



**CITY OF EDGEWOOD
COUNCIL STUDY SESSION AGENDA**

Tuesday, January 21, 2020 – 7:00 PM ♦ City Hall – 2224 104th Avenue East ♦ Edgewood, WA

- 1. CALL TO ORDER**
- 2. ALL STAFF MEET AND GREET**
- 3. COUNCIL BUSINESS**
 - A. Presentation Only - CivicClerk**
 - B. Discussion - Development Review**
 - C. Discussion/Review - Code Enforcement**
 - D. Discussion - Litowitz Property**
 - E. Discussion - Trespass Code**
 - F. Discussion/Review - Ramsaur SP Sewer Easements**
 - G. Discussion/Review - EDAB Recommendation**
 - H. Discussion -Purchase Parcel from Pierce County**
 - I. Discussion - Request for Memorial Sign**
 - J. Staff Procedures During City Facility Closure & Modified Hours of Operation**
- 4. OTHER COUNCIL ITEMS**
- 5. ADJOURN**

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



City Of Edgewood Council Agenda Summary Sheet

Subject: Presentation Only - CivicClerk	Agenda Item #: 3A.
	For Agenda of: 1/21/2020
	Prepared by: Matthew Ray
Attachments (list):	
Approval of Materials: Matthew Ray Rachel Pitzel 1/17/2020 Dave Gray 1/17/2020 Daryl Eidinger 1/17/2020	Expenditure Required: \$0.00 Amount Budgeted: \$0.00 Timeline:

Summary Statement:

CivicClerk is our new Agenda management software. This will be a presentation on how it works and how to use the software.

Item History:

Recommended Action:

Presentation Only

Fiscal Note/Consideration:

NA



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion - Development Review	Agenda Item #: 3B.
	For Agenda of: 1/21/2020
	Prepared by: Dean Mundy, James Tumelson
Attachments (list): 1. Land Division Report - December 2019	
Approval of Materials: Dean Mundy, James Tumelson Darren Groth 1/17/2020 Rachel Pitzel 1/17/2020 Dave Gray 1/17/2020 Daryl Eidinger 1/17/2020	Expenditure Required: N/A Amount Budgeted: N/A Timeline: Study Session: Second meeting each month

Summary Statement:

The City's Community and Economic Development (CED) Department is entrusted by City Council, Edgewood citizens, and the State of Washington to provide growth management and development review, neighborhood preservation and revitalization, property inspection and maintenance, and other programs and business development services necessary to ensure the healthy, safety, and quality of life of Edgewood residents. To carry out these responsibilities, the CED staff members perform numerous customer interactions, code interpretations, permitting functions, project reviews, on-site inspections, and multiple other functions.

Rotating turns between the Planning division and the Building division, each month a member of CED will present statistics and trends and also provide their analysis on the state of development in Edgewood.

Item History:

Recommended Action:

Presentation Only

Fiscal Note/Consideration:

