variance or not? There always needs to be criteria to guide the use of discretion. Here, we don’t know what a “unique” situation is or why a person should be allowed to deviate from the code just because they submit a request for it.

	TC	C	MUR	BP
Maximum Height (without any bonus) (1)	45 feet	35 feet	35 feet	35 feet
Maximum Height (with FAR Bonus) (1)	55 feet (minimum 3:1 FAR)	45 feet (minimum 1.5:1 FAR)	35 feet	35 feet
Maximum Residential Net Density – Single Use Project (2)(3)(5)(14)	48 D.U./acre	N/A	24 D.U./acre	N/A (2) (1)
Maximum Residential Net Density – If Part of a Mixed Use Project (3)(2)(4)(5)(14)	Controlled by maximum height, FAR and Building Code	48 D.U./acre	48 D.U./acre	N/A (2) (1)
Minimum Residential Net Density (4) (5)(6)	46 24 D.U./acre	N/A	10 D.U./acre	N/A
Minimum Lot Frontage Occupied by a Building (5) (7)	50%	35%	35%	None
Minimum Setback to TC, C, MUR or BP Zones (6) (8)	None	None	None (7) (9)	None, except 20 feet for light industrial
Minimum Setbacks to Zones Other Than TC, C, MUR or BP (9) (10)	25 feet	25 feet	20 feet	25 feet
Maximum Floor Area Ratio (FAR) with Bonus Features (9) (11)	4:1	3:1	2:1 (10) (12)	2:1
Maximum Floor Area Ratio (FAR) without Bonus Features (11) (13)	1:1	0.5:1	0.5:1 (10) (12)	0.5:1
Maximum Hard Surface Area (Including Lot Coverage)	90%	85%	75%	80%

	TC	C	MUR	BP
Maximum Effective Impervious Surface	75%	70%	60%	65%

Table 2: Development Standards Exceptions and Notes.

~~(1) Mixed Uses. Commercial and residential uses shall be developed in the same project site either in the same building (preferred) or separate buildings. Commercial uses shall constitute a minimum of 10 percent of the gross floor area of the development, not including garage or service areas. Sixty percent of the building's street-facing facades, not including parking entrances and loading areas, shall be developed with retail, restaurant or personal service uses.~~

~~(2-1)~~ Multifamily use in BP zones requires a CUP and is limited to multifamily as allowed. Residential use only allowed in Commercial zone if part of mixed use project.

~~(3 2)~~ To qualify for mixed use bonus, uses must be developed in same project either as vertical or horizontal mixed use.

~~(3) Residential single-use project proposals within the TC, and C -zones on combined project areas 3 acres or larger, shall set back residential structures 150 feet from an arterial ROW line. The setback area shall be developed into retail- or office-type Commercial uses or preserved for future retail- or office-type Commercial uses, or retain the front 150 feet deep from the property line abutting at least one arterial, as a commercial type use (at minimum on the ground level), in order to proceed.~~

~~(4) Mixed use development projects demonstrating a mix (30% commercial minimum) of residential and commercial within the same design may be located throughout the property and not limited to any portion of any specific property.~~

~~(5) Vertical mixed-use projects with first-ground-floor commercial space may be constructed as fully residential projects with the requirement that the first-ground floor must be converted to a Commercial use within 5-3 years of building occupancy. Notice to Title shall be recorded prior to permit issuance if this provision is requested. unless the applicant requests an extension by submitting a written request and associated fee to the Community Development Director (processed as an Administrative Approval—EMC 18.40.080).~~

~~(4 6)~~ Minimum density only applies for single use residential projects.

Comment [cm3]:

Again, I don't understand the use of the words "develop or retain." They either have to consider the front 150 feet to be a setback or develop it?

In order to proceed with what?

Comment [cm4]:

Again, I don't recommend establishing permit procedures in the Table of permitted uses. When you establish a permit procedure, you need to list all the elements of a complete application, the criteria for approval, etc. Here, it looks like all a person has to do in order to deviate from the code is submit a request. If so, why not allow it in the first place?

~~(5 7)~~ For building lots fronting directly on Meridian the minimum lot frontage occupied by a building in all zones is 35 percent.

~~(6 8)~~ Setbacks may be necessary to accommodate utility easements or to accommodate required landscaping.

~~(7 9)~~ Setbacks for single-family detached dwellings shall be as follows:

(a) Front yard/street setback: 15 feet.

(b) Garage setback: 20 feet.

(c) Principal arterial and state highway setback: 25 feet.

(d) Rear yard setback: 10 feet.

(e) Interior setback: five feet or shall meet the minimum fire separation required per the International Fire Code (IFC) as adopted by the city of Edgewood.

~~(8-10)~~ Twenty-foot setback required from any public property other than a street.

~~(9 11)~~ See Table 3: Development Intensity Bonus Options necessary to achieve maximum FAR.

~~(10 12)~~ FAR does not apply to single-family detached dwelling or cottage housing.

~~(11 13)~~ There is no minimum FAR in the TC, C, MUR or BP zones.

~~(12-14)~~ Director and city engineer may establish administrative rules for allowing partial credit for pervious paving materials.

The following optional features may be used alone or in combination to increase the allowed height and floor area ratio (FAR) up to the maximum limits identified in Table 2 (subsection (D) of this section). Table 3 below identifies the allowed FAR bonus and any additional requirements pertaining to the described bonus feature.

Table 3: Development Intensity Bonus Options

Bonus Feature	FAR Bonus	Description, Additional Requirements and Limitations
1. Parallel Road Network	1.5	Dedication and construction of those portions of the adopted parallel road network that are within or adjacent to the subject property. Design shall be

Bonus Feature	FAR Bonus	Description, Additional Requirements and Limitations
		consistent with the adopted street standards, including, but not limited to, travel lanes, on-street parking, landscaping and sidewalk.
2. Significant Public Plaza or Public Green Space	1.0	Available in the Town Center district only, and at the discretion of the director. Location and design shall be consistent with Town Center and Meridian Avenue Corridor master plan, and, if possible, complementary to any planned public plaza or development. Must be a minimum of five percent of the interior floor area of the development and no less than 1,500 square feet. This bonus must be in addition to any pedestrian-oriented space as required in subsection (F) of this section and EMC 18.95.030 or as required by any underlying land use approval. Plazas and green spaces shall incorporate LID to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM).
3. Through Block Connection or Alley Enhancement	1.0	A pedestrian walkway and accompanying landscaping that shall be at least 15 feet wide and extend along a property line or through a site to allow the public to pass from one street to another street or an alley. The surface shall consist of stone, unit pavers, textured concrete, permeable pavement, or other material approved by the community development director or designee, with pedestrian scale lighting at least every 50 feet. Walkways and landscaping shall incorporate LID to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM).
4. Mixed Use Development	1.0	Ground floor commercial with minimum of 12 feet in height measured from finished floor to finished ceiling and residential uses on upper floors at or above minimum residential density. Note additional required standards for pedestrian-oriented ground floor

