**CITY OF EDGEWOOD**
**REGULAR COUNCIL MEETING AGENDA**
May 28, 2019 – 7:00 pm. ♦ City Hall – 2224 104th Avenue East ♦ Edgewood, WA

1. **CALL TO ORDER**
   Pledge of Allegiance, Roll Call, Additions/Deletions

2. **PUBLIC HEARING**
   **AB19-018** - Proposed Ordinance relating to streets and street use, adopting a procedure for the City's issuance of temporary, revocable street use permits for the use and occupation of the street right-of-way and other public places, describing the application process, criteria for approval and procedure for appeals; and creating a new Chapter 12.16 to the Edgewood Municipal Code.

3. **AUDIENCE COMMENT**

4. **MAYOR'S REPORT**

5. **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 May 14, 2019,
   **B.** Special City Council Meeting Minutes of May 21, 2019,
   **C.** Study Session Meeting Minutes of May 21, 2019,
   **D.** **AB19-019,** a motion approving May 2019 Budgeted Expenditures as follows: Deferred Compensations Program; Payroll Direct Deposit; Dept. of Retirement Systems; and IRS 941 ACHs in the amount of $87,266.00; and Vendor Check Numbers 23822 through 23839 with EFT and Direct Pay Payments in the amount of $204,614.70. Total distributions submitted for review & authorization in the amount of $291,880.70.

6. **COUNCIL BUSINESS**
   **A.** **AB19-0550,** a motion to adopt Ordinance No. 19-0550, relating to streets and street use, adopting a procedure for the City's issuance of temporary, revocable street use permits for the use and occupation of the street right-of-way and other public places, describing the application process, criteria for approval and procedure for appeals; and creating a new Chapter 12.16 to the Edgewood Municipal Code.
   **B.** **AB19-0456,** a motion to adopt Resolution No.19-0456, establishing street use permit fees.
   **C.** **AB19-0457,** a motion to adopt Resolution No. 19-0457, authorizing the removal of a dangerous tree located at 11704 32nd Street East, implementing the procedure in Chapter 8.15 of the Edgewood Municipal Code.
   **D.** **AB19-0458,** a motion to adopt Resolution No. 19-0458, findings of fact to support the continued maintenance of interim zoning Ordinance No. 19-0547, relating to land use and zoning, prohibiting the acceptance of applications for new residential/multi-family development in the town center, commercial, mixed use residential and business park zones, for a period of six months, as allowed by RCW 35A.63.220 and RCW 36.70A.390.

*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.*

## 7. COUNCIL COMMENTS

## 8. ADJOURN

# City Of Edgewood
# Council Agenda Summary Sheet

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| **SUBJECT:** Street Use Permits – **PUBLIC HEARING** | **Agenda Item #:** | **AB19-018** |
| | **For Agenda of:** | **May 28, 2019** |
| | **Prepared by:** | **Jeremy Metzler** |

**ATTACHMENTS (list):** ☒ DRAFT Ordinance 19-0550
☒ DRAFT Resolution 19-0456 – Proposed Street Use Permit Fees

| **Approval of Materials:** | | | |
|---|---|---|---|
| Mayor, Daryl Eidinger | ☒ | **Expenditure Required:** | N/A |
| Asst. City Administrator, Dave Gray | ☒ | **Amount Budgeted:** | N/A |
| City Attorney, Carol Morris | ☒ | **Appropriation Required:** | N/A |
| City Clerk, Rachel Pitzel | ☒ | **Timeline: N/A** | |
| Community Development Director, Darren Groth | ☒ | | |
| Public Works, Jeremy Metzler | ☒ | | |
| Police Chief, Micah Lundborg | ☒ | | |

**Fiscal Note/Consideration:**
A street use permit is a request to temporarily use or occupy a public place or street for private purposes. The permit fee is therefore calculated in a different manner than a development permit fee. In Section 12.16.160 of the attached ordinance, the factors used to determine the fee are identified. While a portion of the fee will reimburse the City for administrative processing, the remainder of the fee is the "rent" for the use of the public place/street.

**SUMMARY STATEMENT:**
Issues relating to the use of street right-of-way by an owner of property abutting the street have become more prevalent in recent months. The City has adopted Pierce County's Code relating to street obstructions, which primarily regulates any use of the streets other than for travel or utility purposes as a nuisance subject to removal.

However, cities have the ability to allow abutting property owners a temporary, revocable permit to use street rights of way for various private purposes, as long as such use doesn't interfere with the public's right to travel, and the normal use of street rights of way or the public health and safety. For example, the City may allow use and occupation of the area commonly known as the "planting strip" along streets for temporary signs, or on sidewalks for sidewalk cafes, or the edge of the right of way for the placement of retaining walls, etc. With the adoption of a street use permit process, the City needs to establish criteria for issuance of permits for such uses, a permit fee schedule, requirements for insurance, bonding, indemnity and appeals.

The criteria for approval of such permits is very different from the criteria used to review and approve development permits. The primary consideration is to maintain the use of City streets for travel, transportation, and incidental authorized purposes, and to ensure the public health and safety. In addition, such permits consider the interest of owners and occupants of property while respecting the rights of the public. Therefore, the Public Works Director makes the final decision on whether the permit should issue, as well as any conditions imposed on an approved permit.

Cities hold public places and street rights of way in trust for the public. Therefore, a street use permit may also charge fees for such use and occupation. Attached is a proposed street use permit fee schedule, based on the same for the City of Seattle. The Council needs to establish a street use permit fee and an occupation fee schedule. Staff

recommends adopting a resolution with this ordinance to add the proposed street use permit fees to the previously adopted fee schedule.

Following conversation at the May 21, 2019 study session, a definition for "unopened" has been added to section 12.16.210 of the proposed ordinance. This definition has been added to clarify that a Street Use Permit would not be required for typical driveway approaches along existing streets. Also, as presented herein, section 12.16.050(3)(h) of this ordinance states, "*The street use permit fee shall be billed at current staff hourly rates, unless otherwise established by the city in the adopted fee resolution.*" Therefore, if there is a situation or request that is not covered under the proposed fee resolution, application review would be billed to the applicant "*at current staff hourly rates*".

While a Public Hearing is not required, staff recommends holding one prior to acting on this ordinance. This is a permit that could be very controversial, and the City Council may want input from the public before considering it.

**COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:** N/A

**RECOMMENDED ACTION:** Hold a public hearing to solicit input on the proposed ordinance and fee schedule, to help the City Council's deliberation and action on the same.

**ALTERNATIVES TO RECOMMENDED ACTION:** none

# ORDINANCE NO. 19-0550

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, RELATING TO STREETS AND STREET USE, ADOPTING A PROCEDURE FOR THE CITY'S ISSUANCE OF TEMPORARY, REVOCABLE STREET USE PERMITS FOR THE USE AND OCCUPATION OF THE STREET RIGHT-OF-WAY AND OTHER PUBLIC PLACES, DESCRIBING THE APPLICATION PROCESS, CRITERIA FOR APPROVAL AND PROCEDURE FOR APPEALS; AND CREATING A NEW CHAPTER 12.16 TO THE EDGEWOOD MUNICIPAL CODE.**

**WHEREAS**, the City of Edgewood has adopted the Pierce County Code for purposes of enforcement; and

**WHEREAS,** the City desires to adopt its own regulations relating to the use and occupation of street rights of way and other public places; and

**WHEREAS,** the City SEPA Responsible Official has determined that this Ordinance is categorically exempt under SEPA, WAC 197-11-800(19) as relating solely to governmental procedures and containing no substantive standards respecting use or modification of the environment; and

**WHEREAS,** the City Council held a public hearing on this ordinance and considered this ordinance for adoption during its regular meeting of May 28, 2019; Now, therefore,

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

**Section 1.** A new chapter 12.16 is hereby added to the Edgewood Municipal Code, which shall read as follows:

## Chapter 12.16
## STREET USE PERMITS

Sections:

12.16.010 Purpose.
12.16.020 Applicability.
12.16.030 Nuisances.
12.16.040 Exceptions.
12.16.050 Street use permits.
12.16.060 Processing of applications.
12.16.070 Criteria for approval.
12.16.080 Approval of street use permit.
12.16.090 Assurances required.

12.16.100 Indemnity deposit with finance department.
12.16.120 Surety bond.
12.16.130 Liability insurance.
12.16.140 Indemnification agreement.
12.16.150 Permit duration, revocation and restoration of the public place.
12.16.160 Permit fees.
12.16.170 Exception/waiver, fees and assurances.
12.16.180 Compliance with permit.
12.16.190 Newsstands.
12.16.200 Appeals.
12.16.210 Definitions.

**12.16.010 Purpose.**
The purpose of this chapter shall be:

(1) To maintain the use of city streets for travel, transportation and incidental authorized purposes, and to retain the use of other public places for the purposes established;

(2) To consider the interests of owners and occupants of property adjacent to public places, while respecting the rights of all users thereof;

(3) To preserve the appearance of city streets and public places, to carry out design controls in areas subject thereto, encourage improvements that make public places more pleasing; and

(4) To establish a process for the review, approval, denial and appeal of permits for uses of the public streets, alleys and other public places so as to ensure the protection of the public health, safety and welfare and the prevention of obstructions and/or public nuisances.

**12.16.020 Applicability.**
This chapter shall authorize, through a temporary, revocable permit, certain limited use of public alleys, places and streets by private individuals. Newsstands are regulated in Section 12.16.190. This chapter shall not apply to the particular uses of city streets and sidewalks that are regulated by the other chapters of this title. This chapter shall require a permit for any existing use of any public right-of-way, street or other public place. Owners seeking a temporary use of city right-of-way must obtain a permit before the use begins.

**12.16.030 Nuisances.**
(1) Any structure built, or material placed or dumped, in or on any public place by anyone, without having first obtained and complied with a permit issued under this chapter, may be declared a public nuisance and abated as set forth in Chapter 8.09 EMC or Chapter 7.48 RCW. Other equivalent proceedings may be taken as are authorized by law or city ordinances.

(2) The director may declare that a street tree, or any portion of a privately owned tree extending into the right-of-way, is a public nuisance if it impacts the safe operations of the transportation system, including but not limited to: impeding signs and signals, or harbors a contagious disease or an insect infestation that threatens the health of other trees or vegetation. The city may follow the process in EMC 8.15 to eliminate overhanging vegetation.

**12.16.040 Exceptions.**
When required by the United States Constitution, Washington State Constitution, or a federal or state statute enacted thereunder, the director shall suspend the application of any particular section of this chapter or waive compliance with a requirement, including payment of fees, the provision of an indemnity deposit or contract, and the furnishing of insurance. The director shall maintain a record of all such granted waivers and suspensions.

**12.16.050 Street use permits.**
(1) Permit Required. It is unlawful for anyone to make use, as defined in Section 12.16.210, of any public place: (a) without first securing a written permit as authorized by this chapter; (b) without complying with all conditions of such permit; and (c) without complying with the city's public works standards and other applicable code provisions. The city public works department is not required to obtain a permit or comply with permit procedures for street maintenance/improvement work performed by the city.

(2) Review Procedures. A street use permit is exempt from permit processing procedures in the city's land use development code, EMC Title 18 (pursuant to RCW 36.70B.140), unless otherwise specified within this chapter. The director makes a final decision on the street use permit application without a hearing, which can be administratively appealed as set forth in Section 12.16.200. Issuance of a street use permit is not a quasi-judicial decision, and the city is not required to hold an open record or closed record hearing (as defined in RCW 36.70B.020) on any decision.

(3) Elements of a Complete Application. A complete street use permit application shall consist of the following:

(a) Application Form. A completed street use permit application form, including the applicant's name, address, phone number and e-mail address. If the applicant's designee is completing the application, then an affidavit signed by the applicant must be submitted, verifying that the applicant has given permission to the designee for the submission of the street use permit application;

(b) Other Permit Applications. If the street use permit is associated with a proposed project, copies of the related permit applications must be submitted;

(c) Identification of the Public Place. The public place or defined portion of the public place to be used must be identified in detail;

(d) Identification of the Proposed Use. The application must specifically identify the proposed use of the public place, and provide detail on the amount of space required for the proposed use and the dates proposed for such use;

(e) Plans and Specifications. The plans and specifications for any utility or structure proposed in or on the public place;

(f) Existing Structures. A plan identifying and locating any existing public improvements, utilities, or structures in the area to be used and any trees that may be affected by the proposed use;

(g) Authorization of Property Owner. When the proposed use involves a structural building overhang, a retaining wall, or a permanent method of lateral support, the application shall also be accompanied by documentation showing the individual or entity that is the record owner of the premises served by the proposed use and showing the record owner of the premises consents to the premises being served by the proposed use;

(h) Fees. The street use permit fee shall be billed at current staff hourly rates, unless otherwise established by the city in the adopted fee resolution.

(4) Assurances. Before the city issues any street use permit, the applicant will be required to provide certain assurances (deposit of funds, surety bond, indemnification agreement, etc.), as needed, all as described in Sections 12.16.090 through 12.16.140.

**12.16.060 Processing of applications.**

(1) The director shall review each application for a permit for compliance with any applicable codes.

(2) The director may require additional information or material when he/she deems appropriate, including, but not limited to: a map, photographs, construction plans, or a survey of the site; the director may inspect the premises, solicit comments from other abutters or the public, post or require posting of notice at the site inviting comment to the authorized department, or give notice of the submission of a street use permit application according to requirements for an administrative review applicable to the notice of application procedure in EMC 18.40.180 (RCW 36.70B.110).

(3) If an application for a street use permit requires a permit under any other chapter of the city's code, but the other permit application has not been filed with the appropriate department, then the street use permit application shall be sent to the appropriate director/department for review. The director/department with the authority to review the associated permit applications shall send his/her findings and comments to the director.

(4) If the director determines that engineering or other studies should be prepared before a permit is approved, the applicant shall prepare the studies, or authorize the city to prepare the studies at the applicant's expense, before the application will be further processed.

**12.16.070 Criteria for approval.**

Factors for the director's consideration in evaluating an application for a permit include, but are not limited to:

(1) The applicant's constitutional rights;

(2) The impact of the proposed use on the following:

(a) The paramount purpose of streets for travel and transportation;

(b) Utilities; authorized secondary street uses; and any use being made by the public of the site;

(c) Fire access and public safety;

(d) Uses under permit; street trees; and other proposed or past uses of the site;

(e) Rights of light, air, and access and lateral support of abutting properties and on access or easements of properties dependent upon the public place for access;

(f) The environment, including but not limited to efforts to minimize impervious surface, loss of native vegetation, and stormwater runoff;

(g) Drainage, surface and underground; springs and watercourses; and the stability of soils; and

(h) Where applicable, city land use, transportation, open space, shoreline, and beautification policies;

(3) The abutter's property rights;

(4) The public and private benefits of the proposed use;

(5) The site and its terrain;

(6) In addition to the considerations listed above, where the following situations occur, factors for consideration include:

(a) For public places used as parks or open space, the impact of the proposed use on their character as a park drive or boulevard, or as open space;

(b) For environmentally critical areas, the requirements of EMC Titles 14 and 20.

**12.16.080 Approval of street use permit.**

(1) If the application conforms to the requirements of this chapter, all other applicable codes and the proposed use is consistent with the rights of the public, the director may approve the application; fix the duration and the terms or conditions of the permit; and, when required, upon the applicant's furnishing of a deposit or surety bond, insurance, covenant, and indemnification (as required by Section 12.16.090 through 12.16.140), and payment of all required fees, issue the permit. The original permit shall remain in the custody of the city, and a copy shall be given to the permittee and shall be posted or available at the site.

(2) The permit shall specify the portion of the public place that may be occupied, the dates or days and hours of use, and the allowed use. The permit shall only be valid for the portion of the public place, the dates or days and hours of use, and the use as identified on the permit. Every permit shall include the language in Section 12.16.150(1) on the face of the permit.

(3) Every permit shall be conditioned to state that all activities in the public place shall implement stormwater best management practices (BMPs) in accordance with the city's current stormwater manual, as amended (EMC 13.05). Failure to implement stormwater BMPs shall be a violation of this chapter and subject to enforcement.

**12.16.090 Assurances required.**

Before the city approves a street use permit, the director shall determine the appropriate assurances (as set forth in Section 12.16.100 through 12.16.140) as necessary to assist the city in



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(1) the collection of expenses charged under this chapter and costs associated with a use under a permit; (2) assure performance of the requirements of this chapter and the covenants or conditions in a permit; (3) place on the permittee the risks associated with the use and provide a degree of financial responsibility in the event of an accident or injury; and (4) restoration of the public place when the permittee's use has been revoked or terminated to at least as good a condition as required by current applicable standards. The city's acceptance of an indemnity deposit/agreement, a surety bond, or insurance does not limit an applicant's or a permittee's liability to the amount deposited or stated in the instrument. The director, when required to do so by a constitutional provision, or state or federal law, may waive compliance with any of the conditions of Section 12.16.100 through 12.16.140.

**12.16.100 Indemnity deposit with finance department.**

(1) If the director determines that there is a substantial risk of injury, damage, or expense to the city or probable city expenditures arising from an applicant's proposed use of any public place, the director may require the applicant to make an indemnity deposit with the finance director in an amount based on the director's estimate of the injury, damage, or expense to the city, or cost of restoring the public place if a mishap or accident occurs.

(2) The establishment of an indemnity deposit with the city shall provide a source of funds, held by the city, to pay probable city expenditures arising from: (a) a proposed use or restoration of the public place after the use; (b) reimbursement of the city for the time associated with city employees' inspection and code enforcement activities; and (c) ancillary city expenses relating to the permit. Annual street use permit fees are billed separately. A deposit establishes a balance with the city in favor of the applicant or permittee against which a city department may deduct fees and charges as they occur, including annual fees and deposits for particular permits.

(3) The indemnity deposit shall also be used to pay the cost of: (a) restoring the public place; (b) removal of any earth or other debris; (c) replacing or repairing any damaged utility or trees in the public place; (d) completing any work left unfinished; (e) resetting any traffic control devices; (f) performing engineering and other studies required by the applicant's use of the public place; and (g) any other expense that the city may sustain in conjunction with the permitted work. The deposit shall also be used to pay the city's administrative expenses equal to the city's costs for services such as inspections, surveys, preparing plans, letting contracts, and contract administration or supervision. The balance of the cash indemnity deposit, if any, after all such deductions, shall be returned to the applicant or permittee. If the indemnity deposit is insufficient, the applicant or permittee shall be liable for the deficiency.

**12.16.120 Surety bond.**

(1) A surety bond provides a promise by a licensed surety company, within the limits and according to the terms of the bond, to perform work or pay the city's expenses to perform the work in the event of the permittee's default. A surety bond is not a substitute for providing the city public liability insurance for any tortious injury. The director may authorize the filing of a surety bond consistent with the procedures in this chapter, in lieu of making all or part of an indemnity deposit.

(2) If required by the authorizing official, the applicant or permittee shall deliver to the director, in lieu of or in addition to the indemnity deposit, a sufficient surety bond executed by a surety

company authorized and qualified to do business in the state of Washington and is approved as to surety and as to form by the city attorney. The bond shall: assume all the requirements provided in Section 12.16.100 in relation to an indemnity deposit; run for the full period of the permit; be in an amount fixed by the director; be conditioned that the permittee shall comply with all the terms of the permit and all the provisions of this title and all other ordinances of the city; and to the extent permitted by law, indemnify and save the city harmless from any and all claims, actions, suits, liability, loss, costs, expense, or damages of every kind and description, excepting only damages that may result from the sole negligence of the city and that may accrue to, be asserted by, or be suffered by any person or property, including, without limitation, damage or injury to the permittee, its officers, agents, employees, contractors, invitees, tenants and tenants' invitees, or licensees, by reason of the use of any public place, as provided for in the application.