Land Division Report- December 2019

Preliminary Plat						Site Development	Final Plat		
Start Year	Submitted	Project	Total Lots Proposed	Status	Approved	Status	Status	Recorded Date	Total Lots Recorded
2019	11/7/2019	BJERK SHORT PLAT	2	APPLICATION		NOT SUBMITTED	NOT SUBMITTED		
	10/18/2019	ESTATES ON CALDWELL SUBDIVISION	6	APPLICATION		NOT SUBMITTED	NOT SUBMITTED		
	8/28/2019	JENNA ACRES SHORT PLAT	4	APPLICATION		NOT SUBMITTED	NOT SUBMITTED		
	4/8/2019	SELLERS SHORT PLAT	2	APPROVED	9/27/2019	NOT SUBMITTED	NOT SUBMITTED		
	3/26/2019	WAGNER SHORT PLAT	3	APPROVED	10/23/2019	NOT SUBMITTED	NOT SUBMITTED		
	3/26/2019	RAMSAUR SHORT PLAT	4	APPROVED	6/21/2019	NOT SUBMITTED	NOT SUBMITTED		
	3/18/2019	MISENAR SHORT PLAT	2	APPROVED	5/23/2019	N/A	APPROVED	6/14/2019	2
	3/12/2019	BECKER SHORT PLAT	2	APPROVED	7/1/2019	N/A	NOT SUBMITTED		
2018	11/26/2018	BARTH SUBDIVISION	37	APPLICATION		NOT SUBMITTED	NOT SUBMITTED		
	10/17/2018	T GARRETT SHORT PLAT	2	APPROVED	3/1/2019	APPROVED	APPROVED	10/4/2019	2
	7/13/2018	MAKSIMCHUK SHORT PLAT	2	APPROVED	1/25/2019	N/A	APPROVED	3/13/2019	2
	4/17/2018	HEART & SOUL SHORT PLAT	4	APPROVED	12/26/2018	APPLICATION	NOT SUBMITTED		
	4/17/2018	MICKELSON SUBDIVISION	10	APPLICATION		NOT SUBMITTED	NOT SUBMITTED		
	2/15/2018	CHUMAKIN SHORT PLAT	4	APPROVED	6/22/2018	ISSUED	APPLICATION		
	2/8/2018	BEREZNYOV SHORT PLAT	4	APPROVED	1/10/2019	APPLICATION	NOT SUBMITTED		
	1/9/2018	ABEL SHORT PLAT	6	APPROVED	9/13/2018	ISSUED	NOT SUBMITTED		
2017	12/6/2017	CIRILIUM SUBDIVISION	18	APPROVED	8/15/2018	ISSUED	APPLICATION		
	10/11/2017	CHAMBERLIN SHORT PLAT	2	APPROVED	4/26/2018	N/A	APPROVED	7/11/2018	2
	10/10/2017	WOLF POINT SUBDIVISION	56	APPROVED	3/20/2019	APPLICATION	NOT SUBMITTED		
	3/23/2017	YURINA-COLLINS SHORT PLAT	3	APPROVED	10/19/2017	FINALED	APPROVED	3/12/2019	3
	3/22/2017	GAGNON SHORT PLAT	2	APPROVED	11/17/2017	APPLICATION	NOT SUBMITTED		
2016	11/3/2016	VOLENTE SUBDIVISION	15	APPROVED	6/6/2017	ISSUED	NOT SUBMITTED		
	9/23/2016	DOMUS TOWNHOMES PRD (THE WOODLANDS)	55	APPROVED	1/11/2017	ISSUED	APPROVED	7/11/2018	55
	9/2/2016	EDGEWOOD VIEW ESTATES SUBDIVISION PHASE 2	92	APPROVED	12/14/2017	ISSUED	NOT SUBMITTED		
		EDGEWOOD VIEW ESTATES SUBDIVISION PHASE 1					APPROVED	12/5/2019	23
	7/15/2016	PETERSON SHORT PLAT	3	APPROVED	12/10/2016	NOT SUBMITTED	NOT SUBMITTED		
	7/13/2016	DAFFODIL FARMS SHORT PLAT	5	APPROVED	3/7/2017	FINALED	APPROVED	5/29/2018	5
	6/3/2016	GERVAIS SHORT PLAT	3	APPROVED	12/22/2016	APPLICATION	NOT SUBMITTED		
	5/12/2016	NORTHWOOD ESTATES WEST SUBDIVISION- PHASE 2	41	APPROVED	10/24/2017	APPLICATION	NOT SUBMITTED		
		NORTHWOOD ESTATES WEST SUBDIVISION- PHASE 1	13	APPROVED	10/24/2017	ISSUED	APPROVED	1/25/2018	13
	4/4/2016	PASCOLO ESTATES SUBDIVISION	19	APPROVED	3/21/2017	ISSUED	APPROVED	12/18/2019	19
	2/16/2016	EDGEWOOD TERRACE SUBDIVISION	28	APPROVED	7/5/2017	NOT SUBMITTED	NOT SUBMITTED		
2015	12/10/2015	NICKLAUS SUBDIVISION	38	APPROVED	12/15/2016	FINALED	APPROVED	6/12/2019	38
	11/13/2015	CALDWELL CREST SUBDIVISION	15	APPROVED	6/30/2016	FINALED	APPROVED	11/16/2017	15
	11/12/2015	RAINIER VISTA SUBDIVISION	13	APPROVED	7/28/2016	ISSUED	APPROVED	11/28/2018	13
	11/2/2015	CALIBER SHORT PLAT	6	APPROVED	9/8/2016	FINALED	APPROVED	9/6/2019	
	10/26/2015	EDGEWOOD HEIGHTS SHORT PLAT	2	APPROVED	8/4/2016	ISSUED	APPROVED	5/4/2017	0
	7/21/2015	LEEPER SHORT PLAT	3	APPROVED	9/26/2015	FINALED	APPROVED	3/5/2018	3
	7/8/2015	EDGEWOOD ESTATES SUBDIVISION	14	APPROVED	9/29/2016	APPLICATION	NOT SUBMITTED		
	6/24/2015	LARSON SHORT PLAT	4	APPROVED	2/23/2016	FINALED	APPROVED	1/20/2017	4
	3/3/2015	GRAHAM-WHITSON SHORT PLAT	2	APPROVED	5/1/2015	NOT SUBMITTED	NOT SUBMITTED		
	2/27/2015	VIEW POINTE SUBDIVISION	44	APPROVED	4/29/2016	FINALED	APPROVED	8/16/2017	44
	1/26/2015	MAPLE GROVE SUBDIVISION	8	APPROVED	9/13/2016	ISSUED	APPROVED	11/13/2019	8
	1/23/2015	CURRAN ESTATES SUBDIVISION	9	APPROVED	12/30/2015	FINALED	APPROVED	6/12/2019	9
2014	10/31/2014	WAMPOLD SHORT PLAT	6	APPROVED	1/15/2015	FINALED	APPROVED	3/15/2017	6
	4/24/2014	FOREST WOOD ESTATES SHORT PLAT	4	APPROVED	7/15/2014	N/A	APPROVED	12/19/2014	4
	4/4/2014	NOLAN SHORT PLAT	2	APPROVED	7/21/2014	FINALED	APPROVED	7/17/2015	2
	1/27/2014	LISITSYN SHORT PLAT	6	APPROVED	7/15/2014	FINALED	APPROVED	7/15/2019	6
2013	6/19/2013	WESTRIDGE SUBDIVISION	360	APPROVED	9/4/2014	FINALED	APPROVED	7/20/2016	284