Bonus Feature	FAR Bonus	Description, Additional Requirements and Limitations
		commercial in No. 8 below shall also apply.
5. Structure Parking, Below Grade	1.0	At least 80 percent of the parking shall be contained within a structure that is below grade.
6. Affordable Housing	1.0	For all new development within the Town Center, total square footage may be increased by two square feet for every one square foot of affordable housing (for a maximum of 1.0 FAR in bonus) provided an affordable housing plan (AHP) is developed and submitted to the director for review and approval. The developer shall commit to implementing the AHP as a part of a signed comprehensive development agreement with the city. This agreement shall be reviewed by a housing consultant or nonprofit group at the expense of the applicant with recommendations made to the director prior to any city commitment to that agreement.
7. Other Public Plaza or Public Green Space	0.75	Location and design shall be consistent with Town Center and Meridian Avenue Corridor master plan and any planned public plaza or development. Must be a minimum of two percent of the interior floor area of the development and no less than 500 square feet. This bonus must be in addition to the minimum pedestrian-oriented space requirement in subsection (F) of this section and EMC 18.95.030 . Plazas and green spaces shall incorporate LID to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM).
8. Ground Floor Pedestrian-Oriented Commercial	0.75	Ground floor commercial with minimum of 12 feet in height measured from finished floor to finished ceiling. Buildings shall include windows with clear vision glass on at least 50 percent of the area between two and 12 feet above grade for all ground floor building facades that are visible from an abutting street. Weather

Bonus Feature	FAR Bonus	Description, Additional Requirements and Limitations
		protection with a minimum of six feet in depth shall be provided over sidewalks and pedestrian connections on 80 percent of the length of the building frontage. This bonus feature may not be used in conjunction with No. 3 above.
9. Structured Parking, At Grade or Above Grade	0.75	At least 80 percent of the parking shall be contained within a structure. The structure may be part of the building or a separate structure. The structure shall be designed to minimize visibility of the parking area from the street. The street level floor shall be mixed use.
10. LEED Gold Certification (or Better)	0.75	As certified by the USGBC. Applicant is responsible for providing LEED precertification submittal documentation and annotated checklist to the city. City will review documentation at the applicant's expense. If accepted, the city will make this a condition of approval of the subsequent building permit.
11. Multi-Modal Pathway	0.5	A pathway for the movement of pedestrians and bicyclists that is consistent with the Town Center and Meridian Avenue Corridor master plan, transportation plan, and city's parks and recreation plan and approved by city staff. Pathways shall incorporate LID to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM).
12. Public Meeting Room	0.5	Available in the Town Center district only. A room available to the community for meetings and events. The size shall be a minimum of 500 square feet, with windows on at least one side and shall be directly accessible from the outside or by a controlled lobby that allows public access.
13. LEED Silver Certification	0.5	As certified by the USGBC. Applicant is responsible

Bonus Feature	FAR Bonus	Description, Additional Requirements and Limitations
		for providing LEED precertification submittal documentation and annotated checklist to the city. City will review documentation at the applicant's expense. If accepted, the city will make this a condition of approval of the subsequent building permit.
14. Water Feature	0.25	A decorative water feature shall be equivalent to at least one percent of the project's construction cost and shall be directly accessible and visible to the public by being adjacent to a plaza, sidewalk, pathway or through-block connection. Documentation shall be provided of construction value and the cost of the water feature.
15. Exterior Art Element	0.25	Exterior art element shall be equivalent to at least one percent of the total value of the project's construction cost. Such elements include but are not limited to sculptures, bas-reliefs, metalwork and murals. Documentation shall be provided of the construction value and the value of the art as appraised by an art appraiser. Art elements shall be visible to the public at all times and will be reviewed and approved by an arts body designated by the city.

E. Design Standards.

1. Site and Building Design. Site and building design standards shall be required for all development as set forth in Chapter [18.95](#) EMC. Where the standards in Chapter [18.95](#) EMC conflict with the standards in this section, the development standards contained in this section shall control.

2. Street Design. Location, design and configuration of all streets shall be in accordance with the adopted street standards contained in EMC Title [12](#), Streets, Sidewalks and Public Spaces.

F. Open Space Requirements.

1. Applicability. New development within the Town Center (TC), Business Park (BP), Commercial (C), and Mixed Use Residential (MUR) zoning districts shall be required to meet the open space requirements in this subsection.
2. Numeric Standards. All new development shall provide accessible public space equivalent to one and one-half percent of the gross floor area of all structures. The design and location of public spaces shall consider the design and location of public spaces on adjacent properties and if feasible shall be oriented and connected to those spaces pursuant to the concepts presented in the Town Center and Meridian Corridor master plan.
3. If it can be demonstrated by the applicant to the satisfaction of the director that a required public space is adjacent to, integrated with and can be accessed from a public space on an adjoining property, this requirement may be reduced to one percent of gross floor area.
4. All required public spaces shall be oriented towards, and have direct connections (both physical and visual) to, a public street.
5. Where public spaces are integrated into new development, or where new development abuts an existing or planned public plaza, the primary building entrance shall be oriented towards or connected to that plaza.

G. Landscaping.

1. Applicability. The requirements of EMC [18.90.090](#) shall apply to the TC, C, MUR and BP zones, except as provided in this subsection. Please also see Chapter [18.95](#) EMC for applicable design standards. Where landscape regulations in this section conflict with the provisions in EMC [18.90.090](#) or Chapter [18.95](#) EMC, the regulations in this subsection shall control. Please note: where this section is silent on a specific requirement, such as irrigation requirements or minimum standards for plantings, the standards contained in EMC [18.90.090](#) and [18.95.050](#) shall apply. The standards contained in EMC [18.90.090](#)(G) (Landscaping Types) are specifically modified by this subsection and the standards contained in EMC [18.90.090](#)(H) (Landscaping Requirements by Zoning District) do not apply to TC, C, MUR and BP zones.
2. Street Frontages. In addition to landscape standards contained below, five percent of the total area between the building facade and the curb shall be landscaped. Within the BP zoning district 10 percent of the total area between the building facade and curb shall be landscaped. This shall be in addition to street trees and landscaping provided in public spaces and parking lots that are required in other subsections.
 - a. Required landscaping may be planted within planting areas surrounding trees, in raised planters, and on vegetative walls mounted to the ground-level building facade. Landscaping shall incorporate LID systems to the maximum extent feasible (per Minimum Requirement No. 5 of the PCM).