(3) If the application proposes to construct, reconstruct, repair, maintain, or remove any pavement, utility, street lighting, or appurtenance, and / or perform any grading in the public place, the applicant shall file with the director a sufficient surety bond executed by a surety company authorized and qualified to do business in the state of Washington and is approved as to surety and as to form by the city attorney. The bond shall: be in an amount fixed by the director; be conditioned such that the permittee shall complete all portions of the work according to the city's standard plans and specifications and the special plans approved by the authorizing official; and be conditioned that the permittee shall comply with all the terms of the permit and all the provisions of this title and all other ordinances of the city; and to the extent permitted by law, indemnify and save the city harmless from any and all claims, actions, suits, liability, loss, costs, expense, or damages of every kind and description, excepting only damages that may result from the sole negligence of the city, that may accrue to, be asserted by, or be suffered by any person or property, including, without limitation, damage or injury to the permittee, its officers, agents, employees, contractors, invitees, tenants and tenants' invitees, or licensees, by reason of the use of any public place, as provided for in the application. The bond shall run for the full period of the permit plus two years after city acceptance of the permitted work.

**12.16.130 Liability insurance.**

(1) Liability insurance protects the city as an additional insured from public liability as a result of an accident, injury, or damage arising from the use of a public place; and assists in making permittees financially responsible for meeting liabilities that may arise from their use of public places.

(2) Every permittee, as a condition of every street use permit, shall obtain and maintain in full force and effect, at its own expense, public liability insurance in an amount sufficient to protect the city from all potential claims and risks of loss from perils in connection with any activity that may arise from or be related to the permittee's activity upon or the use or occupation of the public place allowed by the permit and claims and risks in connection with activities performed by the permittee by virtue of the permission granted by the permit. The insurance policy shall: (a) be in effect for the duration of the permit; name the city of Edgewood, its elected and appointed officers, officials, employees, and agents as additional insureds for primary and noncontributory limits of liability subject to a separation of insureds clause; (b) apply as primary insurance regardless of any insurance that the city may carry; and obligate the insurance company to give notice to both the director and the city clerk at least 30 calendar days before any cancellation of the policy.

(3) The director, in consultation with the city attorney, shall establish the amount of the insurance, and unless constitutional liberties prohibit it, shall require that the insurance be provided prior to issuance of the permit. The city requires insurance coverage to be placed with an insurer admitted and licensed to conduct business in Washington State or with a surplus lines carrier according to Chapter 48.15 RCW, except that if it is infeasible to obtain coverage with the required insurer, the city may approve an alternative insurer. Evidence of such insurance shall be provided before the city issues the street use permit.

**12.16.140 Indemnification agreement.**

(1) The indemnification agreement holds the city harmless from all claims, actions, suits, liability, loss, costs, expense, or damages of every kind and description. The permittee shall agree to defend, indemnify, and hold harmless the city of Edgewood, its officials, officers, employees, and agents from and against:

(a) Any liability, claims, actions, suits, loss, costs, expense judgments, attorneys' fees, or damages of every kind and description resulting directly or indirectly from any act or omission of the permittee, its subcontractors, anyone directly or indirectly employed by them, and anyone for whose acts or omissions they may be liable, arising out of the permittee's use or occupancy of the public place; and

(b) All loss by the failure of the permittee to fully or adequately perform, in any respect, all authorizations of obligations under permit.

(2) If the application is for a permit to use or occupy a public place with a bulkhead, steps, retaining wall, rockery, structure, or an extension or appurtenance to a structure or any facility with an anticipated continued occupancy of a public place of more than one year, the owner of the adjacent property, and any existing lessee, sublessee, tenant and subtenant using or occupying the part of the premises served or connected to the permitted use, shall, in the manner provided by law for the execution of deeds, execute and deliver to the city upon a form to be supplied by the authorizing official an agreement in writing: signed and acknowledged by the owners and by any existing lessee, sublessee, tenant and subtenant; containing an accurate legal description of the premises; covenanting on the part of the owner, lessee, sublessee, tenant and subtenant, for themselves and their heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants and forever defending, indemnifying, and holding harmless the city, its officials, officers, employees, and agents from and against any and all claims, actions, suits, liability, loss, costs, expense, attorneys' fees, or damages of every kind and description, excepting only damages that may result from the sole negligence of the city, that may accrue to, be asserted by, or be suffered by any person or property, including, without limitation, damage, death, or injury to members of the public or to the permittee's officers, agents, employees, contractors, invitees, tenants and tenants' invitees, licensees or its successors and assigns, arising out of or by reason of:

(a) The existence, condition, construction, reconstruction, modification, maintenance, operation, use, or removal of the permitted area or any portion thereof, or the use, occupation, or restoration of the public place or any portion thereof by the owner, lessee, sublessee, tenant and subtenant, heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants;

(b) Anything that has been done or may at any time be done by the owner, lessee, sublessee, tenant and subtenant, heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants by reason of the permit; or

(c) The owner, lessee, sublessee, tenant and subtenant, heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants failing or refusing to strictly comply with every provision of the permit; or arising out of or by reason of the permit in any other way.

(3) The director may require that the indemnification agreements for the types of structures identified in subsection (2) of this section shall be a covenant running with the land and shall be recorded against the property at the applicant's cost.

(4) In addition, the agreement shall contain a provision which expressly states that the permit:

(a) Is wholly of a temporary nature;

(b) Vests no permanent right whatsoever;

(c) May be revoked, the structures and obstructions removed, and public place restored to the condition that existed prior to use occurring in the public place upon 30 calendar days' notice, posted on the premises, or published in the official newspaper of the city; or without notice, if the permitted use is dangerous or the structures are insecure or unsafe, as determined by the director, or are not constructed, maintained, or used in accordance with the Edgewood Municipal Code.

(5) An agreement after it has been received and recorded with the county auditor shall be retained by the city clerk in the files and records of the clerk's office.

(6) The director may waive execution of the signature on an agreement by a tenant or subtenant on a month-to-month lease or on a tenancy at will. If the application is made by a condominium or cooperative apartment, the authorizing official may accept an agreement by the condominium or apartment association together with documentation showing its authority to execute the agreement in lieu of executing the agreement by all unit or apartment owners.

**12.16.150 Permit duration, revocation and restoration of the public place.**

(1) Every street use permit approved under this chapter shall state on its face that the permit is of a temporary nature and shall vest no permanent right; and may in any case be revoked upon 30 calendar days' notice; or may be revoked without notice where the use or occupation is dangerous or any structure or obstruction permitted is insecure or unsafe, as determined by the director, or is not constructed, maintained, or used in accordance with the provisions of the Edgewood Municipal Code.

(2) If a permit to use a public place is revoked, terminated or expired, the permittee/applicant shall restore the public place to the condition that existed prior to use occurring in the public place.

(3) If any structure, obstruction, use, or occupancy is not discontinued after notice from the city to do so, the director, with respect to public places, may:

(a) Prohibit its further use;

(b) Remove it from the public place;

(c) Make repairs to it as may be necessary to render it secure and safe at the expense of the permittee or the permittee's successor or user responsible for the structure, obstruction, use, or occupancy; and

(d) Collect expenses incurred in rendering it secure and safe and restoring the public place in the manner provided by this chapter and other applicable law.

**12.16.160 Permit fees.**

(1) From time to time, the director shall prepare and recommend for adoption by the city council a schedule of fees applicable to: reviewing and administering all permits for public places.

(a) Fees for using or occupying the public place may take into consideration the undesirability of the use or occupation relative to the rights of the public, such as the city policy of discouraging certain types of encroachments inconsistent with the public right of access, including access to the shorelines or other public places, and shall be included in the schedule of fees for use of public places under the jurisdiction of the director.

(b) The director is authorized to collect a monetary deposit for services to be conducted related to the review or inspection of a permit prior to or at permit issuance.

(c) The director is authorized to collect fees for other city departments that provide services related to the review of a permit for use of the public place.

(2) The fee schedule, when adopted by ordinance, shall govern the fee for permits issued and reviewed. All permit and review fees shall be commensurate with the cost of administering, inspecting, and policing involved in issuing and continuing the permits and with the use and occupation granted by the permits. The fee shall be collected as a condition to issuing or continuing any permit or use.

**12.16.170 Exception/waiver, fees and assurances.**

(1) The director may grant an exception from paying fees, making an indemnity deposit, posting a surety bond, or providing liability insurance from the United States of America.

(2) The authorizing official may grant an exception from paying fees, making an indemnity deposit, posting a surety bond, or providing liability insurance when the primary purpose of the project is environmental remediation and the project is being conducted in compliance with 42 U.S.C. 9621 and is subject to 42 U.S.C. 9621(e).

(3) The authorizing official may grant an exception from paying fees, making an indemnity deposit, posting a surety bond, or providing liability insurance when the use is for a public transportation-related-infrastructure project, like light rail, and is authorized under a separate ordinance; or when the use is for a city transportation project.

(4) An authorizing official may waive the requirement for an indemnity deposit or surety bond for a use by the state of Washington or a local government.

**12.16.180 Compliance with permit.**

(1) Construction of a structure or improvement shall be in accord with the approved permit and plans accompanying the approved permit unless the director first approves a revised permit authorizing the change.

(2) If a proposed change is substantial and objections or adverse comments are received before the permit authorizing the revision is issued, the director shall give notice to the persons making the objection or comments about the proposed change, or require the applicant or permittee to do so, and allow public comment before reaching a decision on the proposed change.

**12.16.190 Newsstands.**

(1) This section shall be interpreted and implemented in a manner that will enable the public to acquire a wide variety of publications with a diversity of news, information, ideas and opinions, at convenient locations in public places. It shall also be interpreted and implemented in a way so as to facilitate the distribution of publications in public places as contemplated by the Constitution of the State of Washington and the First Amendment to the U.S. Constitution. In addition, the city shall implement this section by preserving the appearance of public places and carry out design controls in areas subject thereto, encourage improvements that will make public places more pleasing and promote the use of modern aesthetically pleasing newsstands in congested areas.

(2) Newsstands in compliance with the following standards may be placed in public places without a street use permit:

(a) All newsstands in a public place shall align parallel with the curb, allow at least five feet of clear sidewalk space for pedestrian passage, be detectable by pedestrians using canes for guidance, be maintained in a safe condition, able to withstand strong winds and be in good repair at all times. The newsstand may not exceed the following dimensions: six feet by 12 feet;

(b) No newsstand shall be placed or maintained so as to obstruct the use of any crosswalk, wheelchair ramp, driveway, hydrant, or city emergency facility, or be less than 18 inches from the curb;

(c) No newsstand shall impair loading at any bus, taxi, passenger or truck loading zone; hinder egress to parked vehicles in marked parking stalls; obstruct sight lines of motorists at an intersection; orient toward the roadway; or obscure any regulatory sign; or

(d) No newsstand shall be fastened to any bus shelter or any utility pole or tree.

(3) A street use permit is required for the placement of a newsstand in a public place if the newsstand exceeds the size limitations in subsection (2)(a) of this section; or if the owner proposes to: (a) permanently affix the newsstand to the surface of the public place; or (b) the owner proposes to place a newsstand which conflicts with design guidelines adopted for historical or special review districts, or proposes to place the newsstand within 120 feet of the limits of a street improvement that provides for the integration of newsstands into structures located therein. The director may issue a street use permit to allow the placement of a newsstand

under this subsection (3) whenever the same constitutes a reasonable accommodation that furthers the public interest.

**12.16.200 Appeals.**

(1) A person aggrieved by any of the following decisions of the director may timely request an appeal of the decision to the city council:

(a) The approval or denial according to Sections 12.16.070 and 12.16.080 of a street use permit;

(b) The revocation of any street use permit;

(c) The approval or denial according to Section 12.16.190 of a request for a permit for a newsstand location not generally permitted by Section 12.16.190.

(2) An aggrieved person may appeal the director's decision by paying the appeal fee and filing an appeal statement with the city clerk within 10 calendar days of the date of the decision. The appeal shall identify the decision for which review the objection(s) to the decision, and the specific alternative being proposed. The city clerk shall schedule the appeal with the city council on their regular meeting calendar. The director may, at his/her discretion, stay implementation of a decision pending the appeal. The city council shall consider the appeal during a public hearing, and issue written findings and conclusions at a subsequent meeting. The decision of the city council shall be final, binding and conclusive.

**12.16.210 Definitions.**

"Adjacent property" means and includes the property abutting the margin of and contiguous to the public place.

"Alley" means a public way not designed for general travel and used primarily as a means of access to the rear of residences and business establishments. (RCW 46.04.020.)

"Applicant" means the individual or entity that has applied for a permit to use the public place on their or another individual's or entity's behalf.

"Crosswalk" means the portion of the roadway between the intersection area and a prolongation or connection of the farthest sidewalk line or in the event there are no sidewalks then between the intersection area and a line 10 feet therefrom, except as modified by a marked crosswalk. (RCW 46.04.160.)

"Director" shall mean the director of public works or his/her designee.

"Driveway or private road" means every way or place in private ownership and used for travel of vehicles by the owner or those having express or implied permission from the owner, but not by other persons. (RCW 46.04.420.)

"Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. (RCW 46.04.197.)

"Newsstand" means any stand, box, structure, rack or other device that is designed or used for the sale or distribution of newspapers, periodicals, magazines, or other publications, or any combination of the above.

"Permittee" means a person or entity that has received a permit to use a public place.

"Public place" means public right-of-way and the space above or beneath its surface, whether or not opened or improved, including streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, planting strips, squares, triangles and plazas that are not privately owned.

"Right-of-way" means the strip of land platted, dedicated, condemned, established by prescription or otherwise legally established for the use of vehicles, pedestrians or utilities.

"Roadway" means that portion of a highway or street improved, designed, or ordinarily used for vehicular travel, exclusive of the sidewalk or shoulder even though such sidewalk or shoulder is used by persons riding bicycles. (RCW 46.04.500.)

"Sidewalk" means that property between the curb lines or the lateral lines of a roadway and the adjacent property, set aside and intended for the use of pedestrians or such portion of private property parallel and in proximity to a public street and dedicated to use by pedestrians. (RCW 46.04.540.)

"State highway" means every highway or part thereof which has been designated as a state highway or branch thereof by legislative enactment. (RCW 46.04.560.)

"Street" means every public highway or part thereof located within the city limits, except alleys. (RCW 46.04.120.)

"Use" means exercising dominion or control over, or occupying all or part of, a public place with or without the right to do so. "Use" includes constructing, storing, erecting, placing upon, maintaining, or operating any inanimate thing or object in, upon, over or under any public place.

(1) "Use" includes, but is not limited to, any of the following:

(a) Placement or installation of any marquee, awning, clock, newsstand, sign, banner, sidewalk elevator or door, fuel opening, sidewalk cafe, or other structure;

(b) Placement or installation of fencing, staging, scaffolding, an elevator or other structure or material, machinery or tools used or to be used in connection with excavating, erecting, altering, demolishing, repairing, maintaining, or painting any building;

(c) Moving any building along or across any public place;

(d) Storing or placing any material, equipment, inanimate object, or thing in any public place. But "use" shall not include placing an inanimate object in a location and for a limited duration of time that, under the circumstances, no reasonable person could conclude that the public's right to use or enjoy the public place, in whole or in part, has been or potentially could be interfered with;

(e) Raising or lowering any safes, machinery, or other heavy articles;

(f) Making or having any fire on any public place;

(g) Doing any work in, or erecting any structure under, along or over, any public place; except when permitted by ordinance;

(h) Vending of goods, tickets, things or services of any kind, other than publications in newsstands regulated under Section 12.16.190;

(i) Using sound amplifying equipment, other than aids for the disabled; or

(j) Closing or altering the appearance of streets; including filming, block parties or street fairs.

(2) With respect to trees and plantings, "use" means planting, removing, injuring, destroying, topping, or major pruning of any tree in any public place; cutting or pruning of any tree planted or maintained by the city; and removing, injuring or destroying any flower, plant, or shrub in any public place. "Use" excludes cutting grass, trimming shrubs, planting flowers, seeding, weeding, edging and other gardening activities for the care of planting strips commonly performed by or for an owner or occupant of property adjacent to a public place; and it excludes berry-picking and recreational activities that may have an incidental impact upon grass or shrubbery.

(3) "Use" excludes a customer's temporary placement of the customer's garbage and recyclables for curbside/alley collection, removing snow and ice, sweeping sidewalks and removing leaves and debris.

"Unopened" means a City right-of-way that exists by dedication or deed, but within which there is no road, improved or unimproved, that has been opened and accepted for public use and maintenance by the City.

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**Section 2. Severability.** Should any section, paragraph, sentence, clause or phrase of this Code, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason or should any portion of this Code be pre-empted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this Code or its application to other persons or circumstances.

**Section 3. 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.

**ADOPTED THIS 28th day of May, 2019.**

_____
Daryl Eidinger, Mayor

ATTEST:

_____
Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

_____
Carol Morris, City Attorney

DRAFT

**RESOLUTION NO. 19-0456**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON, ADOPTING STREET USE PERMIT FEES.**

**WHEREAS,** the Edgewood City Council adopted Ordinance No. 19-0550, adopting a street use permit process; and

**WHEREAS,** the Council needs to establish fees associated with such permits;

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

**Section 1**. The Council adopts the following annual street use permit fees:

| Application Type | Review Fee | Issuance Fee |
|---|---|---|
| **Non-Franchise Utility Occupation** | $150.00 | $100.00 annually |
| **Commercial Development –** Use of the right-of-way associated with commercial projects, multi-family development, or plat infrastructure. | $250.00; site inspection fee: $80.00/hr. | $100.00 annually |
| **Single Family Residential –** Use of the right-of-way for existing single family home construction or major remodels; installation or re-construction/relocation of privately used and maintained driveways in unopened right-of-way; landscaping; fences/walls; other uses. | $250.00; site inspection fee: $80.00/hr. | $75.00 annually |
| **Street Use –** Use of the right of way such as sidewalk cafes; street runs; non-motorized races; parades and processions; block parties; other roadway closures. | $150.00 | $25.00 per week |

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| | | |
|---|---|---|
| **Temporary Signage –** As allowed by the Edgewood sign code for private use within public right-of-way. | $150.00; site inspection fee: $80.00/hr. | $100.00 annually |

**Section 2**. This Resolution shall be effective immediately upon passage.

**PASSED BY THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 28TH DAY OF MAY, 2019.**

_____
Daryl Eidinger, Mayor

**ATTEST:**

_____
Rachel Pitzel, City Clerk

DRAFT

**CITY OF EDGEWOOD**
**REGULAR COUNCIL MEETING SUMMARY**
May 14, 2019 – 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. Scout Justin Yanak led the attendees in the Pledge of Allegiance.

## 2. SWEARING IN OF NEWLY ELECTED COUNCILMEMBERS

City Clerk Pitzel administered the Oath of Office for Councilmember Wise.
Mayor Eidinger recessed the meeting for pictures at 7:02pm
Councilmember Wise took her seat at the dais.
Mayor Eidinger called the meeting back to order at 7:07pm

### ROLL CALL

**Present:** Mayor Daryl Eidinger (Not voting), Councilmember John C. West, Councilmember Mark Creley, Councilmember Ryan Day, Deputy Mayor Tyron Christopherson, Councilmember Colleen Wise, Councilmember Roseanne Tomyn, Councilmember Nate Lowry.
**Staff Present**: Assistant City Administrator Dave Gray, City Clerk Rachel Pitzel, Community Development Director Darren Groth, Public Works Director Jeremy Metzler, Police Chief Micah Lundborg, Carol Morris, City Attorney.