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion/Review - Code Enforcement	Agenda Item #: 3C.
	For Agenda of: 1/21/2020
	Prepared by: John Fairbanks
Attachments (list): 1. Title 7 DRAFT 01.15.2020 JF 2. Title 2 Amendments DRAFT JSF 1.16.2020 3. Title 5 Amendments DRAFT JSF 1.16.2020 4. Title 8 Amendments DRAFT JSF 1.16.2020 5. Title 18 Amendments DRAFT JSF 1.16.2020 6. Title 15 Amendment DRAFT JSF 1.16.2020	
Approval of Materials: John Fairbanks Darren Groth 1/17/2020 Rachel Pitzel 1/17/2020 Dave Gray 1/17/2020	Expenditure Required: n/a Amount Budgeted: n/a Timeline: 01/21/2020 - SS 01/28/2020 - RCM

Summary Statement:

Discussion on Title 7 Code Enforcement and applicable changes to other sections of the Edgewood Municipal Code.

The future adoption of Title 7 and applicable changes to other sections of the code will establish the enforcement process for civil violations of the Edgewood Municipal Code and Ordinances.

The adoptions and amendments of the above mentioned changes along with the recent adoption of Chapter 2.33, Code Enforcement Board will bring the City of Edgewood the necessary tools for a successful Code Compliance program. The process will reduce the timeline and associated costs of bringing properties into compliance.

Item History:

Recommended Action:

Hold a discussion and provide staff direction to Discussion/Review - Code Enforcement

Fiscal Note/Consideration:

Adding Title 7

Title 7 CODE ENFORCEMENT

Chapters:

- 7.05 General Provisions**
- 7.10 Stop Work, Cease Activity, and Emergency Orders**
- 7.15 Voluntary Correction**
- 7.20 Code Violations**
- 7.25 Civil Infractions**
- 7.30 Repeat Violation**
- 7.35 Abatement**
- 7.40 Regulation and Abatement of Unsafe and Unsanitary Structures or Premises**
- 7.45 Code Enforcement Board**
- 7.50 Code Enforcement/Abatement Fund**

Chapter 7.05 GENERAL PROVISIONS

Sections:

- 7.05.010 Purpose and intent.**
- 7.05.015 Authority to Enforce**
- 7.05.020 Definitions.**
- 7.05.030 Continuing violations.**
- 7.05.040 Applicability of title.**
- 7.05.050 Nonexclusive remedy.**
- 7.05.060 Time.**

7.05.010 Purpose and intent.

The Edgewood Municipal Code (EMC) is intended to support compelling governmental or public interests on behalf of the people who live in, work within, and visit the city. Such interests include but are not limited to providing an environment supportive of commerce, transportation, public safety, housing, and the overall general health, safety, and welfare of the community. Unlawful, unkempt, unsafe, unsanitary, and improperly maintained premises, properties, sidewalks, and easements, within the city create potential habitability, health, safety, sanitation, and welfare concerns for the city, its residents and guests.

Code violations often impact the economic wellbeing of people and the value of the premises, and adjoining or neighboring properties. Code violations and nuisances are a financial burden on city resources because of repeated calls for service, complaints or requests for investigations, inspections, interference with city operations, and demands upon public safety services. Therefore, it is the purpose and intent of the city, in enacting this title to provide effective and efficient code enforcement processes by striving to obtain voluntary compliance with the EMC, followed with strict enforcement when timely voluntary compliance efforts fail to be achieved.

The EMC shall be enforced for the benefit of the health, safety, and welfare of the general public, and not for the benefit of any particular person or class of persons. It is the intent of EMC Title 7 to place the obligation for complying with its requirements upon the owner, occupier, tenant, manager, agent, or other person responsible for the violation or condition of land and buildings situated within the City of Edgewood and within the scope of the EMC. No provision or any term used in EMC Title 7 is intended to impose any duty upon the City or any of its officers or employees that would subject them to damages in a civil action.

7.05.015 Authority to Enforce

A. The Administrator shall have the authority to enforce this Title. The Administrator may call upon the police, fire, other city departments or outside agencies to assist in enforcement. As used in this title, “Administrator” shall also mean his or her duly authorized representative.

B. Upon presentation of proper credentials, the Administrator may, with and subject to the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued warrant, enter at reasonable times any building or premises, in order to carry out the purposes of this title.

7.05.020 Definitions.

The following terms shall have the following meaning for purposes of this title:

(1) “Abate” means to repair, replace, remove, destroy or otherwise remedy a condition which constitutes a violation of Municipal Codes by such means, in such manner and to such an extent as the administrator determines is necessary in the interest of the general health, safety and welfare of the community.

(2) “Administrator” means the director of the department of community and economic development, any designated alternate City agent or employee empowered by ordinance or by the Mayor to enforce any City of Edgewood ordinance, code, or regulation, or the City’s Code Compliance Specialist (Code Enforcement Officer).

(3) "Code enforcement board" means the board created by EMC 2.33.010.

(4) "Code violation" or "violation" means any act or omission contrary to any provision of the Edgewood Municipal Code or ordinance section, including an act or omission at the same or different location by the same person, and including a condition resulting from such act or omission, and including civil violations as provided in the Edgewood Municipal Code.

(5) Day. Unless otherwise stated, "day" shall mean a calendar day.

(6) "Emergency" means any situation which the Administrator or a law enforcement officer reasonably believes requires immediate action to prevent or eliminate an immediate threat to public health, safety, or welfare of persons or property in the city.

(7) "Owner" means any owner, or reputed owner, of the property which is listed on the tax rolls of the Pierce County treasurer for the property.

(8) "Person" means any individual, firm, association, partnership, corporation or any entity, public or private.

(9) "Person responsible for the violation" or "person responsible" means any person who is required by the applicable regulation to comply therewith, or who commits any act or omission that is a violation or causes or permits a violation to occur or remain upon property in the City, and includes but is not limited to any owner(s), lessee(s), manager(s), agent(s), or other person(s) entitled to control, use and/or occupy property where a code violation occurs.

(10) "Repeat violation" means a violation of the same provision of the Edgewood Municipal Code or ordinance section in any location by the same person for which a Notice of Code Violation, civil infraction, misdemeanor or a notice of noncompliance with a voluntary correction agreement was issued within three years.

7.05.030 Continuing violations.

Each day upon which a violation occurs or continues constitutes a separate violation.