- b. Where a building or portion of a building is located more than 10 feet from a public sidewalk or usable public space, all area between the building and the public sidewalk that is not used for vehicle or pedestrian access, circulation, parking or seating shall be landscaped.
 - c. Potted landscape material may be substituted for required landscaping in areas designed for outdoor eating with the approval of the department.
- 3. Public Spaces. A minimum of 15 percent of the total area of a public space, such as a courtyard or plaza, shall be landscaped.
- 4. Surface Parking Areas. Surface parking areas shall be landscaped as set forth in EMC [18.90.090](#).
- 5. Street Frontages. Street frontage design and landscaping shall be provided as contained in Chapter [18.95](#) EMC and EMC Title [12](#), Streets, Sidewalks and Public Places.
- 6. Landscape Buffers – Standards and When Required.
 - a. Development in the TC, C and MUR zoning districts shall provide a minimum 20-foot Type IV landscape buffer where they abut Single-Family zoning districts or 15 feet of Type I landscaping where they abut Mixed Residential or Public zoning districts. The director may waive or modify this requirement for pedestrian-oriented development adjacent to the Public zoning district where consistent with the purpose of this section.
 - b. Development in the BP zoning district shall provide a minimum 25-foot Type IV landscape buffer where it abuts Single-Family or Public zoning districts. In addition, 15 feet of Type I landscaping shall be provided between adjacent BP zoned properties.
 - c. Commercial or light industrial development in the C and MUR zoning districts shall provide a minimum 10-foot-wide Type I landscape buffer adjacent to the TC zoning district. The director may waive this requirement for pedestrian-oriented commercial development that includes a minimum of 50 percent of the lot frontage occupied by a building. Landscaping for surface parking areas shall still apply.
 - d. A minimum of a 10-foot Type I landscape buffer shall be provided between more intensive zones and the MUR, and along abutting properties in the MUR district. The director may waive or modify this requirement for pedestrian-oriented commercial development that includes a minimum of 50 percent of the lot frontage occupied by a building or for abutting residential development in the MUR zone in common ownership. Required landscaping for surface parking areas is required in accordance with EMC [18.90.090](#) and Chapter [18.95](#) EMC.

7. Special Landscaping in the Business Park (BP) Zone. In order to achieve the urban design intent and provide an environment suitable to a wide range of employment uses, a minimum of 20 percent of the total site area in the BP zone shall be landscaped.

8. Tree Preservation and Protection Standards.

a. Significant tree identification and preservation and/or replacement shall be required as set forth in EMC [18.90.180](#). Tree preservation, provided mixed use development shall be considered commercial development for the purposes of the tree retention standard contained in EMC [18.90.180](#)(C)(2)(c)(iv).

b. The director shall have the authority to reduce the required tree replacement ratio where such requirement would conflict with the urban design intent of this section and applicable design provisions of Chapter [18.95](#) EMC.

c. If the standards contained in Chapter [18.95](#) EMC are modified, the director shall at a minimum ensure that representative native vegetation is retained or replanted totaling at least five percent of the site area and that such landscaping is provided in excess of the requirements contained in this section.

H. Parking, Access and Circulation.

1. Applicability. Parking facilities and access drives shall be designed in accordance with EMC [18.90.130](#), except as provided below.

a. Where a conflict exists between the standards contained in EMC [18.90.130](#) and the standards contained in this section, the standards contained in this section shall control.

b. If this subsection does not specify a parking requirement for a land use, the director shall establish the minimum requirement based on a study of anticipated demand as provided in EMC [18.90.130](#)(C)(8).

2. Purpose. The purpose of this subsection is to provide adequate parking for all allowed uses; to reduce demand for parking by encouraging alternative transportation such as rideshare, public transit, bikes and pedestrian mobility; to promote a “park once and walk” strategy and to ensure the location and design of parking facilities is consistent with urban design and economic development goals.

3. Parking Location.

a. Site design, including parking lot and building location, shall comply with the minimum lot frontage requirements in subsection (D) of this section.

- b. A parking lot shall not be located on a corner where two streets intersect.
- c. Within the TC zone, a parking lot shall not be located between the principal building and the street, adjacent to a park or open space or at a street terminus.
- d. Within the TC zone, parking structures shall contain ground level commercial uses.
- e. Within the C, MUR and BP zones, parking structures that front on a street that are not part of a residential or mixed use building shall contain ground level commercial uses.

4. Parking Facility Design and Integration. It is the city's intent to encourage the integration and connection of parking facilities, including shared parking and physical connections between parking facilities in adjoining developments. Applicants shall demonstrate how they meet this objective, including shared parking, or document why it is not feasible to do so. Please see Chapter [18.95](#) EMC, Design Standards, for additional urban design requirements for parking facilities.

5. Minimum Parking Requirements. Except as provided in subsection (H)(9) of this section, off-street parking areas shall contain the minimum number of parking spaces as stipulated in the following table. Off-street parking ratios expressed as number of spaces per square feet means the usable or net square footage of floor area, exclusive of nonpublic areas. Nonpublic areas include but are not limited to building maintenance areas, storage areas, closets or restrooms. If the formula for determining the number of off-street parking spaces results in a fraction, the number of off-street parking spaces shall be rounded to the nearest whole number with fractions of 0.50 or greater rounding up and fractions below 0.50 rounding down. Please note that maximum parking requirements as contained in subsection (H)(10) of this section also apply.

Table 4: Minimum Parking Requirements

Land Use	Minimum Parking Spaces Required
Residential	
Dwelling unit, multifamily:	
Studio and one-bedroom units	1 per dwelling unit*
Two-bedroom units	1.5 per dwelling unit*
Three-bedroom units	2 per dwelling unit*
Dwelling unit, single-family:	
Dwelling unit, single-family	2 per dwelling unit (tandem spaces allowed)

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Land Use	Minimum Parking Spaces Required
attached	
Dwelling unit, single-family detached	2 per dwelling unit
Dwelling unit, accessory or cottage housing	1 per dwelling unit
Retail/Wholesale Trade and Services	
Retail trade and services (nonfood) other than listed below	3 per 1,000 square feet**
Nonfood retail in mixed use development, less than 5,000 square feet and less than 40% of the gross floor area of the development	No off-street parking required**
Food stores, in mixed use development, less than 15,000 square feet and less than 40% of the gross floor area of the development	3 per 1,000 square feet**
Food stores, other than above	4 per 1,000 square feet, plus additional parking as provided below for restaurant portion if applicable
Restaurants	1 per 100 square feet in dining, lounge and customer ordering area
Gasoline service stations	3 per facility plus 1 per 300 square feet of store
General Services	
General services	3 per 1,000 square feet
Professional office	3 per 1,000 square feet
Exceptions:	
Hotel/motel	1.1 per bedroom
Home occupation, including	1 stall in addition to requirement for primary use