**Additions/Deletions to the Agenda**
An Executive Session was added to the Agenda.

### EXECUTIVE SESSION

Mayor Eidinger stated there was an executive session and noted pursuant to RCW 42.30.110(1)(i) the City Council will now convene an executive session for the purpose of discussing potential litigation. The Executive Session will last approximately 5 minutes.

Mayor Eidinger recessed the meeting to Executive Session at 7:07pm for 5 minutes.

Mayor Eidinger called the meeting back to order at 7:12pm.

## 3. PUBLIC HEARING

**AB19-016 – Emergency Ordinance No. 19-0547- Emergency Ordinance – Interim Zoning**
Mayor Eidinger read the rules for the hearing.
Mayor Eidinger opened the public hearing at 7:15pm.
Community Development Director Darren Groth gave an update on emergency Ordinance No. 19-0547.
Mayor Eidinger asked for public comments.

Reuben Schutz –Spoke about Councils ability to use discretion and requested that they terminate or modify the Ordinance.
Donald Huber – MU property owner asked for clarification on the Ordinance.
Chris VanDyk – Urged the Council to adopt the amended Ordinance.
Alicia Grandborg – Spoke in favor of the interim Ordinance.
Sarah Wagner – Discussed her reasons for supporting the original interim Ordinance.
Linda Howard – Voiced support for the original Ordinance Council brought forward.
David Zehner – Expressed his concerns relating to building in Edgewood.
James Guerrero – Discussed his opinion on the Ordinance and how to move forward.
Justin Younker – Spoke to his support for the adoption amended Ordinance.
Jason Neil – Expressed his support for the prior amendment.
David Vincent – Architect spoke in favor of the amended Ordinance.
John Butler – Voiced his concern for too much growth.
Eric Hampton – Discussed what citizens want the culture of Edgewood future to be.
Shawna Able – Spoke in favor of the amended Ordinance.
Kim Adams – Spoke about property owners selling because they can't afford the sewer assessments.
Jim Schmidt – Spoke about the sewer assessments forcing property owners to sell.
Jason Ramirez – Voiced his desire to have more shopping and dining options in Edgewood.

Mayor Eidinger closed the public hearing at 7:53pm

## 4. AUDIENCE COMMENT

Cheryl Hurst – Thanked the Mayor for the City's participation with the March of Diapers collecting diapers and wipes.
Jason Ramirez – Requested the Council revisit the IT Director position.

## 5. MAYOR'S REPORT

Mayor Eidinger spoke about the following:

- Last week Mayor Eidinger was able to take a tour of the new Northwood Elementary. He noted it is amazing to see all the new technology that is being incorporated. He was also able to see some of the safeguards that are in place to prevent unauthorized access. Students from the old school will be amazed at the size of the new facility. The school district plans to demo the old school in late June, to make way for a separate bus lane and loading area.
- Chief Lundborg, Office Assistant Sandi Phillips and Mayor Eidinger met with PC DEM to continue to work on a plan for Edgewood in case of a local or regional event. When major events happen, it is our responsibility to provide leadership and services to our citizens as quickly as possible.
- In the next weeks, the city will be adding staff positions – Associate Planner, Code Compliance Specialist, and Administrative Assistant. He noted the city is looking forward to having these new positions finally filled. He also noted the interviews for Maintenance Tech is happening this week.
- Mayor Eidinger met with Don Nelson of the Mt. View-Edgewood Water District and was introduced to the new general manager Bart Stepp. He noted the city is looking forward to continuing our good working relationship with this new addition to their staff.

- Mayor Eidinger reminded folks that Connect over Coffee is this Saturday at Starbucks

Public Works Director Metzler briefed on the following:

- Puget Sound Energy just completed a conversion of all lights along Meridian to LED
- WSDOT started installing a rumble strip beginning at the bottom of Meridian coming up

Community Development Director Groth briefed on the following:

- Planning Commission the previous evening didn't have a quorum, which will delay some things for Councils review
- Discussed openings on both Planning Commission and the Economic Development Board
- Annual membership for the American Planning Association is coming due asked if council was interested in joining to please let him know so he could get them added

Assistant City Administrator Gray briefed on the following:

- Discussed vacancy on the Salary Commission explaining they won't be meeting in May due to lack of a quorum

Chief Lundborg briefed on the following:

- Pierce County Sheriffs Crime Analysis Unit released their crime stats for the first 1/3 of the year
- Staffing and training updates
- Introduced Patrick Burke who applied for the Sergeants position
- Neighborhood Community Crime Watch program will be discussed in the upcoming magazine.
- Working on Emergency Preparedness will be meeting with Department of Emergency Management next week
- May 15 is National Peace Officers Memorial Day and the calendar week for when May 15 falls is National Police week. So far in 2019 there have been 42 line of duty deaths, 163 in 2018, 877 in the last five years, 1663 in the last ten years, for a total of 23,721 since 1776 all who have died in the line of duty. In Washington state 292 have died, two of those in 2019 alone, and seven of those have been in Pierce County. The scrutiny officer's face, because of the bad apples that are sometimes among them can overshadow the true American Heroes who wear the uniforms and put their lives on the line every day to keep us safe. If you see an officer out there, thank them for what they do, and remember there are more good ones, than the bad you may see on TV.

## 6. 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 April 23, 2019,
**B.** Study Session Meeting Minutes of April 30, 2019 2019,
**C.** Study Session Meeting Minutes of May 7, 2019.
**D.** Review of Commission, Committee and Board meeting minutes of April 2019.
**E.** **AB19-017,** a motion approving May 2019 Budgeted Expenditures as follows: Deferred Compensations Program; Payroll Direct Deposit; Dept. of Retirement Systems; AWC

Employee Benefit Trust; and IRS 941 ACHs in the amount of $124,774.01; and Vendor Check Numbers 23797 through 23822 with EFT and Direct Pay Payments in the amount of $573,860.51. Adjustment for void check #23783 in the amount of <$2300.21>. Total distributions submitted for review & authorization in the amount of $696,334.31.

**Motion:** As Read, **Action:** Approve, **Moved by** Deputy Mayor Tyron Christopherson, **Seconded by** Councilmember Roseanne Tomyn. **Motion passed unanimously (7-0).**

## 7. COUNCIL BUSINESS

**A. AB19-0547,** a motion to adopt a modification to Ordinance No. 19-0547 relating to land use and zoning, adopting an emergency interim zoning ordinance on the acceptance of applications for new residential/multi-family development in the town center, commercial, mixed use residential, and business park zones, for a period of six months, all as allowed by RCW 35A.63.220 and RCW 36.70A.390, establishing a date for the public hearing on the interim zoning ordinance, providing for severability and declaring an emergency necessitating immediate adoption of the interim zoning ordinance.

Community Development Director Groth briefed on the agenda item. Discussion ensued between Council and staff.

**Motion**: Leave original ordinance as is, **Action:** Approve, **Moved by** Councilmember Ryan Day, **Seconded by** Deputy Mayor Tyron Christopherson. **Motion passed (6-1, Lowry)**

## 8. COUNCIL COMMENTS

Mayor Eidinger discussed West Valley Highway property. Asked if Councilmembers had a chance to review Councilmember West's article for the magazine.
Councilmember Lowry looking forward to a constructive discussion on the Ordinance next week.
Councilmember Wise thanked those who spoke during the Public Hearing.
Reminded those in attendance about the Friends of the Park rummage sale at the end of the month.
Councilmember West encouraged citizens to volunteer for open positions on boards and commissions.
Councilmember Tomyn reminded attendees of Connect over Coffee at Starbucks on Saturday at 8:30.

## 9.ADJOURN

Mayor Eidinger adjourned the meeting at 8:43 pm.

Jill S. Herrera, Deputy City Clerk/
Communications Coordinator

Daryl Eidinger, Mayor

**CITY OF EDGEWOOD**
**SPECIAL MEETING SUMMARY**
May 21, 2019 – 6:30pm ♦ City Hall – 2224 104th Avenue East ♦ Edgewood, WA

## 1. CALL TO ORDER

Deputy Mayor Christopherson called the special meeting to order at 6:30pm and led the attendees in the Pledge of Allegiance.

### ROLL CALL

**Present:** Councilmember Mark Creley, Deputy Mayor Tyron Christopherson, Councilmember Colleen Wise, Councilmember Roseanne Tomyn, Councilmember Nate Lowry. **Absent:** Councilmember Ryan Day. **Excused:** Mayor Daryl Eidinger, Councilmember John C. West.
**Staff Present**: City Clerk Rachel Pitzel, Senior Planner, Kristin Moerler, Jeremy Metzler Public Works Director, Carol Morris, City Attorney.

## 2. EXECUTIVE SESSION

Deputy Mayor Christopherson made the following statement:
Pursuant to RCW 42.30.110 (1) (i) the City Council will now convene an Executive Session for the purpose of discussing potential litigation. The Executive Session will last approximately 20 minutes for the remainder of the special meeting, unless extended, and no action is anticipated to occur in open session when the council reconvenes except to adjourn the meeting.

Deputy Mayor Christopherson recessed the meeting at 6:31pm to move to Executive Session for 20 minutes.

Councilmember Day entered the meeting at 6:43pm and was escorted to the Council's Executive Room to participate in the Executive Session.

Deputy Mayor Christopherson extended the Executive Session for 10 minutes.

Deputy Mayor Christopherson reconvened the meeting reconvened at 6:59pm.

## 3. ADJOURN

Deputy Mayor Christopherson adjourned the meeting at 7:00pm.

Jill S. Herrera, Deputy City Clerk/
Communications Coordinator

Tyron Christopherson, Deputy Mayor

**CITY OF EDGEWOOD**
**COUNCIL STUDY SESSION SUMMARY**
May 21, 2019 – 7:00 PM ♦ City Hall – 2224 104th Avenue East ♦ Edgewood, WA

## 1. CALL TO ORDER

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

### ROLL CALL

**Present**: Deputy Mayor Tyron Christopherson, Councilmember Mark Creley, Councilmember Ryan Day, Councilmember Colleen Wise, Councilmember Roseanne Tomyn, Councilmember Nate Lowry.
**Excused:** Mayor Daryl Eidinger, Councilmember John C. West.
**Staff Present**: City Clerk Rachel Pitzel, Senior Planner Kristin Moerler, Jeremy Metzler Public Works Director, Carol Morris, City Attorney, Police Chief Micah Lundborg.

## 2. COUNCIL BUSINESS

**A. *Discussion*** – Development Review

Senior Planner Kristin Moerler reviewed the 2019 permit tally, and pending April projects.

**B. *Discussion*** – Street Use Permit

Public Works Director Jeremy Metzler discussed this agenda item.
Discussion followed between staff and the Council.
**Council action:** Council recommended staff to bring forward to the next regular council meeting under Council Business.

**C. *Discussion*** – F. Nix Dangerous Tree Removal

Public Works Director Jeremy Metzler briefed Council on this agenda item.
Discussion followed between staff and the Council.
Councilmember Wise inquired about underground utilities that might be affected.
Councilmember Tomyn discussed giving property owner the opportunity to prove financial need.
Councilmember Day recommended the application should require a list of assets and value.
City Attorney Morris discussed the application form.
Public Works Director Metzler recommended following the statute requirements.
**Council action:** Council recommended staff bring material forward for review at next week's meeting.

**D. *Review/Discussion*** – Interim Zoning Finding of Fact

City Attorney Carol Morris briefed Council on this agenda item.
Discussion followed between staff and the Council.
Council recommended staff bring the Resolution forward at an upcoming meeting.

## 3. OTHER COUNCIL ISSUES

Councilmember Creley asked for an update on the Berger Group and 36th .

Deputy Mayor Christopherson asked if the Mayor would provide summary on RECon.

Councilmember Lowry attended a Pierce County Regional Council meeting, noting that Invest Pierce County gave a presentation on economic development.

Councilmember Creley suggested starting talks to adopt an Ordinance addressing livestock and property lines.

Councilmember Tomyn recapped Connect over Coffee discussions.

## 4. ADJOURN

Deputy Mayor Christopherson adjourned the meeting at 8:08m.

_____
Jill S. Herrera, Deputy City Clerk/
Communications Coordinator

_____
Tyron Christopherson, Deputy Mayor

# City Of Edgewood
# Council Agenda Summary Sheet

| | | | |
|---|---|---|---|
| **SUBJECT:** Claims and Payroll for May 2019 | | **Agenda Bill No.:** | **AB19-019** |
| | | **For Agenda of:** | **May 28, 2019** |
| | | **Prepared by:** | **Stephanie Goff** |
| **ATTACHMENTS (list):** ☒ Claims Register<br>☒ Voucher Directory | | | |
| **Approval of Materials:** | | | |
| Mayor, Daryl Eidinger | ☒ | **Expenditure Required:** | $291,880.70 |
| Asst. City Administrator, Dave Gray | ☒ | **Amount Budgeted:** | $0 |
| City Attorney, Carol Morris | ☒ | **Appropriation Required:** | $0 |
| City Clerk, Rachel Pitzel | ☒ | **Timeline:** | |
| Community Development Director, Darren Groth | ☒ | | |
| Public Works, Jeremy Metzler | ☒ | | |
| Police Chief, Micah Lundborg | ☒ | | |

**Fiscal Note/Consideration:** N/A

**SUMMARY STATEMENT:**
Approving May 2019 Budgeted Expenditures as follows: Deferred Compensations Program; Payroll Direct Deposit; Dept. of Retirement Systems; and IRS 941 ACHs in the amount of $87,266.00; and Vendor Check Numbers 23822 through 23839 with EFT and Direct Pay Payments in the amount of $204,614.70. Total distributions submitted for review & authorization in the amount of $291,880.70.

**COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:** N/A

**RECOMMENDED ACTION:** **MOTION** to adopt the Claims and Payroll Expenditures as presented under the Consent Agenda.

**ALTERNATIVES TO RECOMMENDED ACTION:**
1) Do not adopt
2) Forward to future study session for further discussion.

City of Edgewood 2019

May 28th 2019 Council Meeting Check & EFT Payment Distribution Review & Authorization

| Number | Name | Print Date | | Amount |
|---|---|---|---|---|
| **US Bank** | **PAYROLL ACCOUNT DISTRIBUTION** | | | |
| **10608** | **Last Number Issued Previous Authorization** | | | |
| DCP EFT 5/15/19 | Deferred Compensation Program | 5/15/2019 | | $9,601.66 |
| Direct Deposit Run - | Payroll Vendor | 5/15/2019 | | $55,550.66 |
| DRS EFT 5/15/19 | Dept of Retirement Systems | 5/15/2019 | | $13,697.21 |
| IRS 941 EFT 5/15/19 | IRS 941 | 5/15/2019 | | $8,416.47 |
| | | | **Total** | **$87,266.00** |

| Number | Name | Print Date | Amount |
|---|---|---|---|
| | **CLAIM VOUCHER ACCOUNT DISTRIBUTION** | | |
| **23822** | **Last Number Issued Previous Authorization** | | |
| 23823 | Berger Partnership | 5/28/2019 | $2,920.00 |
| 23824 | Bunce Rental Inc. | 5/28/2019 | $64.84 |
| 23825 | cloudPWR, LLC | 5/28/2019 | $2,208.66 |
| 23826 | DeAngelo Brothers, LLC | 5/28/2019 | $7,615.67 |
| 23827 | Gray & Osborne, Inc | 5/28/2019 | $4,792.49 |
| 23828 | Lakehaven Water & Sewer District | 5/28/2019 | $27.68 |
| 23829 | Mike McClung Construction Co. | 5/28/2019 | $8,642.09 |
| 23830 | Office Depot | 5/28/2019 | $199.77 |
| 23831 | Petty Cash Custodian | 5/28/2019 | $261.44 |
| 23832 | Pierce County Budget & Finance 2% Dist | 5/28/2019 | $778.60 |
| 23833 | Pierce County Budget & Finance PW | 5/28/2019 | $118,355.97 |
| 23834 | Raedeke Associates, Inc. | 5/28/2019 | $2,369.50 |
| 23835 | Edgewood Veterinary Clinic | 5/28/2019 | $8,660.00 |
| 23836 | Summit Law Group | 5/28/2019 | $240.00 |
| 23837 | United States Postal Service | 5/28/2019 | $1,055.34 |
| 23838 | Utilities Underground Location Center | 5/28/2019 | $250.26 |
| 23839 | Wells Fargo Financial Leasing | 5/28/2019 | $442.15 |
| Direct Pay Payment | Amazon Capital Services | 5/28/2019 | $634.18 |
| Direct Pay Payment | Monarch Landscape Holdings | 5/28/2019 | $214.31 |
| EFT Payment 5/23/2019 | Columbia Bank | 5/28/2019 | $30,647.76 |
| EFT Payment 5/23/2019 | Mt. View-Edgewood Water Co. | 5/28/2019 | $608.63 |
| EFT Payment 5/23/2019 | Pitney Bowes | 5/28/2019 | $159.72 |
| EFT Payment 5/23/2019 | Puget Sound Energy | 5/28/2019 | $6,597.69 |
| EFT Payment 5/23/2019 | US Bank Corporate Payment System | 5/28/2019 | $6,867.95 |
| **Total Claims Voucher Distribution** | | | **$204,614.70** |
| **Total Distribution Submitted for Review & Authorization** | | | $291,880.70 |
| **Authorization Adjustments:** | | | |
| Total Distribution Net of Prior Authorized Adjustments | | | **$291,880.70** |