7.05.040 Applicability of title.

Unless otherwise specified, the provisions of this title shall apply to enforcement of any civil provisions of the Edgewood Municipal Code. In the event of a conflict between this title and any other provisions of the EMC, the more specific provision shall apply.

7.05.050 Nonexclusive remedy.

Comment [SR1]: Change to general applicability statement

Retroactive applicability

Comment [AMS2]: See edit.

The remedies set forth in this title are not exclusive and the city may use whatever manner, method or means is available to it, at law or in equity, to enforce its code and address code violations. The Administrator or other enforcement officer may immediately issue a civil infraction, misdemeanor, Notice of Code Violation, or take other enforcement action when the circumstances warrant a particular course of action or when a repeat violation occurs.

7.05.060 Time.

Any time period specified in this title that falls on a weekend or holiday shall be extended to the next business day.

Chapter 7.10
Stop Work, Cease Activity, and Emergency Orders

Sections:

7.10.010 Applicability.

7.10.020 General.

7.10.030 Stop Work Order.

7.10.040 Cease Activity

7.10.050 Emergency Order

7.10.010 Applicability.

This chapter shall apply whenever the Administrator determines that a code violation has occurred or is occurring in violation of the Edgewood Municipal Code.

7.10.020 General.

In addition to the Notice of Code Violation, the Administrator may issue a Stop Work Order, Cease Activity, or Emergency Order.

Comment [AMS3]: Shall creates a mandatory requirement.

(1) *Issuance.* Whenever the Administrator determines a violation exists, he or she may issue an order to Stop Work, Cease Activity, or an Emergency Order directing any person causing, allowing, or participating in the offending conduct to cease and desist such activity or conduct immediately.

Comment [AMS4]: Administrator?
DG: updated

(2) *Service of order.* The Administrator shall serve the order upon the person to whom it is directed, either by delivering it personally or by mailing a copy of it by certified mail to such person at his or her last known address. In addition, the Administrator shall post a copy of the Stop Work, Cease Activity, or Emergency Order conspicuously on the affected property or structure, or as near to the affected property or structure as reasonable.

Comment [AMS5]: Administrator?
DG: updated

Comment [AMS6]: Registered mail is very expensive and unnecessary

Service is deemed complete upon posting a copy of the Stop Work, Cease Activity, or Emergency Order conspicuously on the affected property or structure, or as near to the affected property or structure as feasible.

Proof of service shall be made at the time of service by a written declaration under penalty of perjury executed by the person effecting the service, declaring the date and the manner of service. Any failure of the person to whom the Stop Work Order, Cease Activity, or Emergency Order is directed to observe the posted order or to actually receive the mailed order shall not invalidate service made in compliance with this section, nor shall it invalidate the Stop Work Order, Cease Activity, or Emergency Order.

(3) *Appeals*. A Stop Work Order, Cease Activity, or Emergency Order may be appealed under the procedures set forth in EMC 7.45.130. During any such appeal, the Stop Work, Cease Activity, or Emergency Order shall remain in effect.

(4) *Effect of Stop Work Order, Cease Activity, or Emergency Order*. When a Stop Work Order, Cease Activity, or Emergency Order has been issued, posted and/or served pursuant to this section, it is unlawful for any person to whom the order is directed or any person with actual or constructive knowledge of the order to conduct the activity or perform the work covered by the order, even if the Stop Work Order, Cease Activity, or Emergency Order has been appealed, until the Administrator has removed the copy of the order, if posted, and issued written authorization for the activity or work to be resumed. Violation of a Stop Work Order, Cease Activity, or Emergency Order constitutes a misdemeanor. In addition, a monetary penalty shall accrue for each day or portion thereof that a violation of a Stop Work Order, Cease Activity, or Emergency Order occurs, in the same amounts as under EMC 7.45.090 unless otherwise specified. In addition to such criminal or monetary penalties, the city may enforce the Stop Work Order, Cease Activity, or Emergency Order in accordance with this title or as authorized by law.

Comment [AMS7]: Capitalize names of orders for consistency (or, alternatively, have all in lower case). I started capitalizing them because that's how this chapter started, but now I see they are in lower case.

JF: Updated

Comment [AMS8]: Administrator?