Land Use	Minimum Parking Spaces Required
live/work	
Industrial/Manufacturing	
Light industrial/manufacturing	1 per 1,000 square feet, plus additional parking for office or retail areas as noted elsewhere in this table
Culture/Recreation/Religious	
Performing arts/museum/theater	1 per 3 fixed seats, plus 2 spaces for every 3 employees
Church or group assembly	1 per 5 fixed seats, plus 1 per 50 square feet of gross floor area without fixed seats used for assembly purposes
Outdoor recreation/indoor recreation/health club	Director determines based on a parking study
Health Services	
Hospital	1 per bed
Medical office or emergency care facility	5 per 1,000 square feet
Nursing and personal care facility	1 per 4 beds
Other	
Government office	3 per 1,000 square feet
All others not specifically listed	Director determines based on a parking study
*Plus guest parking amounting to one extra space for every 10 dwelling units rounded upward to the nearest multiple of 10.	
**The applicant may demonstrate through a traffic study that on-street parking is adequate to wholly or partially fulfill this parking requirement. Off-street parking may be required based on the review of this study.	

6. Loading Areas. Please see EMC [18.90.130\(D\)](#).

7. Disabled Parking. Please see Chapter [19.27](#) RCW, State Building Code, and Chapter [70.92](#) RCW, Public Buildings – Provisions for Aged and Disabled.

8. Bike Parking. In any development required to provide six or more parking spaces, bicycle parking shall be provided. Bicycle parking shall be bike rack or locker-type facilities unless otherwise specified.

a. One bicycle parking space shall be provided for every 12 motor vehicle parking spaces, except as follows:

i. The director may reduce bike rack parking facilities for patrons when it is demonstrated that bicycle activity will not occur at that location.

ii. The director may require additional spaces when it is determined that the use or its location will generate a high volume of bicycle activity. Such a determination shall include but not be limited to the following uses: park, library, museum, school, sports club or retail business located along a developed trail or designated bicycle route.

b. Bicycle parking shall be located within 100 feet of the principal building and directly adjacent to a sidewalk or pedestrian walkway that connects directly to building entrance(s).

c. Bicycle frame or wheels to be locked to a structure attached to the pavement.

d. All bicycle parking and storage shall be located in safe, visible areas that do not impede traffic flow and shall be well lit for nighttime use.

e. When more than 15 people are employed on site, bicycle storage facilities for employees shall be provided. The director shall allocate the required number of parking spaces between bike rack parking and enclosed locker-type facilities.

f. One secured bicycle storage space shall be provided for every two dwelling units in attached single-family and multifamily units, unless individual garages are provided for every unit. The director may reduce the number of bike rack parking spaces if indoor storage facilities are available to all residents.

9. Parking Reductions. The amount of off-street parking required by subsection (H)(5) of this section may be reduced by an amount determined by the director pursuant to the provisions below.

a. Car Share Parking. Required parking for multifamily residential developments (or the residential portion of mixed use developments) containing more than 30 units may be reduced by three spaces for each one dedicated car share space. A signed agreement between the property owner and car share provider must be submitted for approval of the parking reduction.

b. Shared-Use Parking. Developments may receive a reduction in required parking of up to 20 percent of the minimum parking requirements, provided:

- i. The total parking area exceeds 5,000 square feet;
- ii. The parking facilities are designed and developed as a single on-site common parking facility, or as a system of on-site and off-site facilities, if all facilities are connected with improved pedestrian facilities and no building or use involved is more than 800 feet from the most remote shared facility;
- iii. The total number of parking spaces in the common parking facility is not less than the minimum required spaces for any single use;
- iv. The director may increase the reduction where compelling evidence is provided in a parking study submitted by the applicant that the proposed reduction is warranted. See criteria in EMC [18.90.130](#);
- v. A covenant or other contract for shared parking between the cooperating property owners is approved by the director. This covenant or contract must be recorded with the Pierce County auditor's office as a deed restriction on both properties and cannot be modified or revoked without the consent of the director; and
- vi. If any requirements for shared parking are violated, the affected property owners must provide a remedy satisfactory to the director or provide the full amount of required off-street parking for each use, in accordance with the requirements of this chapter, unless a satisfactory alternative remedy is approved by the director.

c. Transit Availability. The director may reduce the number of required off-street parking spaces when one or more scheduled transit routes provide service within 750 feet of the site. The amount of the reduction shall be based on the number of scheduled transit runs between 7:00 to 9:00 a.m. and 4:00 to 6:00 p.m. each weekday up to a maximum reduction of two percent for each transit run up to a maximum of 20 percent.

10. Maximum Parking Requirements. Parking for a specific use in zones covered by this section shall be limited to no more than 50 percent greater than the minimum parking requirement required above. Exceptions to this parking maximum include:

- a. Parking spaces are provided above/below grade.

b. If the director determines additional off-street parking spaces are warranted based on a parking study. In making such a decision, the director shall also consider whether the proposal is consistent with the stated purposes, objectives, goals or policies established in this section and the design standards. The director shall also have the authority to restrict parking for a specific use to an amount that is less than the maximum amount allowed in this section if the proposal would substantially conflict with the stated purposes, objectives, goals or policies contained in the Edgewood comprehensive plan and similar plans and policy documents as adopted by the city of Edgewood.

11. Transit Facilities. All development shall provide transit facilities as provided in EMC [18.90.130](#)(E)(2).

12. Parking Stall and Aisle Design and Access. Please see EMC [18.90.130](#)(C)(5). (Ord. 16-482 § 2 (Exh. F); Ord. 14-426 § 2 (Exh. A); Ord. 14-414 § 2 (Exh. A); Ord. 13-397 § 2 (Exh. A); Ord. 11-359 § 6 (Exh. C); Ord. 10-346 § 7; Ord. 09-323 § 4; Ord. 08-305 § 2; Ord. 08-301 § 3; Ord. 07-284 § 1; Ord. 06-268 § 1; Ord. 03-203 § 1

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 the date of publication.

Presented to Council for first reading on March ~~XX~~28, 2017.