***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.

_____Accounting Manager, Stephanie Goff

_____Mayor, Daryl Eidinger

_____Council Member

# Voucher Directory

Fiscal: : 2019 - May
Council Date: : 2019 - May - 2nd Council Meeting

| Vendor | Number | Reference | Account Number | Description | Amount |
|---|---|---|---|---|---|
| **Amazon Capital Services** | | | | | |
| | **Direct Pay Payment 5/23/2019 4:17:53 PM - 1** | | **2019 - May - 2nd Council Meeting** | | |
| | | **13J7-Y3PF-WK9J** | | | |
| | | | **May Purchases** | | |
| | | | 001-018-000-518-20-31-01 | Office & Operational Supplies | $17.92 |
| | | | | Small Paper Plates | |
| | | **Total 13J7-Y3PF-WK9J** | | | **$17.92** |
| | | **13LG-FC9W-DQNP** | | | |
| | | | **May Purchases** | | |
| | | | 001-018-000-518-20-31-01 | Office & Operational Supplies | $33.59 |
| | | | | Batteries, File Folders | |
| | | **Total 13LG-FC9W-DQNP** | | | **$33.59** |
| | | **1C3Y-D3DF-1Y43** | | | |
| | | | **May Purchases** | | |
| | | | 001-018-000-518-20-31-01 | Office & Operational Supplies | $27.21 |
| | | | | Paper Coffee Cups | |
| | | **Total 1C3Y-D3DF-1Y43** | | | **$27.21** |
| | | **1CYW-FRCK-PDMN** | | | |
| | | | **May Purchases** | | |
| | | | 001-018-000-518-20-31-01 | Office & Operational Supplies | $22.33 |
| | | | | Paper Plates | |
| | | **Total 1CYW-FRCK-PDMN** | | | **$22.33** |
| | | **1GMP-G993-74DF** | | | |
| | | | **May Purchases** | | |
| | | | 001-018-000-518-20-31-01 | Office & Operational Supplies | $21.98 |
| | | | | Paper Cup Lids | |
| | | **Total 1GMP-G993-74DF** | | | **$21.98** |
| | | **1HFX-9MWY-CN16** | | | |
| | | | **May Purchases** | | |
| | | | 001-018-000-518-20-31-01 | Office & Operational Supplies | $84.60 |
| | | | | Desk Corner Sleeve | |
| | | **Total 1HFX-9MWY-CN16** | | | **$84.60** |
| | | **1LCM-3VC4-QGOM** | | | |
| | | | **May Purchases** | | |
| | | | 001-021-000-521-20-31-01 | Office & Operational Supplies | $68.02 |
| | | | | Postcards, Work Gloves, Address Labels | |
| | | **Total 1LCM-3VC4-QGOM** | | | **$68.02** |

| Vendor | Number | Reference | Account Number | Description | Amount |
|---|---|---|---|---|---|
| | | **1NK4-DC34-94XW** | | | |
| | | | **May Purchases** | | |
| | | | 001-021-000-521-20-31-01 | Office & Operational Supplies | $18.41 |
| | | | Safety Work Gloves | | |
| | | **Total 1NK4-DC34-94XW** | | | **$18.41** |
| | | **1YMR-GPDR-V11N** | | | |
| | | | **May Purchases** | | |
| | | | 001-021-000-521-20-31-01 | Office & Operational Supplies | $92.86 |
| | | | Stapler,Safety Vests,Folders,Scissors | | |
| | | **Total 1YMR-GPDR-V11N** | | | **$92.86** |
| | | **1YT9-7KQ1-G3Y7** | | | |
| | | | **May Purchases** | | |
| | | | 001-019-000-525-60-31-01 | Emergency Preparedness-Supplies | $247.26 |
| | | | Metal Rolling Cart w/Storage Box | | |
| | | **Total 1YT9-7KQ1-G3Y7** | | | **$247.26** |
| | **Total Direct Pay Payment 5/23/2019 4:17:53 PM - 1** | | | | **$634.18** |
| **Total Amazon Capital Services** | | | | | **$634.18** |
| **Berger Partnership** | | | | | |
| | **23823** | | **2019 - May - 2nd Council Meeting** | | |
| | | **31416** | | | |
| | | | **Prj 20195029.00-Apr Svcs** | | |
| | | | 310-000-000-594-76-41-03 | Professional Svs.-Property | $2,920.00 |
| | | | 36 & Meridian Park-Phase 1 Design | | |
| | | **Total 31416** | | | **$2,920.00** |
| | **Total 23823** | | | | **$2,920.00** |
| **Total Berger Partnership** | | | | | **$2,920.00** |
| **Bunce Rental Inc.** | | | | | |
| | **23824** | | **2019 - May - 2nd Council Meeting** | | |
| | | **252471-2** | | | |
| | | | **May Rentals** | | |
| | | | 001-018-000-518-30-48-03 | Maintenance/Repairs - Buildings | $64.84 |
| | | | Fix Staff Parking Sign-Hammer Drill Rental | | |
| | | **Total 252471-2** | | | **$64.84** |
| | **Total 23824** | | | | **$64.84** |
| **Total Bunce Rental Inc.** | | | | | **$64.84** |
| **cloudPWR, LLC** | | | | | |
| | **23825** | | **2019 - May - 2nd Council Meeting** | | |
| | | **2052** | | | |
| | | | **PO 2019008** | | |
| | | | 001-018-000-518-85-49-03 | Computer Subscriptions | $2,208.66 |

| Vendor | Number | Reference | Account Number | Description | Amount |
|---|---|---|---|---|---|
| | | | | Box Enterprise | |
| | | **Total 2052** | | | **$2,208.66** |
| | **Total 23825** | | | | **$2,208.66** |
| **Total cloudPWR, LLC** | | | | | **$2,208.66** |
| | | | | | |
| **Columbia Bank** | | | | | |
| | **EFT Payment 5/23/2019 4:16:58 PM - 1** | | **2019 - May - 2nd Council Meeting** | | |
| | | **051919-CB** | | | |
| | | | **City Hall GO Bond-Interest Payment** | | |
| | | | 201-000-000-592-18-83-01 | Interest on Bonds | $30,647.76 |
| | | | | City Hall GO Bond | |
| | | **Total 051919-CB** | | | **$30,647.76** |
| | **Total EFT Payment 5/23/2019 4:16:58 PM - 1** | | | | **$30,647.76** |
| **Total Columbia Bank** | | | | | **$30,647.76** |
| | | | | | |
| **DeAngelo Brothers, LLC** | | | | | |
| | **23826** | | **2019 - May - 2nd Council Meeting** | | |
| | | **4051344** | | | |
| | | | **Job 2025199-May Svcs** | | |
| | | | 410-000-000-531-38-41-06 | Storm Drainage-ROW Veg Maint | $7,615.67 |
| | | | | Herbicide Application | |
| | | **Total 4051344** | | | **$7,615.67** |
| | **Total 23826** | | | | **$7,615.67** |
| **Total DeAngelo Brothers, LLC** | | | | | **$7,615.67** |
| | | | | | |
| **Gray & Osborne, Inc** | | | | | |
| | **23827** | | **2019 - May - 2nd Council Meeting** | | |
| | | **1-G&O Prj 18626.03** | | | |
| | | | **Apr Svcs-24th & Meridian Sidewalks** | | |
| | | | 350-000-000-595-61-63-01 | Pedestrian Projects | $1,864.59 |
| | | | | 24th & Meridian Sidewalks | |
| | | **Total 1-G&O Prj 18626.03** | | | **$1,864.59** |
| | | **5-G&O Prj 18626.00** | | | |
| | | | **April On-Call Services** | | |
| | | | 001-058-000-558-60-41-03 | Prof. Services (Non-reimbursable) | $650.46 |
| | | | | Lisitsyn, Nicklaus, Curren | |
| | | **Total 5-G&O Prj 18626.00** | | | **$650.46** |
| | | **6-G&O Prj 18626.02** | | | |
| | | | **April Svcs-Wetlands Delineation** | | |
| | | | 410-000-000-531-38-41-01 | Professional Service | $476.17 |
| | | | | Wetlands Delineation Topo Survey | |
| | | **Total 6-G&O Prj 18626.02** | | | **$476.17** |

| Vendor | Number | Reference | Account Number | Description | Amount |
|---|---|---|---|---|---|
| | | **8-G&O Prj 18626.01** | | | |
| | | | **Apr Svcs-56th St E SW Improvements** | | |
| | | | 410-000-000-594-31-64-64 | Infrastructure Spot Improvement | $1,801.27 |
| | | | 56th St E Stormwater Improvements | | |
| | | **Total 8-G&O Prj 18626.01** | | | **$1,801.27** |
| | **Total 23827** | | | | **$4,792.49** |
| **Total Gray & Osborne, Inc** | | | | | **$4,792.49** |
| | | | | | |
| **Lakehaven Water & Sewer District** | | | | | |
| | **23828** | | **2019 - May - 2nd Council Meeting** | | |
| | | **3575901 2/27-4/29/19** | | | |
| | | | **2/27-4/29/19 Services** | | |
| | | | 001-018-000-518-30-47-04 | Sewer Charges | $27.68 |
| | | | 114th Ave E | | |
| | | **Total 3575901 2/27-4/29/19** | | | **$27.68** |
| | **Total 23828** | | | | **$27.68** |
| **Total Lakehaven Water & Sewer District** | | | | | **$27.68** |
| | | | | | |
| **Mike McClung Construction Co.** | | | | | |
| | **23829** | | **2019 - May - 2nd Council Meeting** | | |
| | | **PE #5-Retainage Release** | | | |
| | | | **Retainage Release-Job 17572.05** | | |
| | | | 642-000-000-589-20-00-02 | Retainage-Contractor | $8,642.09 |
| | | | CH Parking Lot-Retainage Release | | |
| | | **Total PE #5-Retainage Release** | | | **$8,642.09** |
| | **Total 23829** | | | | **$8,642.09** |
| **Total Mike McClung Construction Co.** | | | | | **$8,642.09** |
| | | | | | |
| **Monarch Landscape Holdings** | | | | | |
| | **Direct Pay Payment 5/23/2019 4:17:53 PM - 2** | | **2019 - May - 2nd Council Meeting** | | |
| | | **CD50019564** | | | |
| | | | **WO #14551** | | |
| | | | 101-000-000-542-70-48-04 | Roadside- ROW Veg Maint Contractor | $214.31 |
| | | | Irrigation Start Up Repairs | | |
| | | **Total CD50019564** | | | **$214.31** |
| | **Total Direct Pay Payment 5/23/2019 4:17:53 PM - 2** | | | | **$214.31** |
| **Total Monarch Landscape Holdings** | | | | | **$214.31** |
| | | | | | |
| **Mt. View-Edgewood Water Co.** | | | | | |
| | **EFT Payment 5/23/2019 4:17:25 PM - 1** | | **2019 - May - 2nd Council Meeting** | | |
| | | **15563-3401 3/11-5/10/19** | | | |
| | | | **3/11-5/10/19 Services** | | |
| | | | 001-018-000-518-30-47-02 | Water | $54.06 |
| | | | 1425 110th Ave E | | |
| | | **Total 15563-3401 3/11-5/10/19** | | | **$54.06** |

| Vendor | Number | Reference | Account Number | Description | Amount |
|---|---|---|---|---|---|
| | | **2746-3401 3/11-5/10/19** | | | |
| | | | **3/11-5/10/19 Services** | | |
| | | | 001-018-000-518-30-47-02 | Water | $309.13 |
| | | | City Hall | | |
| | | **Total 2746-3401 3/11-5/10/19** | | | **$309.13** |
| | | **2823-3401 3/11-5/10/19** | | | |
| | | | **3/11-5/10/19 Services** | | |
| | | | 001-018-000-518-30-47-02 | Water | $53.66 |
| | | | 10311 22nd Ave E | | |
| | | **Total 2823-3401 3/11-5/10/19** | | | **$53.66** |
| | | **2961-3401 3/11-5/10/19** | | | |
| | | | **3/11-5/10/19 Services** | | |
| | | | 001-018-000-518-30-47-02 | Water | $97.59 |
| | | | 1800 Meridian Ave E | | |
| | | **Total 2961-3401 3/11-5/10/19** | | | **$97.59** |
| | | **3796-3401 3/11-5/10/19** | | | |
| | | | **3/11-5/10/19 Services** | | |
| | | | 001-018-000-518-30-47-02 | Water | $94.19 |
| | | | 1200 Meridian Ave E | | |
| | | **Total 3796-3401 3/11-5/10/19** | | | **$94.19** |
| | **Total EFT Payment 5/23/2019 4:17:25 PM - 1** | | | | **$608.63** |
| **Total Mt. View-Edgewood Water Co.** | | | | | **$608.63** |
| **Office Depot** | | | | | |
| | **23830** | | | **2019 - May - 2nd Council Meeting** | |
| | | **313248282001** | | | |
| | | | **May Purchases** | | |
| | | | 001-018-000-518-20-31-01 | Office & Operational Supplies | $199.77 |
| | | | Wireless Keyboard, Tabs, Paper Towels, TP | | |
| | | **Total 313248282001** | | | **$199.77** |
| | **Total 23830** | | | | **$199.77** |
| **Total Office Depot** | | | | | **$199.77** |
| **Petty Cash Custodian** | | | | | |
| | **23831** | | | **2019 - May - 2nd Council Meeting** | |
| | | **052219-Petty Cash** | | | |
| | | | **Replenish Petty Cash** | | |
| | | | 001-018-000-518-20-31-01 | Office & Operational Supplies | $8.44 |
| | | | Misc Hardware | | |
| | | | 001-018-000-518-30-32-02 | Supplies/Parts - Vehicles | $20.68 |
| | | | Wiper Fluid, Antifreeze | | |
| | | | 001-018-000-518-30-48-07 | Maintenance & Repairs-Vehicles | $5.00 |
| | | | Car Wash | | |
| | | | 001-058-000-558-50-43-01 | Training/Travel Costs | $140.00 |
| | | | ICC Meetings-Mundy,Mehr,McVay | | |

| Vendor | Number | Reference | Account Number | Description | Amount |
|---|---|---|---|---|---|
| | | | 001-058-000-558-50-49-01 | Memberships | $30.00 |
| | | | | ICC Memberships-Mundy,Mehr,McVay | |
| | | | 001-076-000-576-80-31-02 | Recreation Activities & Events | $57.32 |
| | | | | Movie Night Snacks | |
| | | **Total 052219-Petty Cash** | | | **$261.44** |
| | **Total 23831** | | | | **$261.44** |
| **Total Petty Cash Custodian** | | | | | **$261.44** |
| | | | | | |
| **Pierce County Budget & Finance 2% Dist** | | | | | |
| | **23832** | | | **2019 - May - 2nd Council Meeting** | |
| | | **CI-269300** | | | |
| | | | **Q1 2019 Liquor/Excise Taxes** | | |
| | | | 001-021-000-521-10-42-01 | Intergov Chemical Dependency | $778.60 |
| | | | | Q1 2019 Liquor Profit/Excise Taxes | |
| | | **Total CI-269300** | | | **$778.60** |
| | **Total 23832** | | | | **$778.60** |
| **Total Pierce County Budget & Finance 2% Dist** | | | | | **$778.60** |
| | | | | | |
| **Pierce County Budget & Finance PW** | | | | | |
| | **23833** | | | **2019 - May - 2nd Council Meeting** | |
| | | **CI-268914** | | | |
| | | | **Jan-Mar Services** | | |
| | | | 101-000-000-542-30-41-10 | Roadway-Prof Svcs-Intergov Contract | $341.54 |
| | | | 101-000-000-542-38-41-02 | Roadway-Road Maint (Intergov contract) | $50.47 |
| | | | 101-000-000-542-38-41-02 | Roadway-Road Maint (Intergov contract) | $483.85 |
| | | | 101-000-000-542-70-41-04 | Roadside-ROW Veg Maint (Intergov) | $12,525.29 |
| | | | 410-000-000-531-38-41-07 | Storm Drainage-Polution Control | $1,178.93 |
| | | | 410-000-000-531-38-41-10 | Storm Drainage-Ditch Maint | $10,098.83 |
| | | | 410-000-000-531-38-41-12 | Storm Drainage-Drain Maint | $50.47 |
| | | | 410-000-000-531-38-41-12 | Storm Drainage-Drain Maint | $4,250.46 |
| | | | 410-000-000-531-38-41-13 | Storm Drainage-Structure Maint | $89,376.13 |
| | | **Total CI-268914** | | | **$118,355.97** |
| | **Total 23833** | | | | **$118,355.97** |
| **Total Pierce County Budget & Finance PW** | | | | | **$118,355.97** |
| | | | | | |
| **Pitney Bowes** | | | | | |
| | **EFT Payment 5/23/2019 4:17:25 PM - 2** | | | **2019 - May - 2nd Council Meeting** | |
| | | **1012220482** | | | |
| | | | **May Purchases** | | |
| | | | 001-018-000-518-20-31-01 | Office & Operational Supplies | $159.72 |
| | | | | Postage Machine Ink, E-Z Seal | |
| | | **Total 1012220482** | | | **$159.72** |
| | **Total EFT Payment 5/23/2019 4:17:25 PM - 2** | | | | **$159.72** |
| **Total Pitney Bowes** | | | | | **$159.72** |

| Vendor | Number | Reference | Account Number | Description | Amount |
|---|---|---|---|---|---|
| **Puget Sound Energy** | | | | | |
| | **EFT Payment 5/23/2019 4:17:25 PM - 3** | | **2019 - May - 2nd Council Meeting** | | |
| | | **300000011233 April 2019** | | | |
| | | | **April 2019 Statement** | | |
| | | | 001-018-000-518-30-47-01 | Electricity | $3,124.69 |
| | | **Total 300000011233 April 2019** | | | **$3,124.69** |
| | | **300000011233 March 2019** | | | |
| | | | **March 2019 Statement** | | |
| | | | 001-018-000-518-30-47-01 | Electricity | $3,473.00 |
| | | **Total 300000011233 March 2019** | | | **$3,473.00** |
| | **Total EFT Payment 5/23/2019 4:17:25 PM - 3** | | | | **$6,597.69** |
| **Total Puget Sound Energy** | | | | | **$6,597.69** |
| | | | | | |
| **Raedeke Associates, Inc.** | | | | | |
| | **23834** | | **2019 - May - 2nd Council Meeting** | | |
| | | **57991** | | | |
| | | | **April Services** | | |
| | | | 001-058-000-558-60-41-01 Mickelson | Reim.Engineering - Prof. Serv | $1,173.75 |
| | | | 001-058-000-558-60-41-01 Barth Estates | Reim.Engineering - Prof. Serv | $288.75 |
| | | | 310-000-000-594-76-41-03 36th & Meridian | Professional Svs.-Property | $907.00 |
| | | **Total 57991** | | | **$2,369.50** |
| | **Total 23834** | | | | **$2,369.50** |
| **Total Raedeke Associates, Inc.** | | | | | **$2,369.50** |
| | | | | | |
| **Refunds/Reimbursements Vendor** | | | | | |
| | **23835** | | **2019 - May - 2nd Council Meeting** | | |
| | | **051519-EVC** | | **Edgewood Veterinary Clinic** | |
| | | | **Refund Permit 18-1491** | | |
| | | | 001-000-000-341-81-00-03 18-1491 Application Withdrawn | Publication Services | $1,200.00 |
| | | | 001-000-000-345-89-00-14 18-1491 Application Withdrawn | Comp Plan Amendment | $2,650.00 |
| | | | 001-000-000-345-89-00-14 18-1491 Application Withdrawn | Comp Plan Amendment | $4,810.00 |
| | | **Total 051519-EVC** | | | **$8,660.00** |
| | **Total 23835** | | | | **$8,660.00** |
| **Total Refunds/Reimbursements Vendor** | | | | | **$8,660.00** |