DG: updated

Comment [AMS9]: This applies to the unfit building chapter. Depending on the violation, unfit building might not be the correct process so I've revised to make this more general.

7.10.030 Stop work Order.

A. Whenever a continuing violation of the Edgewood Municipal Code will materially impair the Administrator's ability to secure compliance, or when the continuing violation threatens the health or safety of the public, the Administrator has the authority to issue a Stop Work Order prohibiting any work or other activity at the site. The Stop Work Order shall be in writing and served upon persons engaged in doing such work or causing such work to be done. The Stop Work Order shall be immediately posted on the property and shall include the information outlined in EMC 7.20.020.

B. Failure to comply with a Stop Work Order shall constitute a civil infraction.

7.10.040 Cease Activity

A. Whenever a use or activity that is a violation of the Edgewood Municipal Code will materially impair the Administrator's ability to secure compliance, or when the continuing violation threatens the health or safety of the public, the Administrator has the authority to issue a ~~Cease Activity Stop Work~~ Order prohibiting any ~~usework~~ or other activity at the site. The Cease Activity order shall be in writing and served upon persons engaged in doing ~~or causing~~ such ~~usework~~ or ~~activitycausing such work to be occur upon the property done~~. The Cease Activity shall be immediately posted on the property and shall include the information outlined in EMC 7.20.020.

Comment [AMS10]: Administrator?

DG: updated

B. Failure to comply with a Cease Activity Order shall constitute a civil infraction.

7.10.050 Emergency Order.

A. Whenever any use or activity in violation of the Edgewood Municipal Code threatens the health and safety of the occupants of the premises or any member of the public, the Administrator has the authority to issue an Emergency Order directing that the use or activity be discontinued and the condition causing the threat to the public health and safety be corrected. The Emergency Order shall be immediately posted on the property and shall include all of the information outlined in EMC 7.20.020.

Comment [AMS11]: Administrator?

DG: updated

B. Failure to comply with an Emergency Order shall constitute a civil infraction.

Chapter 7.15 VOLUNTARY CORRECTION

Sections:

- 7.15.010 Applicability.
- 7.15.020 General.
- 7.15.030 Issuance of voluntary correction agreement.
- 7.15.040 Content of voluntary correction agreement.
- 7.15.050 Administrative review of compliance.
- 7.15.060 Right to a hearing waived.
- 7.15.070 Extension – Modification.
- 7.15.080 Abatement by the city.
- 7.15.090 Collection of costs.
- 7.15.100 Reduction of liquidated damages.

7.15.010 Applicability.

This chapter shall apply whenever the administrator determines that a code violation has occurred or is occurring.

7.15.020 General.

The Administrator may pursue a reasonable attempt to secure voluntary correction of violations subject to EMC 7.20.010(2). Attempts to secure voluntary compliance may include but are not limited to personal correspondence, correction notices, and providing educational materials such as door hangers, mailers, and brochures.

Comment [AMS12]: Shall creates a mandatory requirement.

7.15.030 Issuance of voluntary correction agreement.

A voluntary correction agreement may be entered into between the person responsible for the violation and the city, at the discretion of the city, acting through the Administrator. When a voluntary correction agreement is entered into, a violation is deemed committed for purposes of Chapter 7.30 EMC.

7.15.040 Content of voluntary correction agreement.

A voluntary correction agreement is a contract between the city and a person responsible for the violation under which such person agrees to abate the violation within a specified period of time and according to specified conditions. A voluntary correction agreement shall include the following:

- (1) The name and address of the person responsible for the violation; and
- (2) The street address or a description sufficient for identification of the building, structure, premises, or land upon which or within which the violation has occurred or is occurring; and
- (3) A description of the violation and a reference to the Edgewood Municipal Code or ordinance section(s) that has been violated; and
- (4) The necessary corrective action to be taken, and a date and time by which the corrective action must be completed; and
- (5) That the person responsible for abating the violation shall notify the Administrator in writing after completing the corrective action to schedule a compliance inspection; and
- (6) An agreement by the person responsible for the violation that if all terms of the voluntary correction agreement are not met that the city may abate the violation and recover its costs and expenses in accordance with Chapter 7.35 EMC, and that such person shall be liable to the city and assessed a civil penalty of \$250.00 per day commencing the day following the date set for the compliance of the voluntary corrective agreement, plus all costs and expenses of abatement, in accordance with EMC 7.35.050.