ADOPTED BY THE CITY COUNCIL ON APRIL XX, 2017

Daryl Eidinger, Mayor

ATTEST/AUTHENTICATED:

APPROVED AS TO FORM:

3/21/17 DRAFT

Rachel Pitzel, City Clerk

Carol Morris, City Attorney

Date of Publication: April XX, 2017

Effective Date: April XX, 2017

DRAFT

3/21/17 DRAFT

CITY OF EDGEWOOD
2224 104th Avenue East, Edgewood, WA 98372-1513
(253) 952-3299 Fax: (253) 952-3537

LEGAL NOTICE

NOTICE OF ORDINANCE ADOPTED BY EDGEWOOD CITY COUNCIL

The following is a summary of an Ordinance adopted by the City of Edgewood City Council on the XXth day of April 2017, and shall take effect and be in full force on the XX day of April 2017.

ORDINANCE NO. 17-XXXX

**AN ORDINANCE OF THE CITY OF EDGEWOOD, WASHINGTON,
AMENDING ORDINANCE NO. 15-XXXX, AND SECTION 18.80.080
EMC TOWN CENTER, COMMERCIAL, MIXED USE RESIDENTIAL
AND BUSINESS PARK ZONING DISTRICTS; PROVIDING FOR
SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

The full text of the Ordinance is available at Edgewood City Hall, 2224 104th Avenue East, Edgewood, WA 98372-1513 (253) 952-3299.

Rachel Pitzel, City Clerk

Published in the Tacoma News Tribune on: *Thursday April XX, 2017*



CITY OF EDGEWOOD
REQUEST FOR COUNCIL ACTION
Agenda Bill No.: 17-0493

Date Action Requested: March 28, 2017

Title: Milton/Edgewood Franchise Agreement Ordinance

Attachments: Ordinance 17-0493 Milton/Edgewood Franchise Agreement

Submitted By: Aaron C. Nix, ACA – Municipal Services, Acting PW Director

Approved For Agenda By: Daryl Eiding, Mayor

Prepared For Agenda By: Aaron C. Nix, ACA – Municipal Services, Acting PW Director

Recommendation: Move that City Council adopt Ordinance No.17-0493, an Ordinance granting the City of Milton the right, privilege, authority and nonexclusive franchise to construct maintain, operate, replace and repair water system infrastructure in, across, over, along, under, through and below the Public Rights-of-Way within the City of Edgewood, WA, providing for severability and establishing an effective date.

Discussion: As the Council is aware of, Staff and the Mayor have been working on this issue with Milton Staff on moving this franchise agreement forward in order to bring Edgewood into compliance with its current code and help provide protections for both jurisdictions as it pertains to work within the right of way and the utilities that utilize this space. Both Staffs' believe that we have come to agreement with the current language in the attached Franchise Agreement and are ready to move forward with adoption and implementation of the agreement. Edgewood Staff are very appreciate of Milton Staff and their help in moving this process along and getting this agreement to this point.

Alternatives: 1) Do not adopt. 2) Forward to Study Session for further review

Fiscal Impact: N/A

ORDINANCE NO. 17-0493

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, GRANTING UNTO THE CITY OF MILTON, A MUNICIPAL CORPORATION OF THE STATE OF WASHINGTON, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE, AUTHORITY AND NONEXCLUSIVE FRANCHISE, TO CONSTRUCT, MAINTAIN, OPERATE, REPLACE AND REPAIR WATER SYSTEM INFRASTRUCTURE, IN, ACROSS, OVER, ALONG, UNDER, THROUGH AND BELOW THE PUBLIC RIGHTS-OF-WAY OF THE CITY OF EDGEWOOD, WASHINGTON; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, The City of Milton, WA, (hereinafter referred to as "Milton") has requested that the City Council grant it a nonexclusive franchise; and

WHEREAS, Milton has authority to contract with municipal corporations, and to construct, add to, maintain and supply water works; and

WHEREAS, the City Council has the authority to grant franchises for the use of its streets and other public properties pursuant to RCW 35A.47.040; and

WHEREAS, Milton provides public drinking water to portions of citizens within the City of Edgewood, as a municipal corporation regulated by the Washington State Department of Health; and

WHEREAS, Milton's public water system infrastructure and facilities are identified as critical infrastructure and its staff is classified as first responders by the Federal Government.

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

Section 1. Franchise Granted; Term. Pursuant to RCW 35A.47.040, the City of Edgewood, a Washington municipal corporation (hereinafter the "City"), hereby grants to Milton, a Municipal Corporation organized under the laws of the state of Washington, its heirs, successors, legal representatives and assigns, subject to the terms and conditions hereinafter set forth and all applicable City codes and regulations, a nonexclusive franchise beginning on the effective date set forth in Section 23 herein. The term of the franchise shall be five (5) years.

This franchise shall grant Milton the right, privilege and authority to construct, operate, maintain, replace, and repair all necessary facilities for water delivery, in, under, on, across, over, through, along or below the public rights-of-way located in the City of Edgewood ("the Franchise Area"), as approved under City permits issued pursuant to this franchise. "Rights-of-way" as used herein means all public streets, roads, alleys and highways of the City as now or hereafter laid out, platted, dedicated or improved.

Section 2. Non-Exclusive Franchise Grant. This franchise is granted upon the express condition that it shall not in any manner prevent the City from granting other or further franchises in, along, over, through, under, below or across any of said rights-of-way. Such franchise shall in no way prevent or prohibit the City and/or the public from using any of said

roads, streets or other public properties or affect its jurisdiction over them or any part of them, and the City shall retain power to make all necessary changes, relocations, repairs, maintenance, establishment, improvement, dedication of same as the City may deem fit, including the dedication, vacation, establishment, maintenance, and improvement of all new rights-of-way, thoroughfares and other public properties of every type and description.

Section 3. Relocation of Water System Facilities.

3.1 MILTON agrees and covenants to, at MILTON's sole expense, protect, support, temporarily disconnect, relocate or remove from any rights-of-way any of MILTON's facilities when so required by the City by reason of traffic conditions, public safety, dedications of new rights-of-way and the establishment and improvement thereof, widening and improvement of existing rights-of-way, street vacations, road and walkway construction, change or establishment of street grade, and/or the construction of any public improvement or structure by any governmental agency acting in a governmental capacity (a "governmental project").

3.2 Any condition or requirement imposed by the City upon any person or entity (including without limitation any condition or requirement imposed pursuant to any contract or in conjunction with approvals for permit for zoning, land use, construction or development) which reasonably necessitates the relocation of MILTON's Facilities within the franchise area shall be a required relocation for purposes of subsection 3.1 above.