| Vendor | Number | Reference | Account Number | Description | Amount |
|---|---|---|---|---|---|
| **Summit Law Group** | | | | | |
| | **23836** | | **2019 - May - 2nd Council Meeting** | | |
| | | **103795** | | | |
| | | | **April Services** | | |
| | | | 001-019-000-515-41-41-01 | Legal Services-External | $240.00 |
| | | **Total 103795** | | | **$240.00** |
| | **Total 23836** | | | | **$240.00** |
| **Total Summit Law Group** | | | | | **$240.00** |
| | | | | | |
| **United States Postal Service** | | | | | |
| | **23837** | | **2019 - May - 2nd Council Meeting** | | |
| | | **052019-USPS** | | | |
| | | | **Summer 2019 Magazine Postage** | | |
| | | | 001-018-000-518-20-42-02 | Postage | $1,055.34 |
| | | | Spring 2019 Magazine Postage | | |
| | | **Total 052019-USPS** | | | **$1,055.34** |
| | **Total 23837** | | | | **$1,055.34** |
| **Total United States Postal Service** | | | | | **$1,055.34** |
| | | | | | |
| **US Bank Corporate Payment System** | | | | | |
| | **EFT Payment 5/23/2019 4:17:25 PM - 4** | | **2019 - May - 2nd Council Meeting** | | |
| | | **042519-USBank** | | | |
| | | | **April 2019 Statement** | | |
| | | | 001-011-000-511-60-43-04 | Meals Expense | $60.00 |
| | | | J.Herrera-HelloCupcake-CM S.Hunter's Last Meeting | | |
| | | | 001-013-000-513-10-43-04 | Meals Expense | $93.05 |
| | | | J.Herrera-Ingallinas-Lunch for TriCity Mayors Meeting | | |
| | | | 001-013-000-513-10-43-04 | Meals Expense | $150.00 |
| | | | R.Pitzel-FME Chamber-6 chamber Luncheon Tickets-Mayors State of the City | | |
| | | | 001-018-000-518-20-31-01 | Office & Operational Supplies | $76.92 |
| | | | J.Bartelson-Amazon-Web Camera | | |
| | | | 001-018-000-518-20-31-01 | Office & Operational Supplies | $238.18 |
| | | | S.Goff-DS Services-CH Water Delivery-2 Months | | |
| | | | 001-018-000-518-20-31-01 | Office & Operational Supplies | $27.31 |
| | | | J.Bartelson-Office Supply-Legal File Folders | | |
| | | | 001-018-000-518-20-31-01 | Office & Operational Supplies | $4.71 |
| | | | S.Goff-Safeway-Paper Bowls | | |
| | | | 001-018-000-518-20-31-01 | Office & Operational Supplies | $62.83 |
| | | | D.Eidinger-Lowes-Misc Supplies,Plumbing Supplies | | |
| | | | 001-018-000-518-20-31-01 | Office & Operational Supplies | $160.40 |
| | | | J.Bartelson-Amazon-Door Hangers,Paper Towels,TP,File Folders | | |
| | | | 001-018-000-518-20-31-01 | Office & Operational Supplies | $81.80 |
| | | | J.Herrera-Amazon-Cubicle Clips, Iphone Case | | |
| | | | 001-018-000-518-20-31-01 | Office & Operational Supplies | $87.57 |
| | | | J.Bartelson-Walmart-Bulletin Board | | |

| Vendor | Number | Reference | Account Number | Description | Amount |
|---|---|---|---|---|---|
| | | | 001-018-000-518-20-31-01 | Office & Operational Supplies | $19.41 |
| | | | | S.Goff-Amazon-Iphone Case-C.Hendricksen | |
| | | | 001-018-000-518-20-31-01 | Office & Operational Supplies | $101.55 |
| | | | | D.Eidinger-Ebay-Parking Lot LED Lights | |
| | | | 001-018-000-518-20-31-13 | Safety Equipment | $395.51 |
| | | | | R.Pederson-Home Depot-First Aid Kits, Fire Extinguishers for City Vehicles | |
| | | | 001-018-000-518-20-35-02 | Office Furniture | $2,680.46 |
| | | | | D.Eidinger-Budget Blinds-Office Blinds | |
| | | | 001-018-000-518-20-41-01 | Professional Service | $50.00 |
| | | | | R.Pitzel-AWC-Maint Tech Job Posting | |
| | | | 001-018-000-518-20-49-01 | Memberships | $135.00 |
| | | | | R.Pitzel-MRSC-Roster Renewal | |
| | | | 001-018-000-518-20-49-11 | City Employee Team Building | $237.95 |
| | | | | J.Bartelson-Pita Pit/Jersey Mikes-Staff Training Lunch | |
| | | | 001-018-000-518-20-49-11 | City Employee Team Building | $24.28 |
| | | | | J.Bartelson-Sportco-Yeti Cup-Wellness Reward | |
| | | | 001-018-000-518-30-32-02 | Supplies/Parts - Vehicles | $273.38 |
| | | | | D.Eidinger-Ebay-Bldg Truck Tailgate & Parts | |
| | | | 001-018-000-518-30-32-02 | Supplies/Parts - Vehicles | $13.16 |
| | | | | D.Eidinger-Jet Chevrolet-Misc Auto Parts | |
| | | | 001-018-000-518-30-35-01 | Small Tools/Minor Equip. | ($53.58) |
| | | | | D.Eidinger-Amazon-Shovel Holder Return | |
| | | | 001-018-000-518-30-35-01 | Small Tools/Minor Equip. | $196.98 |
| | | | | D.Eidinger-Lowes-BBQ | |
| | | | 001-018-000-518-30-48-06 | Maintenance/Repairs-Equipment | $433.36 |
| | | | | D.Eidinger-Pacific Power-Generator Repair | |
| | | | 001-018-000-518-30-48-07 | Maintenance & Repairs-Vehicles | $52.39 |
| | | | | D.Eidinger-Korum Ford-Escape Oil Change | |
| | | | 001-018-000-518-30-48-07 | Maintenance & Repairs-Vehicles | $5.00 |
| | | | | D.Eidinger-Tahoma Mkt-Car Wash | |
| | | | 001-019-000-514-20-43-01 | Travel & Training Costs | $210.00 |
| | | | | R.Pitzel-WCIA-Crisis Communication Training-6 people | |
| | | | 001-019-000-514-20-43-04 | Meals Expense | $86.35 |
| | | | | R.Pitzel-Thai Fife-Working Lunch with Fife IT | |
| | | | 001-019-000-514-20-49-01 | Memberships & Subscriptions | $75.00 |
| | | | | R.Pitzel-WMCA-Clerk Membership Renewal | |
| | | | 001-058-000-558-50-31-01 | Office & Operational Supplies | $64.26 |
| | | | | C.McVay-WABO-ICC Books | |
| | | | 001-058-000-558-60-49-01 | Memberships | $644.00 |
| | | | | D.Groth-APA & AICP Membership Renewals | |
| | | | 001-058-000-558-60-49-01 | Memberships | $95.00 |
| | | | | D.Groth-APA Membership-E.Hietpas | |
| | | | 410-000-000-531-38-31-01 | Operational Supplies | $49.46 |
| | | | | H.Bowers-River Rd Landscape-Railroad Ties | |
| | | | 650-000-000-589-10-00-09 | Suspense | $36.26 |
| | | | | D.Eidinger-Personal Exp-Reimb on Rec #5996 | |

| Vendor | Number | Reference | Account Number | Description | Amount |
|---|---|---|---|---|---|
| | | **Total 042519-USBank** | | | **$6,867.95** |
| | **Total EFT Payment 5/23/2019 4:17:25 PM - 4** | | | | **$6,867.95** |
| **Total US Bank Corporate Payment System** | | | | | **$6,867.95** |
| **Utilities Underground Location Center** | | | | | |
| | **23838** | | **2019 - May - 2nd Council Meeting** | | |
| | | **9040150** | | | |
| | | | **April Services** | | |
| | | | 410-000-000-531-38-49-09 | Misc. Fees & Charges | $250.26 |
| | | | Utility Locating Svs. for April 2019 | | |
| | | **Total 9040150** | | | **$250.26** |
| | **Total 23838** | | | | **$250.26** |
| **Total Utilities Underground Location Center** | | | | | **$250.26** |
| **Wells Fargo Financial Leasing** | | | | | |
| | **23839** | | **2019 - May - 2nd Council Meeting** | | |
| | | **1298447** | | | |
| | | | **Contract #603-0040424** | | |
| | | | 001-018-000-518-30-45-06 | Copier Lease | $442.15 |
| | | | Lexmark Printers-Lease Buyout | | |
| | | **Total 1298447** | | | **$442.15** |
| | **Total 23839** | | | | **$442.15** |
| **Total Wells Fargo Financial Leasing** | | | | | **$442.15** |
| **Grand Total** | | **Vendor Count** | **24** | | **$204,614.70** |

# City Of Edgewood
# Council Agenda Summary Sheet

| | | | |
|---|---|---|---|
| **SUBJECT:** Street Use Permits | | **Agenda Item #:** | **AB19-550** |
| | | **For Agenda of:** | **May 28, 2019** |
| | | **Prepared by:** | **Jeremy Metzler** |
| **ATTACHMENTS (list):** ☒ Ordinance 19-0550 | | | |
| **Approval of Materials:** | | | |
| Mayor, Daryl Eidinger | ☒ | **Expenditure Required:** | N/A |
| Asst. City Administrator, Dave Gray | ☒ | **Amount Budgeted:** | N/A |
| City Attorney, Carol Morris | ☒ | **Appropriation Required:** | N/A |
| City Clerk, Rachel Pitzel | ☒ | **Timeline: N/A** | |
| Community Development Director, Darren Groth | ☒ | | |
| Public Works, Jeremy Metzler | ☒ | | |
| Police Chief, Micah Lundborg | ☒ | | |

**Fiscal Note/Consideration:**
A street use permit is a request to temporarily use or occupy a public place or street for private purposes. The permit fee is therefore calculated in a different manner than a development permit fee. In Section 12.16.160 of the attached ordinance, the factors used to determine the fee are identified. While a portion of the fee will reimburse the City for administrative processing, the remainder of the fee is the "rent" for the use of the public place/street.

**SUMMARY STATEMENT:**
Issues relating to the use of street right-of-way by an owner of property abutting the street have become more prevalent in recent months. The City has adopted Pierce County's Code relating to street obstructions, which primarily regulates any use of the streets other than for travel or utility purposes as a nuisance subject to removal.

However, cities have the ability to allow abutting property owners a temporary, revocable permit to use street rights of way for various private purposes, as long as such use doesn't interfere with the public's right to travel, and the normal use of street rights of way or the public health and safety. For example, the City may allow use and occupation of the area commonly known as the "planting strip" along streets for temporary signs, or on sidewalks for sidewalk cafes, or the edge of the right of way for the placement of retaining walls, etc. With the adoption of a street use permit process, the City needs to establish criteria for issuance of permits for such uses, a permit fee schedule, requirements for insurance, bonding, indemnity and appeals.

The criteria for approval of such permits is very different from the criteria used to review and approve development permits. The primary consideration is to maintain the use of City streets for travel, transportation, and incidental authorized purposes, and to ensure the public health and safety. In addition, such permits consider the interest of owners and occupants of property while respecting the rights of the public. Therefore, the Public Works Director makes the final decision on whether the permit should issue, as well as any conditions imposed on an approved permit.

Cities hold public places and street rights of way in trust for the public. Therefore, a street use permit may also charge fees for such use and occupation. Staff recommends adopting a separate resolution to add proposed street use permit fees to the previously adopted fee schedule.

**COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:** N/A

**RECOMMENDED ACTION: MOTION** to adopt Ordinance No. 19-0550, relating to streets and street use, adopting a procedure for the City's issuance of temporary, revocable street use permits for the use and occupation of the street right-of-way and other public places; describing the application process, criteria for approval and procedure for appeals; and creating a new chapter 12.16 to the Edgewood Municipal Code.

**ALTERNATIVES TO RECOMMENDED ACTION:** 1) Do not adopt
2) Forward to Study Session for further review

# ORDINANCE NO. 19-0550

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, RELATING TO STREETS AND STREET USE, ADOPTING A PROCEDURE FOR THE CITY'S ISSUANCE OF TEMPORARY, REVOCABLE STREET USE PERMITS FOR THE USE AND OCCUPATION OF THE STREET RIGHT-OF-WAY AND OTHER PUBLIC PLACES; DESCRIBING THE APPLICATION PROCESS, CRITERIA FOR APPROVAL AND PROCEDURE FOR APPEALS; AND CREATING A NEW CHAPTER 12.16 TO THE EDGEWOOD MUNICIPAL CODE.**

**WHEREAS**, the City of Edgewood has adopted the Pierce County Code for purposes of enforcement; and

**WHEREAS,** the City desires to adopt its own regulations relating to the use and occupation of street rights of way and other public places; and

**WHEREAS,** the City SEPA Responsible Official has determined that this Ordinance is categorically exempt under SEPA, WAC 197-11-800(19) as relating solely to governmental procedures and containing no substantive standards respecting use or modification of the environment; and

**WHEREAS,** the City Council held a public hearing on this ordinance and considered this ordinance for adoption during its regular meeting of May 28, 2019; Now, therefore,

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

**Section 1.** A new chapter 12.16 is hereby added to the Edgewood Municipal Code, which shall read as follows:

## Chapter 12.16
## STREET USE PERMITS

Sections:

12.16.010 Purpose.
12.16.020 Applicability.
12.16.030 Nuisances.
12.16.040 Exceptions.
12.16.050 Street use permits.
12.16.060 Processing of applications.
12.16.070 Criteria for approval.
12.16.080 Approval of street use permit.
12.16.090 Assurances required.

12.16.100 Indemnity deposit with finance department.
12.16.120 Surety bond.
12.16.130 Liability insurance.
12.16.140 Indemnification agreement.
12.16.150 Permit duration, revocation and restoration of the public place.
12.16.160 Permit fees.
12.16.170 Exception/waiver, fees and assurances.
12.16.180 Compliance with permit.
12.16.190 Newsstands.
12.16.200 Appeals.
12.16.210 Definitions.

**12.16.010 Purpose.**
The purpose of this chapter shall be:

(1) To maintain the use of city streets for travel, transportation and incidental authorized purposes, and to retain the use of other public places for the purposes established;

(2) To consider the interests of owners and occupants of property adjacent to public places, while respecting the rights of all users thereof;

(3) To preserve the appearance of city streets and public places, to carry out design controls in areas subject thereto, encourage improvements that make public places more pleasing; and

(4) To establish a process for the review, approval, denial and appeal of permits for uses of the public streets, alleys and other public places so as to ensure the protection of the public health, safety and welfare and the prevention of obstructions and/or public nuisances.

**12.16.020 Applicability.**
This chapter shall authorize, through a temporary, revocable permit, certain limited use of public alleys, places and streets by private individuals. Newsstands are regulated in Section 12.16.190. This chapter shall not apply to the particular uses of city streets and sidewalks that are regulated by the other chapters of this title. This chapter shall require a permit for any existing use of any public right-of-way, street or other public place. Owners seeking a temporary use of city right-of-way must obtain a permit before the use begins.

**12.16.030 Nuisances.**
(1) Any structure built, or material placed or dumped, in or on any public place by anyone, without having first obtained and complied with a permit issued under this chapter, may be declared a public nuisance and abated as set forth in Chapter 8.09 EMC or Chapter 7.48 RCW. Other equivalent proceedings may be taken as are authorized by law or city ordinances.

(2) The director may declare that a street tree, or any portion of a privately owned tree extending into the right-of-way, is a public nuisance if it impacts the safe operations of the transportation system, including but not limited to: impeding signs and signals, or harbors a contagious disease or an insect infestation that threatens the health of other trees or vegetation. The city may follow the process in EMC 8.15 to eliminate overhanging vegetation.

**12.16.040 Exceptions.**
When required by the United States Constitution, Washington State Constitution, or a federal or state statute enacted thereunder, the director shall suspend the application of any particular section of this chapter or waive compliance with a requirement, including payment of fees, the provision of an indemnity deposit or contract, and the furnishing of insurance. The director shall maintain a record of all such granted waivers and suspensions.

**12.16.050 Street use permits.**
(1) Permit Required. It is unlawful for anyone to make use, as defined in Section 12.16.210, of any public place: (a) without first securing a written permit as authorized by this chapter; (b) without complying with all conditions of such permit; and (c) without complying with the city's public works standards and other applicable code provisions. The city public works department is not required to obtain a permit or comply with permit procedures for street maintenance/improvement work performed by the city.

(2) Review Procedures. A street use permit is exempt from permit processing procedures in the city's land use development code, EMC Title 18 (pursuant to RCW 36.70B.140), unless otherwise specified within this chapter. The director makes a final decision on the street use permit application without a hearing, which can be administratively appealed as set forth in Section 12.16.200. Issuance of a street use permit is not a quasi-judicial decision, and the city is not required to hold an open record or closed record hearing (as defined in RCW 36.70B.020) on any decision.

(3) Elements of a Complete Application. A complete street use permit application shall consist of the following:

(a) Application Form. A completed street use permit application form, including the applicant's name, address, phone number and e-mail address. If the applicant's designee is completing the application, then an affidavit signed by the applicant must be submitted, verifying that the applicant has given permission to the designee for the submission of the street use permit application;

(b) Other Permit Applications. If the street use permit is associated with a proposed project, copies of the related permit applications must be submitted;

(c) Identification of the Public Place. The public place or defined portion of the public place to be used must be identified in detail;

(d) Identification of the Proposed Use. The application must specifically identify the proposed use of the public place, and provide detail on the amount of space required for the proposed use and the dates proposed for such use;

(e) Plans and Specifications. The plans and specifications for any utility or structure proposed in or on the public place;

(f) Existing Structures. A plan identifying and locating any existing public improvements, utilities, or structures in the area to be used and any trees that may be affected by the proposed use;

(g) Authorization of Property Owner. When the proposed use involves a structural building overhang, a retaining wall, or a permanent method of lateral support, the application shall also be accompanied by documentation showing the individual or entity that is the record owner of the premises served by the proposed use and showing the record owner of the premises consents to the premises being served by the proposed use;

(h) Fees. The street use permit fee shall be billed at current staff hourly rates, unless otherwise established by the city in the adopted fee resolution.

(4) Assurances. Before the city issues any street use permit, the applicant will be required to provide certain assurances (deposit of funds, surety bond, indemnification agreement, etc.), as needed, all as described in Sections 12.16.090 through 12.16.140.

**12.16.060 Processing of applications.**
(1) The director shall review each application for a permit for compliance with any applicable codes.

(2) The director may require additional information or material when he/she deems appropriate, including, but not limited to: a map, photographs, construction plans, or a survey of the site; the director may inspect the premises, solicit comments from other abutters or the public, post or require posting of notice at the site inviting comment to the authorized department, or give notice of the submission of a street use permit application according to requirements for an administrative review applicable to the notice of application procedure in EMC 18.40.180 (RCW 36.70B.110).

(3) If an application for a street use permit requires a permit under any other chapter of the city's code, but the other permit application has not been filed with the appropriate department, then the street use permit application shall be sent to the appropriate director/department for review. The director/department with the authority to review the associated permit applications shall send his/her findings and comments to the director.

(4) If the director determines that engineering or other studies should be prepared before a permit is approved, the applicant shall prepare the studies, or authorize the city to prepare the studies at the applicant's expense, before the application will be further processed.

**12.16.070 Criteria for approval.**
Factors for the director's consideration in evaluating an application for a permit include, but are not limited to:

(1) The applicant's constitutional rights;

(2) The impact of the proposed use on the following:

(a) The paramount purpose of streets for travel and transportation;

(b) Utilities; authorized secondary street uses; and any use being made by the public of the site;

(c) Fire access and public safety;

(d) Uses under permit; street trees; and other proposed or past uses of the site;

(e) Rights of light, air, and access and lateral support of abutting properties and on access or easements of properties dependent upon the public place for access;

(f) The environment, including but not limited to efforts to minimize impervious surface, loss of native vegetation, and stormwater runoff;

(g) Drainage, surface and underground; springs and watercourses; and the stability of soils; and

(h) Where applicable, city land use, transportation, open space, shoreline, and beautification policies;

(3) The abutter's property rights;

(4) The public and private benefits of the proposed use;

(5) The site and its terrain;

(6) In addition to the considerations listed above, where the following situations occur, factors for consideration include:

(a) For public places used as parks or open space, the impact of the proposed use on their character as a park drive or boulevard, or as open space;

(b) For environmentally critical areas, the requirements of EMC Titles 14 and 20.

**12.16.080 Approval of street use permit.**

(1) If the application conforms to the requirements of this chapter, all other applicable codes and the proposed use is consistent with the rights of the public, the director may approve the application; fix the duration and the terms or conditions of the permit; and, when required, upon the applicant's furnishing of a deposit or surety bond, insurance, covenant, and indemnification (as required by Section 12.16.090 through 12.16.140), and payment of all required fees, issue the permit. The original permit shall remain in the custody of the city, and a copy shall be given to the permittee and shall be posted or available at the site.

(2) The permit shall specify the portion of the public place that may be occupied, the dates or days and hours of use, and the allowed use. The permit shall only be valid for the portion of the public place, the dates or days and hours of use, and the use as identified on the permit. Every permit shall include the language in Section 12.16.150(1) on the face of the permit.

(3) Every permit shall be conditioned to state that all activities in the public place shall implement stormwater best management practices (BMPs) in accordance with the city's current stormwater manual, as amended (EMC 13.05). Failure to implement stormwater BMPs shall be a violation of this chapter and subject to enforcement.

**12.16.090 Assurances required.**

Before the city approves a street use permit, the director shall determine the appropriate assurances (as set forth in Section 12.16.100 through 12.16.140) as necessary to assist the city in

(1) the collection of expenses charged under this chapter and costs associated with a use under a permit; (2) assure performance of the requirements of this chapter and the covenants or conditions in a permit; (3) place on the permittee the risks associated with the use and provide a degree of financial responsibility in the event of an accident or injury; and (4) restoration of the public place when the permittee's use has been revoked or terminated to at least as good a condition as required by current applicable standards. The city's acceptance of an indemnity deposit/agreement, a surety bond, or insurance does not limit an applicant's or a permittee's liability to the amount deposited or stated in the instrument. The director, when required to do so by a constitutional provision, or state or federal law, may waive compliance with any of the conditions of Section 12.16.100 through 12.16.140.

**12.16.100 Indemnity deposit with finance department.**

(1) If the director determines that there is a substantial risk of injury, damage, or expense to the city or probable city expenditures arising from an applicant's proposed use of any public place, the director may require the applicant to make an indemnity deposit with the finance director in an amount based on the director's estimate of the injury, damage, or expense to the city, or cost of restoring the public place if a mishap or accident occurs.

(2) The establishment of an indemnity deposit with the city shall provide a source of funds, held by the city, to pay probable city expenditures arising from: (a) a proposed use or restoration of the public place after the use; (b) reimbursement of the city for the time associated with city employees' inspection and code enforcement activities; and (c) ancillary city expenses relating to the permit. Annual street use permit fees are billed separately. A deposit establishes a balance with the city in favor of the applicant or permittee against which a city department may deduct fees and charges as they occur, including annual fees and deposits for particular permits.

(3) The indemnity deposit shall also be used to pay the cost of: (a) restoring the public place; (b) removal of any earth or other debris; (c) replacing or repairing any damaged utility or trees in the public place; (d) completing any work left unfinished; (e) resetting any traffic control devices; (f) performing engineering and other studies required by the applicant's use of the public place; and (g) any other expense that the city may sustain in conjunction with the permitted work. The deposit shall also be used to pay the city's administrative expenses equal to the city's costs for services such as inspections, surveys, preparing plans, letting contracts, and contract administration or supervision. The balance of the cash indemnity deposit, if any, after all such deductions, shall be returned to the applicant or permittee. If the indemnity deposit is insufficient, the applicant or permittee shall be liable for the deficiency.

**12.16.120 Surety bond.**

(1) A surety bond provides a promise by a licensed surety company, within the limits and according to the terms of the bond, to perform work or pay the city's expenses to perform the work in the event of the permittee's default. A surety bond is not a substitute for providing the city public liability insurance for any tortious injury. The director may authorize the filing of a surety bond consistent with the procedures in this chapter, in lieu of making all or part of an indemnity deposit.

(2) If required by the authorizing official, the applicant or permittee shall deliver to the director, in lieu of or in addition to the indemnity deposit, a sufficient surety bond executed by a surety

company authorized and qualified to do business in the state of Washington and is approved as to surety and as to form by the city attorney. The bond shall: assume all the requirements provided in Section 12.16.100 in relation to an indemnity deposit; run for the full period of the permit; be in an amount fixed by the director; be conditioned that the permittee shall comply with all the terms of the permit and all the provisions of this title and all other ordinances of the city; and to the extent permitted by law, indemnify and save the city harmless from any and all claims, actions, suits, liability, loss, costs, expense, or damages of every kind and description, excepting only damages that may result from the sole negligence of the city and that may accrue to, be asserted by, or be suffered by any person or property, including, without limitation, damage or injury to the permittee, its officers, agents, employees, contractors, invitees, tenants and tenants' invitees, or licensees, by reason of the use of any public place, as provided for in the application.

(3) If the application proposes to construct, reconstruct, repair, maintain, or remove any pavement, utility, street lighting, or appurtenance, and / or perform any grading in the public place, the applicant shall file with the director a sufficient surety bond executed by a surety company authorized and qualified to do business in the state of Washington and is approved as to surety and as to form by the city attorney. The bond shall: be in an amount fixed by the director; be conditioned such that the permittee shall complete all portions of the work according to the city's standard plans and specifications and the special plans approved by the authorizing official; and be conditioned that the permittee shall comply with all the terms of the permit and all the provisions of this title and all other ordinances of the city; and to the extent permitted by law, indemnify and save the city harmless from any and all claims, actions, suits, liability, loss, costs, expense, or damages of every kind and description, excepting only damages that may result from the sole negligence of the city, that may accrue to, be asserted by, or be suffered by any person or property, including, without limitation, damage or injury to the permittee, its officers, agents, employees, contractors, invitees, tenants and tenants' invitees, or licensees, by reason of the use of any public place, as provided for in the application. The bond shall run for the full period of the permit plus two years after city acceptance of the permitted work.

**12.16.130 Liability insurance.**

(1) Liability insurance protects the city as an additional insured from public liability as a result of an accident, injury, or damage arising from the use of a public place; and assists in making permittees financially responsible for meeting liabilities that may arise from their use of public places.

(2) Every permittee, as a condition of every street use permit, shall obtain and maintain in full force and effect, at its own expense, public liability insurance in an amount sufficient to protect the city from all potential claims and risks of loss from perils in connection with any activity that may arise from or be related to the permittee's activity upon or the use or occupation of the public place allowed by the permit and claims and risks in connection with activities performed by the permittee by virtue of the permission granted by the permit. The insurance policy shall: (a) be in effect for the duration of the permit; name the city of Edgewood, its elected and appointed officers, officials, employees, and agents as additional insureds for primary and noncontributory limits of liability subject to a separation of insureds clause; (b) apply as primary insurance regardless of any insurance that the city may carry; and obligate the insurance company to give notice to both the director and the city clerk at least 30 calendar days before any cancellation of the policy.

(3) The director, in consultation with the city attorney, shall establish the amount of the insurance, and unless constitutional liberties prohibit it, shall require that the insurance be provided prior to issuance of the permit. The city requires insurance coverage to be placed with an insurer admitted and licensed to conduct business in Washington State or with a surplus lines carrier according to Chapter 48.15 RCW, except that if it is infeasible to obtain coverage with the required insurer, the city may approve an alternative insurer. Evidence of such insurance shall be provided before the city issues the street use permit.

**12.16.140 Indemnification agreement.**

(1) The indemnification agreement holds the city harmless from all claims, actions, suits, liability, loss, costs, expense, or damages of every kind and description. The permittee shall agree to defend, indemnify, and hold harmless the city of Edgewood, its officials, officers, employees, and agents from and against:

(a) Any liability, claims, actions, suits, loss, costs, expense judgments, attorneys' fees, or damages of every kind and description resulting directly or indirectly from any act or omission of the permittee, its subcontractors, anyone directly or indirectly employed by them, and anyone for whose acts or omissions they may be liable, arising out of the permittee's use or occupancy of the public place; and

(b) All loss by the failure of the permittee to fully or adequately perform, in any respect, all authorizations of obligations under permit.

(2) If the application is for a permit to use or occupy a public place with a bulkhead, steps, retaining wall, rockery, structure, or an extension or appurtenance to a structure or any facility with an anticipated continued occupancy of a public place of more than one year, the owner of the adjacent property, and any existing lessee, sublessee, tenant and subtenant using or occupying the part of the premises served or connected to the permitted use, shall, in the manner provided by law for the execution of deeds, execute and deliver to the city upon a form to be supplied by the authorizing official an agreement in writing: signed and acknowledged by the owners and by any existing lessee, sublessee, tenant and subtenant; containing an accurate legal description of the premises; covenanting on the part of the owner, lessee, sublessee, tenant and subtenant, for themselves and their heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants and forever defending, indemnifying, and holding harmless the city, its officials, officers, employees, and agents from and against any and all claims, actions, suits, liability, loss, costs, expense, attorneys' fees, or damages of every kind and description, excepting only damages that may result from the sole negligence of the city, that may accrue to, be asserted by, or be suffered by any person or property, including, without limitation, damage, death, or injury to members of the public or to the permittee's officers, agents, employees, contractors, invitees, tenants and tenants' invitees, licensees or its successors and assigns, arising out of or by reason of:

(a) The existence, condition, construction, reconstruction, modification, maintenance, operation, use, or removal of the permitted area or any portion thereof, or the use, occupation, or restoration of the public place or any portion thereof by the owner, lessee, sublessee, tenant and subtenant, heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants;

(b) Anything that has been done or may at any time be done by the owner, lessee, sublessee, tenant and subtenant, heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants by reason of the permit; or

(c) The owner, lessee, sublessee, tenant and subtenant, heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants failing or refusing to strictly comply with every provision of the permit; or arising out of or by reason of the permit in any other way.

(3) The director may require that the indemnification agreements for the types of structures identified in subsection (2) of this section shall be a covenant running with the land and shall be recorded against the property at the applicant's cost.

(4) In addition, the agreement shall contain a provision which expressly states that the permit:

(a) Is wholly of a temporary nature;

(b) Vests no permanent right whatsoever;

(c) May be revoked, the structures and obstructions removed, and public place restored to the condition that existed prior to use occurring in the public place upon 30 calendar days' notice, posted on the premises, or published in the official newspaper of the city; or without notice, if the permitted use is dangerous or the structures are insecure or unsafe, as determined by the director, or are not constructed, maintained, or used in accordance with the Edgewood Municipal Code.

(5) An agreement after it has been received and recorded with the county auditor shall be retained by the city clerk in the files and records of the clerk's office.

(6) The director may waive execution of the signature on an agreement by a tenant or subtenant on a month-to-month lease or on a tenancy at will. If the application is made by a condominium or cooperative apartment, the authorizing official may accept an agreement by the condominium or apartment association together with documentation showing its authority to execute the agreement in lieu of executing the agreement by all unit or apartment owners.

**12.16.150 Permit duration, revocation and restoration of the public place.**

(1) Every street use permit approved under this chapter shall state on its face that the permit is of a temporary nature and shall vest no permanent right; and may in any case be revoked upon 30 calendar days' notice; or may be revoked without notice where the use or occupation is dangerous or any structure or obstruction permitted is insecure or unsafe, as determined by the director, or is not constructed, maintained, or used in accordance with the provisions of the Edgewood Municipal Code.

(2) If a permit to use a public place is revoked, terminated or expired, the permittee/applicant shall restore the public place to the condition that existed prior to use occurring in the public place.

(3) If any structure, obstruction, use, or occupancy is not discontinued after notice from the city to do so, the director, with respect to public places, may:

(a) Prohibit its further use;

(b) Remove it from the public place;

(c) Make repairs to it as may be necessary to render it secure and safe at the expense of the permittee or the permittee's successor or user responsible for the structure, obstruction, use, or occupancy; and

(d) Collect expenses incurred in rendering it secure and safe and restoring the public place in the manner provided by this chapter and other applicable law.

**12.16.160 Permit fees.**

(1) From time to time, the director shall prepare and recommend for adoption by the city council a schedule of fees applicable to: reviewing and administering all permits for public places.

(a) Fees for using or occupying the public place may take into consideration the undesirability of the use or occupation relative to the rights of the public, such as the city policy of discouraging certain types of encroachments inconsistent with the public right of access, including access to the shorelines or other public places, and shall be included in the schedule of fees for use of public places under the jurisdiction of the director.

(b) The director is authorized to collect a monetary deposit for services to be conducted related to the review or inspection of a permit prior to or at permit issuance.

(c) The director is authorized to collect fees for other city departments that provide services related to the review of a permit for use of the public place.

(2) The fee schedule, when adopted by ordinance, shall govern the fee for permits issued and reviewed. All permit and review fees shall be commensurate with the cost of administering, inspecting, and policing involved in issuing and continuing the permits and with the use and occupation granted by the permits. The fee shall be collected as a condition to issuing or continuing any permit or use.

**12.16.170 Exception/waiver, fees and assurances.**

(1) The director may grant an exception from paying fees, making an indemnity deposit, posting a surety bond, or providing liability insurance from the United States of America.

(2) The authorizing official may grant an exception from paying fees, making an indemnity deposit, posting a surety bond, or providing liability insurance when the primary purpose of the project is environmental remediation and the project is being conducted in compliance with 42 U.S.C. 9621 and is subject to 42 U.S.C. 9621(e).

(3) The authorizing official may grant an exception from paying fees, making an indemnity deposit, posting a surety bond, or providing liability insurance when the use is for a public transportation-related-infrastructure project, like light rail, and is authorized under a separate ordinance; or when the use is for a city transportation project.

(4) An authorizing official may waive the requirement for an indemnity deposit or surety bond for a use by the state of Washington or a local government.

**12.16.180 Compliance with permit.**

(1) Construction of a structure or improvement shall be in accord with the approved permit and plans accompanying the approved permit unless the director first approves a revised permit authorizing the change.

(2) If a proposed change is substantial and objections or adverse comments are received before the permit authorizing the revision is issued, the director shall give notice to the persons making the objection or comments about the proposed change, or require the applicant or permittee to do so, and allow public comment before reaching a decision on the proposed change.

**12.16.190 Newsstands.**

(1) This section shall be interpreted and implemented in a manner that will enable the public to acquire a wide variety of publications with a diversity of news, information, ideas and opinions, at convenient locations in public places. It shall also be interpreted and implemented in a way so as to facilitate the distribution of publications in public places as contemplated by the Constitution of the State of Washington and the First Amendment to the U.S. Constitution. In addition, the city shall implement this section by preserving the appearance of public places and carry out design controls in areas subject thereto, encourage improvements that will make public places more pleasing and promote the use of modern aesthetically pleasing newsstands in congested areas.

(2) Newsstands in compliance with the following standards may be placed in public places without a street use permit:

(a) All newsstands in a public place shall align parallel with the curb, allow at least five feet of clear sidewalk space for pedestrian passage, be detectable by pedestrians using canes for guidance, be maintained in a safe condition, able to withstand strong winds and be in good repair at all times. The newsstand may not exceed the following dimensions: six feet by 12 feet;

(b) No newsstand shall be placed or maintained so as to obstruct the use of any crosswalk, wheelchair ramp, driveway, hydrant, or city emergency facility, or be less than 18 inches from the curb;

(c) No newsstand shall impair loading at any bus, taxi, passenger or truck loading zone; hinder egress to parked vehicles in marked parking stalls; obstruct sight lines of motorists at an intersection; orient toward the roadway; or obscure any regulatory sign; or

(d) No newsstand shall be fastened to any bus shelter or any utility pole or tree.

(3) A street use permit is required for the placement of a newsstand in a public place if the newsstand exceeds the size limitations in subsection (2)(a) of this section; or if the owner proposes to: (a) permanently affix the newsstand to the surface of the public place; or (b) the owner proposes to place a newsstand which conflicts with design guidelines adopted for historical or special review districts, or proposes to place the newsstand within 120 feet of the limits of a street improvement that provides for the integration of newsstands into structures located therein. The director may issue a street use permit to allow the placement of a newsstand

under this subsection (3) whenever the same constitutes a reasonable accommodation that furthers the public interest.

**12.16.200 Appeals.**

(1) A person aggrieved by any of the following decisions of the director may timely request an appeal of the decision to the city council:

(a) The approval or denial according to Sections 12.16.070 and 12.16.080 of a street use permit;

(b) The revocation of any street use permit;

(c) The approval or denial according to Section 12.16.190 of a request for a permit for a newsstand location not generally permitted by Section 12.16.190.

(2) An aggrieved person may appeal the director's decision by paying the appeal fee and filing an appeal statement with the city clerk within 10 calendar days of the date of the decision. The appeal shall identify the decision for which review the objection(s) to the decision, and the specific alternative being proposed. The city clerk shall schedule the appeal with the city council on their regular meeting calendar. The director may, at his/her discretion, stay implementation of a decision pending the appeal. The city council shall consider the appeal during a public hearing, and issue written findings and conclusions at a subsequent meeting. The decision of the city council shall be final, binding and conclusive.

**12.16.210 Definitions.**

"Adjacent property" means and includes the property abutting the margin of and contiguous to the public place.

"Alley" means a public way not designed for general travel and used primarily as a means of access to the rear of residences and business establishments. (RCW 46.04.020.)

"Applicant" means the individual or entity that has applied for a permit to use the public place on their or another individual's or entity's behalf.

"Crosswalk" means the portion of the roadway between the intersection area and a prolongation or connection of the farthest sidewalk line or in the event there are no sidewalks then between the intersection area and a line 10 feet therefrom, except as modified by a marked crosswalk. (RCW 46.04.160.)

"Director" shall mean the director of public works or his/her designee.

"Driveway or private road" means every way or place in private ownership and used for travel of vehicles by the owner or those having express or implied permission from the owner, but not by other persons. (RCW 46.04.420.)

"Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. (RCW 46.04.197.)

“Newsstand” means any stand, box, structure, rack or other device that is designed or used for the sale or distribution of newspapers, periodicals, magazines, or other publications, or any combination of the above.

“Permittee” means a person or entity that has received a permit to use a public place.

“Public place” means public right-of-way and the space above or beneath its surface, whether or not opened or improved, including streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, planting strips, squares, triangles and plazas that are not privately owned.

“Right-of-way” means the strip of land platted, dedicated, condemned, established by prescription or otherwise legally established for the use of vehicles, pedestrians or utilities.

“Roadway” means that portion of a highway or street improved, designed, or ordinarily used for vehicular travel, exclusive of the sidewalk or shoulder even though such sidewalk or shoulder is used by persons riding bicycles. (RCW 46.04.500.)

“Sidewalk” means that property between the curb lines or the lateral lines of a roadway and the adjacent property, set aside and intended for the use of pedestrians or such portion of private property parallel and in proximity to a public street and dedicated to use by pedestrians. (RCW 46.04.540.)

“State highway” means every highway or part thereof which has been designated as a state highway or branch thereof by legislative enactment. (RCW 46.04.560.)

“Street” means every public highway or part thereof located within the city limits, except alleys. (RCW 46.04.120.)

“Use” means exercising dominion or control over, or occupying all or part of, a public place with or without the right to do so. “Use” includes constructing, storing, erecting, placing upon, maintaining, or operating any inanimate thing or object in, upon, over or under any public place.

(1) “Use” includes, but is not limited to, any of the following:

(a) Placement or installation of any marquee, awning, clock, newsstand, sign, banner, sidewalk elevator or door, fuel opening, sidewalk cafe, or other structure;

(b) Placement or installation of fencing, staging, scaffolding, an elevator or other structure or material, machinery or tools used or to be used in connection with excavating, erecting, altering, demolishing, repairing, maintaining, or painting any building;

(c) Moving any building along or across any public place;

(d) Storing or placing any material, equipment, inanimate object, or thing in any public place. But “use” shall not include placing an inanimate object in a location and for a limited duration of time that, under the circumstances, no reasonable person could conclude that the public’s right to use or enjoy the public place, in whole or in part, has been or potentially could be interfered with;

(e) Raising or lowering any safes, machinery, or other heavy articles;

(f) Making or having any fire on any public place;

(g) Doing any work in, or erecting any structure under, along or over, any public place; except when permitted by ordinance;

(h) Vending of goods, tickets, things or services of any kind, other than publications in newsstands regulated under Section 12.16.190;

(i) Using sound amplifying equipment, other than aids for the disabled; or

(j) Closing or altering the appearance of streets; including filming, block parties or street fairs.