3.3 If the City determines that a government project or other event or condition, as defined in subsections 3.1 and 3.2, necessitates the relocation of MILTON's Facilities, the City shall, to the extent reasonably practicable:

- A. Notify MILTON during the planning phase to ensure collaborative effort is made to reduce project expense (to the City and MILTON), allow budgeting for the project and facilitate joint applications for grants and low-interest funding by the parties. The City will provide written notification requiring relocation of MILTON's Facilities at least ninety (90) days or additional days, approved by the Mayor or his/her designee prior to the commencement of the government project or other event or condition necessitating the relocation.
- B. Provide MILTON with copies of pertinent portions of the plans and specifications for such project and where possible propose an alternative location for MILTON's Facilities so that MILTON may relocate its facilities within the current right-of-way or to other rights-of-way.
- C. After receipt of such notice and such plans and specifications, MILTON shall complete relocation of its facilities at least ten (10) days prior to commencement of the project at no charge or expense to the City. Relocation shall be accomplished in such a manner as to accommodate the project, event or condition necessitating the relocation.

3.4 Without limitation of the foregoing, MILTON shall specifically indemnify the City, its officers, employees, agents and representatives, for any damages, claims, additional costs or expenses assessed against, or payable by, the City related to, arising out of, or resulting, directly or indirectly, from MILTON's failure to timely remove, adjust or relocate any of its facilities in accordance with any requirement hereunder. The provisions of this subsection shall

survive the expiration or termination of this franchise.

3.5 MILTON may, after receipt of written notice requesting relocation of its facilities, submit to the City written alternatives to such relocation. The City shall evaluate such alternatives in good faith and advise MILTON in writing if one or more of the alternatives are suitable to accommodate the work which would otherwise necessitate relocation of MILTON's Facilities. If so requested by the City, MILTON shall submit additional information to assist the City in making such evaluation. The City shall give each alternative proposed by MILTON full and fair consideration. In the event the City in its sole discretion ultimately determines that there is no other reasonable or feasible alternative, MILTON shall relocate its facilities as otherwise provided in this Section.

3.6 The provisions of this Section shall in no manner preclude or restrict MILTON from making any arrangements it may deem appropriate when responding to a request for relocation of its facilities by any person or entity other than the City or another governmental entity, where the facilities to be constructed by said person or entity are not or will not become governmentally-owned, operated or maintained facilities, provided that such arrangements do not unduly delay a governmental project.

Section 4. Maps and Records. After construction of any new facilities in the City rights-of-way, and as a condition of this franchise, MILTON shall make available to the City upon request and at no cost, a copy of all as-built plans, maps and records revealing the final location and condition of MILTON's facilities within the public rights-of-way. Said plans will be maintained at MILTON per Department of Homeland Security measures.

Section 5. Excavations. All construction work performed by MILTON or its contractors under or in relation to this franchise, specifically including without limitation any relocation, construction or maintenance of MILTON's facilities, shall be accomplished in a safe and workmanlike manner, so to minimize interference with the free passage of traffic and the free use of adjoining property, whether public or private, and shall comply with all applicable laws and regulations. MILTON shall at all times post and maintain proper barricades and comply with all applicable safety regulations during such period of construction as required by the ordinances of the City or the laws of the state of Washington, including RCW 39.04.180 for the construction of trench safety systems.

Excavation in City-owned rights-of-way shall be governed by the provisions of the Edgewood Municipal Code (EMC) Chapter 12.06 - "Right-of-Way Franchises and Permits for Public and Private Utilities". MILTON, at its own expense, shall secure any applicable permits required for excavating in any public right-of-way and shall give the City at least five (5) working days' notice of its intent to commence work in the public right-of-way. In no case shall any work commence on City-owned and maintained public road surfaces, without the required permit(s).

If either the City or MILTON shall at any time plan to make excavations in any area covered by this franchise and as described in this Section, the party planning such excavation shall afford the other, upon receipt of a written request to do so, a reasonable opportunity to share such excavation, PROVIDED THAT:

- A. Such joint use shall not unreasonably delay the work of the party causing the excavation to be made; and

- B. Such joint use shall be arranged and accomplished on terms and conditions satisfactory to both parties; and
- C. Either party may deny such request for safety reasons. The provisions of this Section shall survive the expiration or termination of this franchise.

Section 6. Restoration after Construction. MILTON shall, after abandonment, installation, construction, relocation, maintenance or repair of its facilities within the Franchise Area, restore the surface of the right-of-way to at least the same condition in which the property existed immediately prior to any such installation, construction, relocation, maintenance or repair. The City's Public Works Director shall have final approval of the condition of such rights-of-way after restoration. All concrete encased monuments which have been disturbed or displaced by such work shall be restored pursuant to all federal, state and local standards and specifications. MILTON agrees to promptly complete all such restoration work and to promptly repair any damage caused by such work at its sole cost and expense. The provisions of this Section shall survive the expiration, revocation or termination by other means of this franchise.

Section 7. WSDOT Standards. The parties expressly acknowledge that some rights-of-way within the franchise area, specifically including without limitation the Meridian Avenue / State Route 161 corridor, are part of the state highway system ("State Highways") and are governed by the provisions of Chapter 47.24 RCW and applicable Washington State Department of Transportation (WSDOT) requirements in addition to local ordinances and other regulations. Without limitation of any other provision of this franchise, MILTON agrees that:

- (1) any pavement trenching and restoration performed by MILTON within State Highways shall meet or exceed applicable WSDOT requirements;
- (2) any portion of a State Highway damaged or injured by MILTON shall be restored, repaired and/or replaced by MILTON to a condition that meets or exceeds applicable WSDOT requirements; and
- (3) without prejudice to any right or privilege of the City, WSDOT is authorized to enforce in an action brought in the name of the State of Washington any condition of this franchise with respect to any portion of a State Highway.

Section 8. Emergency Work. Permit Waiver. In the event of any emergency in which any of MILTON's Facilities located in or under any right-of-way breaks, becomes damaged, or if MILTON's construction area is otherwise in such a condition as to immediately endanger the property, life, health or safety of any individual, MILTON shall immediately take the proper emergency measures to repair its facilities, and to cure or remedy the dangerous condition(s) for the protection of property, life, health or safety of individuals without first applying for and obtaining a permit as required by this franchise. However, this shall not relieve MILTON from the requirement of obtaining any permits necessary for this purpose, and MILTON shall apply for all such permits not later than the next succeeding day during which the Edgewood City Hall is open for business.

Section 9. Dangerous Conditions. Authority for City to Abate. Whenever the construction, installation or excavation of facilities authorized by this franchise has caused or contributed to a condition that appears to substantially impair the lateral support of the adjoining street or public place, or otherwise endangers the public, an adjoining public place, street utilities or City property, the Mayor may direct MILTON, at MILTON's own expense, to take actions to protect the public, adjacent public places, City property or street utilities, and such action may

include compliance within a prescribed time.