(2) With respect to trees and plantings, "use" means planting, removing, injuring, destroying, topping, or major pruning of any tree in any public place; cutting or pruning of any tree planted or maintained by the city; and removing, injuring or destroying any flower, plant, or shrub in any public place. "Use" excludes cutting grass, trimming shrubs, planting flowers, seeding, weeding, edging and other gardening activities for the care of planting strips commonly performed by or for an owner or occupant of property adjacent to a public place; and it excludes berry-picking and recreational activities that may have an incidental impact upon grass or shrubbery.

(3) "Use" excludes a customer's temporary placement of the customer's garbage and recyclables for curbside/alley collection, removing snow and ice, sweeping sidewalks and removing leaves and debris.

"Unopened" means a City right-of-way that exists by dedication or deed, but within which there is no road, improved or unimproved, that has been opened and accepted for public use and maintenance by the City.

**Section 2. Severability.** Should any section, paragraph, sentence, clause or phrase of this Code, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason or should any portion of this Code be pre-empted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this Code or its application to other persons or circumstances.

**Section 3. 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.

**ADOPTED THIS 28th day of May, 2019.**

_____
Daryl Eidinger, Mayor

ATTEST:

_____
Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

_____
Carol Morris, City Attorney

# City Of Edgewood
# Council Agenda Summary Sheet

| | | |
|---|---|---|
| **SUBJECT:** Street Use Permit Fees | **Agenda Item #:** | **AB19-0456** |
| | **For Agenda of:** | **May 28, 2019** |
| | **Prepared by:** | **Jeremy Metzler** |

**ATTACHMENTS (list):** ☒ Resolution 19-0456 – Proposed Street Use Permit Fees

| **Approval of Materials:** | | | |
|---|---|---|---|
| Mayor, Daryl Eidinger | ☒ | **Expenditure Required:** | N/A |
| Asst. City Administrator, Dave Gray | ☒ | **Amount Budgeted:** | N/A |
| City Attorney, Carol Morris | ☒ | **Appropriation Required:** | N/A |
| City Clerk, Rachel Pitzel | ☒ | **Timeline: N/A** | |
| Community Development Director, Darren Groth | ☒ | | |
| Public Works, Jeremy Metzler | ☒ | | |
| Police Chief, Micah Lundborg | ☒ | | |

**Fiscal Note/Consideration:**
A street use permit is a request to temporarily use or occupy a public place or street for private purposes. The permit fee is therefore calculated in a different manner than a development permit fee. In Section 12.16.160 of the attached ordinance, the factors used to determine the fee are identified. While a portion of the fee will reimburse the City for administrative processing, the remainder of the fee is the "rent" for the use of the public place/street.

**SUMMARY STATEMENT:**
Issues relating to the use of street right-of-way by an owner of property abutting the street have become more prevalent in recent months. The City has adopted Pierce County's Code relating to street obstructions, which primarily regulates any use of the streets other than for travel or utility purposes as a nuisance subject to removal. Prior to considering this resolution, the City Council acted on Ordinance 19-0550 regarding local regulations for street use permits.

Cities hold public places and street rights of way in trust for the public. Therefore, a street use permit may also charge fees for such use and occupation. Attached is a resolution that would adopt a proposed street use permit fee schedule. The Council needs to establish a street use permit fee and an occupation fee schedule. Staff recommends adopting this resolution to add the proposed street use permit fees to the previously adopted fee schedule.

**COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:** N/A

**RECOMMENDED ACTION: MOTION** to adopt Resolution No. 19-0456, adopting street use permit fees.

**ALTERNATIVES TO RECOMMENDED ACTION:** 1) Do not adopt
2) Forward to Study Session for further review

**RESOLUTION NO. 19-0456**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON, ADOPTING STREET USE PERMIT FEES.**

**WHEREAS,** the Edgewood City Council adopted Ordinance No. 19-XXXX, adopting a street use permit process; and

**WHEREAS,** the Council needs to establish fees associated with such permits;

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

**Section 1**. The Council adopts the following annual street use permit fees:

| Application Type | Review Fee | Issuance Fee |
|---|---|---|
| **Non-Franchise Utility Occupation** | $150.00 | $100.00 annually |
| **Commercial Development –** Use of the right-of-way associated with commercial projects, multi-family development, or plat infrastructure. | $250.00; site inspection fee: $80.00/hr. | $100.00 annually |
| **Single Family Residential –** Use of the right-of-way for existing single family home construction or major remodels; installation or re-construction/relocation of privately used and maintained driveways in unopened right-of-way; landscaping; fences/walls; other uses. | $250.00; site inspection fee: $80.00/hr. | $75.00 annually |
| **Street Use –** Use of the right of way such as sidewalk cafes; street runs; non-motorized races; parades and processions; block parties; other roadway closures. | $150.00 | $25.00 per week |

| | | |
|---|---|---|
| **Temporary Signage –** As allowed by the Edgewood sign code for private use within public right-of-way. | $150.00; site inspection fee: $80.00/hr. | $100.00 annually |

**Section 2**. This Resolution shall be effective immediately upon passage.

**PASSED BY THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 28TH DAY OF MAY, 2019.**

_____
Daryl Eidinger, Mayor

**ATTEST:**

_____
Rachel Pitzel, City Clerk

# City Of Edgewood
# Council Agenda Summary Sheet

| | | |
|---|---|---|
| **SUBJECT:** F. Nix Dangerous Tree Removal | **Agenda Item #:** | **AB19-0457** |
| | **For Agenda of:** | **May 28, 2019** |
| | **Prepared by:** | **Jeremy Metzler** |

**ATTACHMENTS (list):**
☒ Notice of Violation dated January 30, 2019
☒ Written response provided by F. Nix, dated March 21, 2019
☒ Resolution 19-0457

| **Approval of Materials:** | | | |
|---|---|---|---|
| Mayor, Daryl Eidinger | ☒ | **Expenditure Required:** | up to $1,500 |
| Asst. City Administrator, Dave Gray | ☒ | **Amount Budgeted:** | N/A |
| City Attorney, Carol Morris | ☒ | **Appropriation Required:** | Up to $1,500 |
| City Clerk, Rachel Pitzel | ☒ | **Timeline: N/A** | |
| Community Development Director, Darren Groth | ☒ | | |
| Public Works, Jeremy Metzler | ☒ | | |
| Police Chief, Micah Lundborg | ☒ | | |

**Fiscal Note/Consideration:**
The estimated cost to cut down and remove the dangerous tree in question is $1,500. If Council elects to follow the process stated in EMC 8.15, there will be additional costs associated with filing and enforcing a lien against the property to recover the tree removal expenses. These costs may exceed the amount required to remove the tree.

**SUMMARY STATEMENT:**
At least one tree from the subject property fell across 32nd Street East during a windstorm on Sunday, January 6, 2019, and said tree was removed by emergency work crews. Staff performed a site visit on January 23, 2019 to determine if there are any other dead or dangerous trees in the area that might also injure someone or cause damage to public or private property in a future windstorm. During that visit, staff took measurements and determined the trees in question (one that fell on January 6, and one that appears dead and dangerous) are located outside and south of the public right-of-way and on private property. Even though the remaining dangerous tree is located on private property, it is likely to fall on public right of way similar to the tree that fell on January 6, 2019.

Under the City's code, a private property owner is responsible for the condition of the trees on his/her property. "All landowners within the City shall maintain their property in a manner that does not pose a hazard to the public health, safety or welfare" (EMC 8.15.020). A Notice of Violation (attached) was sent to the property owner, Frances Nix, on January 30, 2019 to inform her of the apparent code violation and requirement to correct the situation. A written response was received by City Hall on March 25, 2019 (attached), wherein Ms. Nix requests the City remove the dangerous tree as she is unable to.

EMC 8.15.030 states, "the city council may initiate proceedings against the landowner by resolution… (describing) the subject property and the hazardous condition(s), and shall require the landowner to remove or destroy the same by the deadline established therein." EMC 8.15.040 continues, "If the landowner fails to remove or destroy the dangerous condition(s) identified in the city council resolution by the deadline established thereby, the city may cause the removal or destruction of such condition(s)." Finally, EMC 8.15.050 states, "The costs incurred by the city under this chapter shall become a charge to the landowner and a lien against the subject property. Notice of such

lien shall be in substantially the same form, filed with the same officer, and within the same time and manner, and enforced and foreclosed as provided by law for liens for labor and materials."

That being said, the City of Edgewood has a duty to all persons, whether negligent or fault free, to build and maintain roadways in a condition that is "reasonably safe for ordinary travel." O'Neill v. City of Port Orchard, 194 Wash. App. 759, 771 (2016). If the City has notice of an unsafe condition that it did not create and has a reasonable opportunity to correct it – but fails to do so – the City could have liability. Here, the City has notice of an unsafe condition that it did not create, and we have a reasonable opportunity to correct the situation (i.e., the property owner has given written permission for the City to remove the dead tree). We don't know when the next windstorm may occur and cause this tree to fall. For these reasons, staff recommends that action be taken by the City to cut down and remove this tree as soon as practical. Staff asks that the Council provide authority for this action even though we haven't yet implemented the procedure for recovery of the City's costs.

To address questions discussed during the Council Study Session on April 30, 2019, staff contacted Ms. Nix on May 1, 2019. In conversation with ACA Gray, Ms. Nix again stated she is unable to pay for the tree removal and was adamant in her belief Pierce County created the problem years ago when the street was widened, cutting into her bank and clipping the roots. There was no conversation regarding Ms. Nix's property insurance coverage or its ability to cover the costs of the tree removal.

The Council may either direct staff to proceed with the process outlined in EMC 8.15, or simply remove the tree at the City's expense on the basis of risk prevention. Based on discussion during the May 21, 2019 study session, staff offers the attached resolution for Council action, requiring that:

1. The landowner must remove the tree by June 7, 2019;
2. If the tree is not removed on that date, that the City remove said tree on or after June 8, 2019;
3. Presentation of the invoice for the costs incurred by the City to the landowner, together with an application for the purpose of allowing the City to determine whether the landowner is eligible for a discount or waiver of such costs, establishing a deadline for her to provide the City with the necessary materials and completed application; and
4. If discount or waiver eligibility is not confirmed, the City will initiate cost recovery following the process EMC 8.15.

**COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:** N/A

**RECOMMENDED ACTION: MOTION** to adopt Resolution No. 19-0457, authorizing removal of the dangerous tree in question, providing notice to the property owner of the deadline for tree removal, and describing the means for cost recovery.

**ALTERNATIVES TO RECOMMENDED ACTION:**

1) Forward to Study Session for further review and discussion
2) Take no action

City of Edgewood

2224 104th Avenue E., Edgewood, WA 98372-1513
Phone: (253)952-3299
www.cityofedgewood.org

**NOTICE OF VIOLATION**

January 30, 2019

**SENT VIA REGULAR AND CERTIFIED MAIL**

Frances Nix
11704 – 32nd Street E.
Edgewood, WA 98372-2042

Re: Premises located at: 11704 – 32nd Street E, Edgewood
Parcel No. 0420151030

Dear Ms. Nix:

As you may recall, there was at least one tree that fell across 32nd Street East near your property during a windstorm on Sunday, January 6, 2019. On January 23, 2019, we performed a site visit to your property in order to determine whether there are any other dead trees in the area that might also injure someone or cause damage to public or private property in a future windstorm.

During that site visit, we took some field measurements to determine the location of the dead trees in relation to the City's right-of-way. Pierce County Assessor-Treasurer mapping and available right-of-way records indicate there is a 60-foot-wide public right-of-way for 32nd Street East adjacent to your property, being 30 feet on each side of the centerline. The attached pictures show a wooden stake being placed just beyond 30' south of the road centerline, also being just north of the trees on your property. Based on these measurements, it appears that the trees in question are located outside and south of the public right-of-way and on your private property.

Under the City's code, the property owner is responsible for the condition of the trees on his/her property. "All landowners within the City shall maintain their property in a manner that does not pose a hazard to the public health, safety or welfare." Edgewood Municipal Code Section 8.15.020. You are responsible for removing the dead tree on your property which constitutes a hazard or menace to the public health, safety or welfare.

**CORRECTIVE ACTION REQUIRED:**

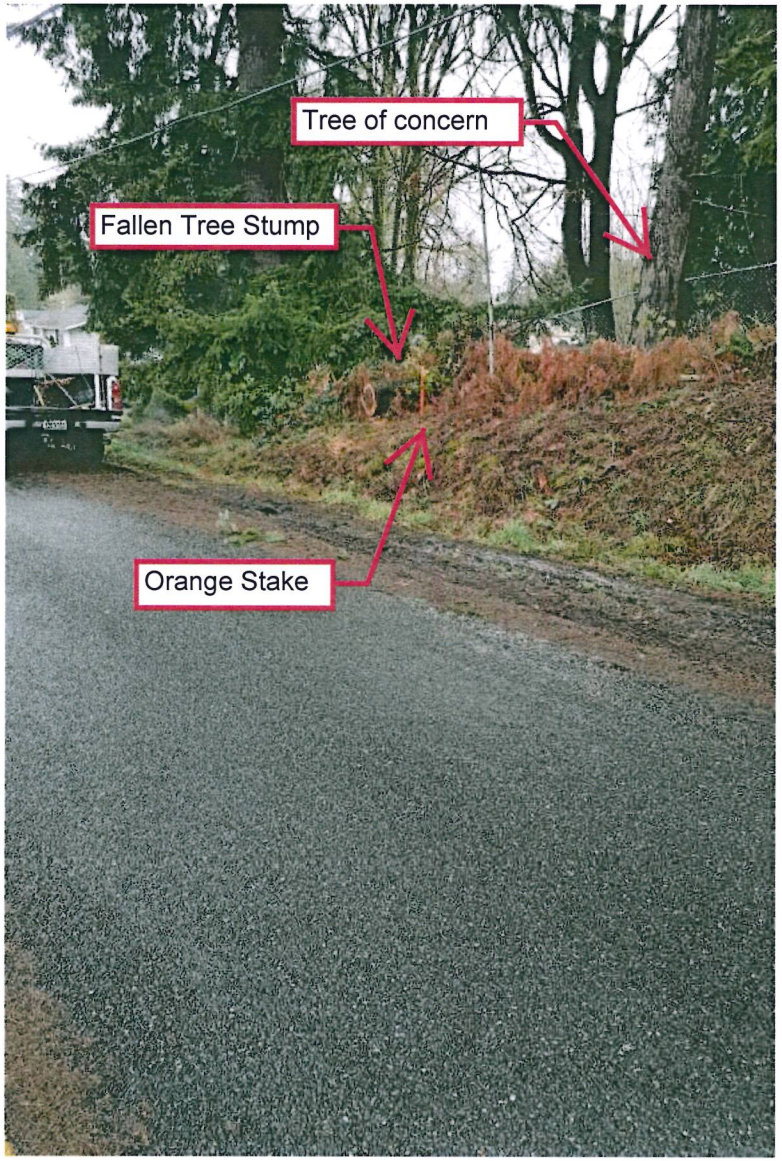
You must remove the tree on or before February 27, 2019 to prevent additional enforcement action. If the tree is not removed by this date, the City's code allows the City Council to initiate proceedings to abate this nuisance by the passage of a resolution, which requires you to remove the tree by a date certain. The date established by the Council will be no later than 10 days after passage of the resolution. If you fail to take action by this deadline, the City will remove the tree at your cost. This cost incurred by the City will become a lien against your property, which can be enforced and foreclosed in the same manner as a lien for labor and materials. EMC 8.15.030, .040, .050.

This letter has been written to provide you with advance notice of the City's proposed action, so that you will have adequate time to find someone to remove the tree. If you have any questions about this, or the procedure that the City will be using to require you to remove the tree, please give me a call at 253-952-3299 x114.

Very truly yours,

Jeremy Metzler, PE
Public Works Director

cc: Carol Morris, Edgewood City Attorney




Standing at centerline of 32nd St E, looking East-Southeast toward fallen tree location

Closeup of measurement from centerline of 32nd St E to orange stake



Back to Agenda

Frances M. Nix
11704 32nd St E
Edgewood, WA 98372-2042

3-21-19

City of Edgewood.

I did not open this letter until today, thinking it had to do with the Parr family. They have been so hurtful to me in the past 4 years or so.

You say I have a dead tree on the edge of my property on 32nd St. E.

If it is dead, about 50 years ago the City or County road came along and took 10 feet of my property and cut down the hill of the road 10 feet to make it safe for school children. We were happy to make it safe for the children.

I feel the road construction may have added to the problem.

I have no money after paying my land tax. This is such a burden.

I feel much of the problem was caused by the road construction years ago. If you can please cut the tree at your expense. I can not.

Thank you.

Frances Nix
11704 32nd St E.
Edgewood, Wa 98372

Birth date 3-2-30
89 years old -
Lincoln. S.S.

The tree that fell 1-6-19 had roots on city property!

# RESOLUTION NO. 19-0457

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON AUTHORIZING THE REMOVAL OF A DANGEROUS TREE LOCATED AT 11704 32ND STREET EAST, IMPLEMENTING THE PROCEDURE IN CHAPTER 8.15 EMC.**

**WHEREAS,** at least one tree located at 11704 32nd Street East fell across the public right-of-way during a windstorm on Sunday, January 6, 2019, damaging utility lines and property; and

**WHEREAS,** staff performed a site visit January 23, 2019 to determine if any other dead or dangerous trees are in the area that could injure someone or cause damage to public or private property in a future windstorm; and

**WHEREAS,** during said visit, staff determined at least one tree located outside and south of the public right-of-way and on private property appears dead and dangerous; and

**WHEREAS,** even though the dangerous tree is located on private property, it is likely to fall onto public right of way similar to the tree that fell on January 6, 2019; and

**WHEREAS,** Edgewood Municipal Code (EMC) 8.15.020 states, "All landowners within the City shall maintain their property in a manner that does not pose a hazard to the public health, safety or welfare"; and

**WHEREAS,** EMC 8.15.030 provides that when there is a violation of EMC 8.15.020, that the City Council may initiate proceedings against the property owner by passing a Resolution, which shall not occur until written notice has been given to the property owner and five days have passed; and

**WHEREAS,** a Notice of Violation was sent to the property owner on January 30, 2019 to inform of the apparent code violation and requirement to correct the situation; and

**WHEREAS,** a written response was received by City Hall on March 25, 2019, wherein the property owner claims that she cannot afford to remove the dangerous tree, and requests that the City do so at the City's cost; and

**WHEREAS,** EMC 8.15.040 provides that "If the landowner fails to remove or destroy the dangerous condition(s) identified in the city council resolution by the deadline established thereby, the city may cause the removal or destruction of such condition(s)"; and

**WHEREAS,** the Notice of Violation issued on January 30, 2019 serves as the "five days' written notice" described under EMC 8.15.030; and

**WHEREAS,** the City Council is interested in abating this nuisance as soon as possible to avoid any possible injury or property damage;

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

**Section 1.** The City Council hereby directs the landowner to remove or destroy the aforementioned dangerous tree on or before June 7, 2019.

**Section 2.** If said tree is not removed or destroyed by the property owner by the June 7, 2019 deadline, the Public Works Director is hereby authorized to have the dangerous tree removed immediately thereafter.