In the event that MILTON fails or refuses to promptly take the actions directed by the City, or fails to fully comply with such directions, or if emergency conditions exist which require immediate action, before the City can timely contact MILTON to request MILTON affect the immediate repair, the City may enter upon the property and take such actions as are necessary to protect the public, the adjacent streets, or street utilities, or to maintain the lateral support thereof, or actions regarded as necessary safety precautions. The provisions of this Section shall survive the expiration, revocation or termination of this franchise.

Section 10. Indemnification. MILTON hereby releases, covenants not to bring suit and agrees to indemnify, defend and hold harmless the City, its officers, employees, agents and representatives from any and all claims, costs, judgments, awards or liability to any person, including attorneys' fees and including claims by MILTON's own employees for which MILTON might otherwise be immune under Title 51 RCW, for injury or death of any person or damage to property caused by or arising, in whole or in part, out of the acts or omissions of MILTON, its agents, contractors, subcontractors, servants, officers or employees in the performance of this franchise, and any rights granted hereunder. The above waiver of immunity under Title 51 RCW has been mutually negotiated by the parties.

Milton 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 attorneys' fees, arising out of or in connection with the performance of this Franchise, except for injuries and 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 Milton and the City, its officers, officials, employees, and volunteers, Milton's liability hereunder shall be only to the extent of Milton's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes Milton'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 Franchise.

Inspection or acceptance by the City of any work performed by MILTON at the time of completion of construction shall not be grounds for avoidance by MILTON of any of its obligations under this Section. Said indemnification obligations shall extend to claims which are not reduced to a suit and any claims which may be compromised prior to the culmination of any litigation or the institution of any litigation.

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 MILTON and the City, MILTON's liability hereunder shall be only to the extent of MILTON's negligence. The provisions of this Section shall survive the expiration or termination of this franchise.

Section 11. Insurance. MILTON shall procure and maintain for the duration of the franchise the following liability insurance policies, insuring both MILTON and naming the City,

and its elected and appointed officers, officials, agents, representatives, and employees as additional insureds:

- A. Comprehensive general liability insurance with limits not less than:
 - 1. \$2,000,000 for bodily injury or death to each person;
 - 2. \$2,000,000 for property damage resulting per occurrence; and
 - 3. \$2,000,000 for all other types of liability.
- B. Automobile liability for owned, non-owned and hired vehicles with a limit of \$1,000,000 for each person and \$3,000,000 for each accident.
- C. Worker's compensation within statutory limits and employer's liability insurance with limits of not less than \$1,000,000.
- D. Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed operation hazard policies with limits of not less than \$2,000,000.
- E. The liability insurance policies required by this Section shall be maintained at all times by the MILTON. Each such insurance policy shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until 90 days after receipt by the City, by registered mail, of a written notice addressed to the City Risk Manager of such intent to cancel or not to renew."

MILTON may satisfy the requirements of this section by a self-insurance program or membership in an insurance pool providing substantially the same coverage as set forth above and approved by the City.

Section 12. Restoration Bond. In lieu of a restoration bond pursuant to EMC 12.06.218, MILTON hereby warrants all work performed under this franchise and further specifically represents and warrants that all required restoration of the right-of-way shall be performed timely, in a workmanlike manner, and in full compliance with all applicable regulatory standards.

Section 13. Modification. The City and MILTON hereby reserve the right to mutually alter, amend or modify the terms and conditions of this franchise upon written agreement of both parties to such alteration, amendment or modification. No such alteration, amendment or modification shall be effective without a writing signed by both parties.

Section 14. Forfeiture and Revocation. If MILTON willfully violates or fails to comply with any of the provisions of this franchise, or through willful misconduct or negligence fails to heed or comply with any notice given by the City under the provisions of this franchise, then MILTON shall forfeit all rights conferred hereunder and this franchise may be revoked or annulled by the Edgewood City Council after a hearing held upon notice to MILTON.

Section 15. Remedies to Enforce Compliance. The City may elect, in lieu of revocation and without any prejudice to any of its other legal rights and remedies, to obtain an order from the superior court having jurisdiction compelling MILTON to comply with the provisions of this franchise. In addition to any other remedy provided herein, the City reserves the right to pursue any remedy to compel or force MILTON and/or its successors and assigns to comply with the terms hereof, and the pursuit of any right or remedy by the City shall not prevent the City from thereafter declaring a forfeiture or revocation for breach of the conditions herein.

Section 16. Legal Compliance. City Ordinances and Regulations. MILTON shall comply with applicable federal, state and local laws, rules and regulations, unless otherwise modified as part of this franchise, at all times relevant to this franchise. Nothing herein shall be deemed to restrict the City's ability to adopt and enforce all necessary and appropriate ordinances regulating the performance of the conditions of this franchise, including any valid ordinance made in the exercise of its police powers in the interest of public safety and for the welfare of the public. In the event of a conflict between the provisions of this franchise and any other ordinance(s) enacted under the City's police power authority, such other ordinance(s) shall take precedence over the provisions set forth herein.

Section 17. Planning Coordination.

17.1 Growth Management, The parties agree, as follows, to participate in the development of, and reasonable updates to, the each other's planning documents:

17.1.1 For MILTON's service within the City limits, Milton will participate in a cooperative effort with the City of Edgewood to develop a Comprehensive Plan Utilities Element that meets the requirements described in RCW 36.70A.070(4).

17.1.2 MILTON will participate in a cooperative effort with the City to ensure that the Utilities Element of Edgewood's Comprehensive plan is accurate as it relates to the MILTON's operations and is updated to ensure continued relevance at reasonable intervals.

17.1.3 MILTON shall submit information relates to the general location, proposed location, and capacity of all existing and proposed facilities within the City as requested by the Public Works Director within a reasonable time frame, not exceeding sixty (60) days from receipt of a written request for such information, provided that such information is in the MILTON's possession, or can be reasonably developed from the information in MILTON's possession.

17.1.4 MILTON will update information provided to the City under Section 17 – Planning Coordination, whenever there are major changes in MILTON's system plans for the City of Edgewood.

17.1.5 The City will provide information relevant to MILTON's operations within a reasonable period of written request to assist MILTON in the development or update of its Comprehensive Water System Plan, provided that such information is in the City's possession, or can be reasonably developed from the information

in the City's possession.

17.2 System Development Information.

MILTON and the City will each assign a representative whose responsibility shall be to coordinate planning for CIP projects including those that involve undergrounding. At a minimum, such coordination shall include the following:

17.2.1 By February 1st of each year, MILTON shall provide the City with a schedule of its planned capital improvements, which may affect the right of way for that year.

17.2.2 By February 1st of each year, the City shall provide MILTON with a schedule of its planned capital improvements which may affect the right of way for that year including, but not limited to street overlays and repairs, storm drainage improvements and construction, and all other right of way activities that could affect MILTON's capital improvements and infrastructure.

17.2.3 MILTON shall meet with the City, other franchises and users of the right of way, as necessary, to schedule and coordinate construction activities.

17.2.4 MILTON shall ensure that all MILTON's construction locations, activities, and schedules shall be coordinated, to minimize public inconvenience, disruption, or damages.

17.3 Emergency Management. The City and MILTON agree to cooperate in emergency management planning, emergency operations response procedures, and recover activity strategies, including identifying potential hazards and risks in the MILTON's facilities so that they can be either mitigated or minimized. Provided, that nothing herein shall be construed as altering or otherwise reducing MILTON's obligations under this franchise, specifically including without limitation MILTON's obligations under Section 10.

Section 18. Acceptance. Within sixty (60) days after the passage and approval of this Ordinance, this franchise may be accepted by MILTON by its filing with the City Clerk an unconditional written acceptance thereof. Failure of MILTON to so accept this franchise within said period of time shall be deemed a rejection thereof by MILTON, and the rights and privileges herein granted shall be of no effect whatsoever, unless extended by Ordinance.

Section 19. Survival. All of the provisions, conditions and requirements of Sections 3 (Relocation of Water Facilities); Section 5 (Excavation); Section 6 (Restoration after

Construction); Section 9 (Dangerous Conditions); and Section 10 (Indemnification); of this franchise shall be in addition to any and all other obligations and liabilities MILTON may have to the City at common law, by statute, or by contract, and shall survive the expiration or termination of this franchise. All of the provisions, conditions, regulations and requirements contained in this franchise shall further be binding upon the heirs, successors, executors, administrators, legal representatives and assigns of MILTON and all privileges, as well as all obligations and liabilities of MILTON shall inure to its heirs, successors and assigns equally as if they were specifically mentioned wherever MILTON is named herein.

Section 20. Assignment. This franchise may not be assigned or transferred without the written approval of the City, except MILTON may freely assign this franchise in whole or in part to a parent, subsidiary, or affiliated corporation or as part of any corporate financing, reorganization or refinancing. In the case of transfer or assignment as security by mortgage or other security instrument in whole or in part to secure indebtedness, such consent shall not be required unless and until the secured party elects to realize upon the collateral. MILTON shall provide prompt, written notice to the City of any such assignment.

Section 21. Notice. Any notice or information required or permitted to be given to the parties under this franchise may be sent to the following addresses unless otherwise specified:

CITY OF EDGEWOOD

Mayor

2224 104th Avenue East

Edgewood, Washington 98372

CITY OF MILTON

Mayor

1000 Laurel Street

Milton, Washington 98354

Section 22. 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 unless such invalidity or unconstitutionality materially alters the rights, privileges, duties, or obligations hereunder, in which event either party may request renegotiation of those remaining terms of this franchise materially affected by such court's ruling.

Section 23. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect (5) days after passage and publication of an approved summary thereof consisting of the title. Provided, that the franchise granted by this ordinance shall not take effect until the City's receipt of MILTON's signed acceptance of the terms set forth herein in accordance with Section 18.

Section 24. Regulatory Authority Reserved; Water Utility Service. The parties mutually acknowledge that the City is a municipal corporation organized under the Optional Municipal Code of Title 35A RCW. Nothing herein shall be construed as a waiver, abridgement or other limitation of the City's regulatory authority and/or police power, which the City hereby expressly reserves in full. Without limitation of the foregoing, MILTON shall be required to apply for and obtain all applicable City permits, licenses and/or approvals and otherwise operate in full compliance with the requirements of EMC chapter 12.06, Right of Way Franchises and Permits for Public and Private Utilities thereof. Any water utility service provided by MILTON to City-owned properties shall be governed by a separate contract between the parties.

Section 25. Nonwaiver of Breach. The failure of either party at any time to require performance by the other of any provision hereof shall in no way affect the right of the other party hereafter to enforce the same. Nor shall the waiver by either party of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision.

Section 26. Entire Agreement. This franchise represents the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and shall supersede all prior oral negotiations and written agreements between the parties.

Section 27. No Third Party Beneficiary. This franchise has been negotiated and executed for the exclusive benefit of the signatory parties and is enforceable only by the same. Nothing herein shall be construed as creating any rights in or for any third parties.

Section 28. Governing Law. Venue. This franchise shall be governed in all respects by the laws of the state of Washington. The exclusive venue for any dispute related to this franchise shall be the Pierce County Superior Court. The substantially prevailing party in any such dispute shall be entitled to an award of its reasonable attorney fees.

Section 29. Abandonment. If MILTON abandons any or all of its facilities during the franchise term, the City, at its option, may operate said facilities or designate another entity to operate the same temporarily until MILTON restores service under conditions acceptable to the City, or until the franchise is revoked and a new franchisee is selected by the City. If the City designates another entity to operate the water utility system, MILTON shall reimburse the City for all reasonable costs, expenses and damages incurred, including reasonable attorney fees, court expenses and attributed expenses for work conducted by the City's staff or agents.

Section 30. Taxes and Fees. Nothing contained in this franchise shall exempt MILTON from MILTON's obligation to pay any applicable utility tax, business tax, or ad valorem property tax, now or hereafter levied against real or personal property within the City, or against any local improvement assessment imposed on MILTON. Any fees, charges and/or fines provided for in the Edgewood Municipal Code or any other City ordinance, and any compensation charged and paid for the Public Rights-of-Way, whether pecuniary or in-kind, are separate from, and additional to, any and all federal, state, local, and City taxes as may be levied, imposed or due from MILTON .

**Presented to Council for first reading on, February 28, 2017
Presented to Council for second reading on, March 21, 2017**

ADOPTED BY THE CITY COUNCIL ON MARCH 28, 2017

Daryl Eidinger, Mayor

ATTEST/AUTHENTICATED:

Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

Carol Morris, City Attorney

Published: March 30, 2017

Effective: April 4, 2017

ACCEPTANCE OF FRANCHISE

The undersigned authorized representative of Milton, WA hereby declares on behalf of Milton, WA, the acceptance of the nonexclusive franchise to Milton, WA approved by the Edgewood City Council on the 28th day of March, 2017, by the adoption of Edgewood City Ordinance No. 17-0493.

DATED this day of, 2017

Milton, WA

By: _____
Its: _____