**Section 3.** The City Council may take any and all action to recover its costs as allowed by chapter 8.15 RCW.

**PASSED BY THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 28TH DAY OF MAY, 2019.**

_____
Daryl Eidinger, Mayor

**ATTEST:**

_____
Rachel Pitzel, City Clerk

# City Of Edgewood
# Council Agenda Summary Sheet

| | | |
|---|---|---|
| **SUBJECT:** Interim Zoning Findings of Fact | **Agenda Item #:** | **AB19-0458** |
| | **For Agenda of:** | **May 28, 2019** |
| | **Prepared by:** | **Carol Morris** |

**ATTACHMENTS (list):** ☒ Resolution No. 19-0458

| **Approval of Materials:** | | | |
|---|---|---|---|
| Mayor, Daryl Eidinger | ☒ | **Expenditure Required:** | $0 |
| Asst. City Administrator, Dave Gray | ☒ | **Amount Budgeted:** | $0 |
| City Attorney, Carol Morris | ☒ | **Appropriation Required:** | $0 |
| City Clerk, Rachel Pitzel | ☒ | **Timeline:** Resolution needs to be passed at next regular Council meeting. | |
| Community Development Director, Darren Groth | ☒ | | |
| Public Works, Jeremy Metzler | ☒ | | |
| Police Chief, Micah Lundborg | ☒ | | |

**Fiscal Note/Consideration: N/A**

**SUMMARY STATEMENT:**

Authority. The City Council has the authority to adopt an interim zoning ordinance for a period of up to six months under RCW 35A.63.220 and RCW 36.70A.390, as long as it holds a public hearing on the ordinance within sixty days, and adopts findings of fact in support. The purpose of the interim zoning ordinance is to maintain the status quo, while the City evaluates whether changes need to be made to its development regulations. It prohibits the submission and processing of development applications during this six month period in order to prevent vesting of applications and/or issuance of permits which could be inconsistent with any ordinance that is subsequently passed by the Council.

Facts. On April 9, 2019, the City Council adopted Ordinance No. 19-0547. The City provided the requisite public notice of the public hearing, and the City Council held the 60 day hearing on May 14, 2019. At this time, the Council heard the staff report and public testimony. Subsequently, the City Council voted to keep the interim zoning ordinance in place for the full six month period. The City Council is now required to consider, and eventually adopt findings of fact to justify its action. Attached is a Resolution incorporating the findings of fact for the Council to review. This Resolution was discussed during the Council's study session of May 21, 2019, and a change was made to reflect the fact that the Council received copies of a portion of the 2014 Pierce County Buildable Lands Survey relating to Edgewood during the study session. State law requires that the Resolution be passed "immediately" after the public hearing, which is usually done at the next regular City Council meeting.

Next Steps. The interim zoning ordinance prohibits the acceptance and processing of certain types of development applications (residential or multi-family residential uses) in the Town Center (TC), Commercial (C), Mixed Use Residential (MUR) and Business Park (BP) zones during the six month period (until approximately September 12, 2019), *in order to accomplish the purposes of the ordinance*. Therefore, the next steps in the process are for the City Council to:

1. Direct the staff to gather facts to address the question whether there is sufficient property in the TC, C, MUR and BP zones available for new commercial and retail development. In addition to the gathering of facts, the staff will analyze this information in light of the requirements of the Growth Management Act and the County-wide Planning Policies, and other relevant information. The staff will also review the existing comprehensive plan land use

designations and development regulations to determine whether current regulations accomplish the goal of promoting commercial and retail uses in these zones, whether alone or paired with residential uses. In addition, the staff may propose amendments to the development regulations.

2. After the staff has performed these tasks, the staff would present a recommendation to the Council. This recommendation could include the following:

(a) if the staff determines that there is sufficient property in these zones available for new commercial and retail development, that the interim zoning ordinance be terminated. This would be done in an ordinance that repeals the interim zoning ordinance which would identify the reasons that revisions to the City's development regulations are not needed;

(b) if the staff determines that there is not sufficient property in these zones for new commercial and retail development, that an ordinance be drafted to amend the existing development regulations in order to accomplish the Council's goals; and

(c) depending on what the staff learns after performing the above tasks, the staff may have additional recommendations for action.

3. If the interim zoning ordinance is not terminated by the City Council, and the City Council directs the staff to pursue the necessary procedures for amending the City's development regulations, here is a brief summary of the steps that would have to be performed:

- Staff would draft the new "permanent" zoning ordinance amending the City's existing development regulations;

- Staff would send the new "permanent" zoning ordinance to the Washington Department of Commerce for review (RCW 36.70A.106);

- City's SEPA Responsible Official will perform SEPA on the new "permanent" zoning ordinance;

- A public hearing on the new "permanent" zoning ordinance will be scheduled before the Planning Commission so that the Planning Commission can consider the testimony of the public on the draft ordinance, evaluate the amendments under the criteria in EMC 18.60.220 and provide the City Council with a recommendation on the ordinance;

- City Council will then consider the new "permanent" zoning ordinance and the Planning Commission's recommendation during a regular City Council meeting, as provided in EMC 18.60.230;

- If the City Council decides to adopt the new "permanent" zoning ordinance as recommended by the Planning Commission, the Council would vote to adopt it. However, if the City Council considers making a change to the ordinance as recommended by the Planning Commission, then the City Council would be required to hold a new public hearing in order to obtain public testimony on the proposed change (except for minor changes). RCW 36.70A.035(2), EMC 18.60.240.

- Once the new "permanent" zoning ordinance has been passed by the City Council, the City staff has 10 days to send it to the Department of Commerce. RCW 36.70A.106, EMC 18.60.230.

- City Council will then terminate the interim zoning ordinance by repealing Ordinance No. 19-0547.

**COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:** N/A

**RECOMMENDED ACTION:** Motion to pass Resolution No. 19-0458, adopting the Findings of Fact supporting the continued maintenance of Interim Zoning Ordinance No. 19-0547.

**ALTERNATIVES TO RECOMMENDED ACTION:** None Recommended.

# RESOLUTION NO. 19-0458

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, ADOPTING FINDINGS OF FACT TO SUPPORT THE CONTINUED MAINTENANCE OF INTERIM ZONING ORDINANCE NO. 19-0547, RELATING TO LAND USE AND ZONING, PROHIBITING THE ACCEPTANCE OF APPLICATIONS FOR NEW RESIDENTIAL/MULTI-FAMILY DEVELOPMENT IN THE TOWN CENTER (TC), COMMERCIAL (C), MIXED USE RESIDENTIAL (MUR) AND BUSINESS PARK (BP) ZONES, FOR A PERIOD OF SIX MONTHS, ALL AS ALLOWED BY RCW 35A.63.220 AND RCW 36.70A.390.**

**WHEREAS,** the Edgewood City Council may adopt an interim zoning ordinance that extends for a period of six months as long as the Council holds a public hearing on the proposed interim zoning ordinance within sixty days after adoption, and subsequently adopts findings of fact in support (RCW 36.70A.390, 35A.63.220); and

**WHEREAS,** on April 9, 2019, the Edgewood City Council adopted Ordinance No. 19-0547, which adopted an interim zoning ordinance on the acceptance of applications for new residential/multi-family development in the Town Center (TC), Commercial (C), Mixed Use Residential (MUR) and Business Park (BP) zones, for a period of six months; and

**WHEREAS,** after the requisite public notice was provided, the City Council held a public hearing on May 14, 2019, (which was during this sixty day period) on Ordinance No. 19-0547; and

**WHEREAS,** the City Council considered this Resolution during its regular study session of May 21. 2019 as well as the Council's regular meeting on May 28, 2019;

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

**Section 1**. Public Hearing. The City Council's public hearing was held on May 14, 2019.

**Section 2.** Staff Report. Darren Groth, the Community Development Director, presented the staff report. He reminded the Council of their May 7, 2019 study session discussions on the subject of the interim zoning ordinance, which included the manner in which the City was required to comply with the Growth Management Act. Information included in the Pierce County Buildable Lands Report, and other facts relevant to the TC, C, MUR and BP zoning districts were also presented at that time.[1] As a result of those discussions, Mr. Groth prepared an amendment to the interim zoning ordinance which would have the effect of narrowing its scope, so that it would only apply to the MUR zoning district on the east side of Meridian Avenue.[2] Finally, he recommended that the Council use the Planning Commission in order to vet his recommendation.

**Section 3.** Public Testimony. The following is a list of the members of the public who provided testimony during the public hearing, together with a brief summary of their testimony:

A. *Satwant Sing.* Mr. Sing asked that his attorney, Ruben Schutz be allowed to present testimony on his behalf.

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[1] The City Council received the portion of the 2014 Pierce County Buildable Lands Survey for Edgewood during its Study Session on May 22, 2019.

[2] This proposed ordinance was included in the Council packet for the May 14, 2019 regular City Council meeting, and copies were also available to members of the public during the public hearing.

B. *Ruben Schutz.*[3] Mr. Schutz stated that the interim zoning ordinance affects the Northwood Estates project because it is proposed in the TC zoning district. The project includes multi-family residential and 18,000 square feet of retail and commercial space that fronts Meridian Avenue. While he admitted that the City Council has much legislative discretion to adopt an interim zoning ordinance, Mr. Schutz asked that the Council either modify it along the line of what has been recommended by staff; amend it to include the exception described in his letter or terminate it. He felt that as the ordinance was currently drafted, it is too broad because it prohibits applications for commercial development that are paired with residential uses. If the purpose of the interim zoning ordinance is to prohibit residential and multi-family uses that are not paired with retail or commercial uses, then the Northwood project should be exempt. He also asked that the Council consider this request on the basis of fairness because the property is subject to LID assessments. These assessments were calculated based on the expectation that the property could be used for the purposes allowed in the underlying zone.

C. *Don Huber.*[4] Mr. Huber stated that his property is located on the west side of the MUR zone. If the staff's recommendation were adopted by the City Council, his property would not be affected by the interim zoning ordinance, so he had nothing else to say.

D. *Chris Van Dyke.* Mr. Van Dyke identified himself as a community marketing consultant and political hack from Bainbridge Island. He wanted to let the Council know that Mr. Sing's project (Northwood Estates) was not proposed "out of the blue." Three weeks ago, he

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[3] Mr. Schutz also sent a letter dated May 6, 2019 to the Mayor and City Council members on the subject of the Ordinance 19-0547. This letter has been incorporated into the administrative record on the interim zoning ordinance.
[4] Mr. Huber wrote a letter to the Mayor and City Council dated April 22, 2019 on the interim zoning ordinance. This letter has been incorporated into the administrative record.

received a notice that the application was complete. Mr. Van Dyke believes that Mr. Sing played by the rules, but the interim zoning ordinance brought his significant monetary investment to a grinding halt. However, he wanted to thank the staff because in his experience, it is rare for any municipality to be as receptive as Edgewood's staff. He asked that members of the audience stand up at that point, if they supported Mr. Sing.

*Elicia Lambert.* Ms. Lambert stated that she was in favor of the continued maintenance of the interim zoning ordinance as written. She believes that the City needs time to plan, and that City infrastructure could suffer otherwise.

*Sara Wagner*[5]. Ms. Wagner supports the original interim zoning ordinance because the City of Edgewood is unlike any other City. It has upheld the character of the community. She believes that we need to do more as we grow, in order to ensure that we do not lose everything to overdevelopment. According to Ms. Wagner, developers want to maximize profit by maximizing densities. She compared the growth rate in Edgewood to the growth rate in Sumner and Seattle, and concluded that Edgewood has been absorbing substantially more growth than other cities. She felt that we should require more of residential developers. Finally, she recalled her experience with one city that required developers to provide 25% open space.

*Linda Howard.* Ms. Howard stated that she came to the hearing in order to support the original interim zoning ordinance. She has lived here her entire life, but recently has heard nothing but negative comments about the City. Ms. Howard believes that as Edgewood was originally planned, it was great, and she would therefore support the original ordinance.

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[5] Ms. Wagner submitted a written, undated statement, which has been incorporated into the administrative record.

*David Zahner.* Mr. Zahner moved here seven years ago and loves it. However, now he sees more contractors than people. He feels that we are losing Edgewood. Right now, he doesn't even recognize a nearby ten acre plat that will be sold to developers. He thinks that people want to come here in order to make money. As for how the roads are – they will get worse. Mr. Zahner asked the Council to keep Edgewood the way it is and keep growth responsible.

*James Carerro.* Mr. Carerro lives in Lakewood and is Don Huber's architect. He is also on the Lakewood Planning Commission, which recently passed a downtown plan. He feels that the Lakewood zoning code is similar to Edgewood's in the way it is set up because it is more "urban" here. He believes that we have to accommodate growth and comply with the Growth Management Act. If we must accommodate growth, where will it take place? Personally, Mr. Carerro believes that it is going in the right direction. While the original ordinance was a response to neighborhood concerns about development, it encompasses too much. The City needs to be mindful of being fair to both developers and residents.

*Justin Yonker.* Mr. Yonker lives in Yakima and is associated with the Cascadia Senior Living project. They have already had a pre-application meeting with staff and doesn't think this project would be affected by the interim zoning ordinance. While it is a residential use, the use is still commercial. Mr. Yonker believes that they are in Edgewood for the long-term, with about 300 employees and zero plans of liquidity of any properties. Also, senior living uses have a low impact on traffic and schools. They did a market study and have identified a need for this use in Edgewood. Finally, he urged the Council to adopt the amended ordinance or exempt senior housing from the original interim zoning ordinance.

*Jason Neil.* Mr. Neil is in favor of the original interim zoning ordinance. He believes that there are a lot of apartments being constructed and there are two large duplexes that haven't yet been completed. He asked that the Council wait to see what the effect on the community is from these developments before allowing more development. Finally, he noted that everyone living in Edgewood is in favor of the original interim zoning ordinance and everyone from outside Edgewood wants the Council to adopt the staff's proposed ordinance.

*David Vincent*. Mr. Vincent is an architect for Mr. Sing on the Northwood project. He has been working on it for about a year and a half. He notes that there has been a lot of work performed and much money has been spent on a traffic study, geotech reports. Therefore, he doesn't believe that the interim zoning ordinance should apply to the Northwood project, only future projects or those that have not submitted applications. The density allowed by code is minimal. Mr. Vincent doesn't think that it is fair to apply the interim zoning ordinance on existing projects. He said that the City staff has been really helpful and that he would support the amended ordinance proposed by staff.

*Ron Milner.* Mr. Milner believes that the growth in Edgewood is good, but too much is bad, especially if there aren't sufficient first responders.

*Eric Lamden*. Mr. Lamden noted that the developers state that the interim zoning ordinance is unfair, but what about the effect of the developments on the people who live here. We want to preserve it for generations to come.

*Shawna Able*. Ms. Able is Mr. Sing's realtor for the Northwood Estates project. She stated that sewer assessments on Meridian forced some property owners to have to sell their properties. What will happen if they can't develop their properties according to the zoning? The property

owners will lose their properties. She complained that you can't have a fruit stand on Meridian, you can't ride horses down Meridian. We are not developers, and if the sale can't go through because of the passage of this interim zoning ordinance, people will lose their properties.

*Kim Adams.* Ms. Adams stated that the person who is selling her property to Mr. Sing is in her 90's and has had a $90,000 LID assessment imposed on that property. There is no way for her to pay it except for selling her property. With the interim zoning ordinance, the LID assessment won't get paid.

*Jim Schmidt.* Mr. Schmidt is part owner of the property that the other commenters are talking about. This is an emotional subject for him. His wife's parents owned the property for 60 years and had a fruit stand. They left the property to his wife, and Edgewood put the sewer on the property at the same time. There is a $443,000 sewer assessment on it to be paid. He doesn't know about the interim zoning ordinance, but he does know that a lot of people will suffer. There is traffic on Meridian, and that traffic won't change. This whole area is growing.

*Jason Rameriz.* Mr. Rameriz states that the City spent money on Buxton, Panzanno, but in Edgewood, he can't get his clothes dry-cleaned and he can't go to the grocery store. He believes that we need businesses that will be here for my daughter, if she decides that she wants to stay in Edgewood.

*Written testimony:* The following e-mails were submitted to the City Council on May 15, 2019, and were not considered by the City Council in their deliberations held immediately after the hearing (although they are now included in the administrative record): (1) e-mail dated 5-15-19 from Barbara Boettcher; (2) e-mail dated 5-15-19 from Kelly Rathburn; (3) e-mail dated 5-15-19 from Kelly Rathburn; (4) e-mail dated 5-15-19 from Linda Shampine.

**Section 4.** Close of Public Hearing. By 7:53 p.m., there were no other members of the public desiring to testify, and the public hearing was closed.

**Section 5**. Council Deliberations. The Mayor reiterated the three options available to the City Council at this point in time: (1) vote to keep interim zoning ordinance No. 19-0457 in place; (2) terminate or repeal interim zoning ordinance No. 19-0457; or (3) modify interim zoning ordinance No. 19-0457.

The Council asked Mr. Groth to identify the properties that were identified by the members of the public as being affected by the interim zoning ordinance. The portion of the City's Official Zoning Map, as included in the Council packet, was pulled up on the overhead projector and the properties identified.

The Council asked Mr. Groth to explain how the staff recommendation meets the needs of the individuals here today. Mr. Groth responded by saying that their properties would not be included in the scope of the interim zoning ordinance, if the staff recommendation was adopted. Both of the properties (owned by Mr. Huber and the Northwood Estates) are outside of the "affected area" as identified on the map.

One Councilmember stated that while there is concern about apartments, we need jobs in Edgewood. The apartments bring in jobs. Considering that we went from 9,000 people to 11,000 people since 2009, this doesn't meet the expectation that we should have 20,000 people. Also, we don't have any senior citizen centers, so this is a real balancing act.

One Councilmember proposed that we stay with the original interim zoning and then address the affected development projects individually.

The Mayor stated that we all need to realize that Edgewood is changing, and we get to decide how Edgewood will change. People are coming into City Hall to complain about huge sewer assessments. This is a balancing act that we are all faced with.

One Councilmember stated that he has lived here since the Windmill was at the top of Jovita, and he ran for Council in order to become part of the community. He doesn't want this City to become Federal Way. Compliance with the Growth Management Act is a balancing act for the quality of life of the citizens, and you don't get growth in a small community.

One Councilmember felt that the City needs to look at what we have and the fact that the density was allocated along Meridian. The property owners along there took the risk. We now have some surplus in our budget and it is not fair to expect someone who has taken a financial risk to take an additional hit.

Another Councilmember stated that this issue needs to be discussed in a study session in order to fully explore the other options.

This comment was affirmed by another Councilmember, who sympathized with the property owners, but believed that we need to articulate whether we want the development and where it should be. She stated that the Council should explain why it made the decision on the interim zoning ordinance. This couldn't be done at the last study session, which went to 11:00 p.m.

There were comments by the Council that the interim zoning ordinance needed to be examined "holistically," and that action on the ordinance should be tabled, and that it needed a

better map. There was agreement by one Councilmember that he still had a lot of questions about the ordinance, even though the Council talked about it in study session until 11:00 p.m.

**Section 6.** Council action. The Council voted to keep interim zoning ordinance No. 19-0547 in place, as it is. As part of the public hearing, the staff was directed to draft the necessary findings of fact to support the Council's decision.

**Section 7.** Effective Date. This resolution will take effect immediately upon passage by the City Council.

**ADOPTED this 28TH day of May, 2019**

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Daryl Eidinger, Mayor

**ATTEST:**

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Rachel Pitzel, City Clerk