Comment [AMS13]: I recommend relying on the timeframes in the VCA rather than requiring notice within one day. Also, can a person request an inspection by phone? If a request in writing is required, it may result in a delay, for example, if the person sends the request by snail mail.

(7) An agreement that by entering into a voluntary correction agreement the person responsible for the violation waives the right to appeal to the code enforcement board the violation and/or the required corrective action, and that a violation is deemed committed for purposes of Chapter 7.30 EMC.

(8) An agreement by the person responsible for the violation that the City may inspect the premises as may be necessary to determine compliance with the Voluntary Correction and Limited Right of Entry Agreement.

7.15.050 Administrative review of compliance.

(1) After the person responsible for abating the violation has given notice to the Administrator of completion of the corrective action required under the voluntary correction agreement, the Administrator shall, within three business days, determine if the corrective action is complete.

(2) If the Administrator determines that the corrective action is complete, the Administrator shall provide the person responsible for abating the violation written notice of his or her decision.

(3) Any service of any notice required under this section shall be done in writing by personal service or by certified mail, return receipt requested. If service is done by mail, service shall be deemed complete upon the third business day after deposit into the mail.

7.15.060 Right to a hearing waived.

A person responsible for a violation waives the right to appeal to the code enforcement board the violation and the required corrective action upon entering into a voluntary correction agreement.

7.15.070 Abatement by the city.

The City may abate a violation in accordance with Chapter 7.35 EMC if the terms of a voluntary correction agreement are not met.

7.15.080 Collection of costs.

If the terms of a voluntary correction agreement are not met, the person responsible for the violation shall be assessed civil penalty of \$250.00 per day, in addition to all the city's costs related to initiating and monitoring the voluntary correction agreement and the abatement as well as impacts to the public, commencing the day following the date set for the completion of the corrective action, plus all costs and expenses of abatement, in accordance with EMC 7.35.050.

7.15.090 Reduction of civil penalty.

The Administrator is authorized to reduce civil penalties as follows:

(1) Up to 75 percent if a good faith effort was made to reconcile the violation;

(2) Up to 90 percent of the final billing for first-time violators upon abatement of the violation and up to 100 percent of the final billing for first-time violators upon abatement of the violation and if the ability to abate was impacted by factors beyond the reasonable control of the violator;

(3) Up to 100 percent of the final billing for first-time violators upon abatement of the violation, if the person responsible for the violation is the current owner/occupant or purchaser/occupant of a household on the property under a valid land sales contract and the gross family income is no more than 80 percent of the Pierce County median income based on the latest information provided by the Washington State Office of Financial Management. Income information shall be verified through the household's latest tax return.

The Administrator's decision to reduce or not reduce the civil penalties shall not be appealable.

Chapter 7.20 CODE VIOLATIONS

Sections:

7.20.010 Issuance of Notice of Code Violation.

7.20.020 Content of Notice of Code Violation.

7.20.030 Service of Notice of Code Violation.

7.20.040 Hearing.

7.20.050 Administrative review of compliance with Notice of Code Violation.

7.20.060 Emergencies and dangerous properties.

7.20.010 Issuance of Notice of Code Violation.

(1) When the Administrator determines that a violation has occurred or is occurring, and is unable to secure voluntary correction pursuant to Chapter 7.15 EMC, the Administrator may issue a Notice of Code Violation to any and all person(s) responsible for the violation.

(2) The Administrator may issue a Notice of Code Violation without having attempted to secure voluntary correction.

7.20.020 Content of Notice of Code Violation.

The Notice of Code Violation shall include the following information:

(1) The name and address of the person to whom the Notice of Code Violation is being issued; and

(2) The street address or a description sufficient for identification of the building, structure, premises, or land upon or within which the violation(s) has occurred or is occurring; and

Comment [AMS14]: Just taking note that "Notice of Code Violation" was capitalized earlier in this draft document. I would be consistent.

Along those same lines, I'm capitalizing "Administrator" because it is a defined term that is capitalized in the definitions section.

(3) A description of the violation and a reference to the sections(s) of the Edgewood Municipal Code or ordinance that has been violated; and

(4) The required corrective action; and

(5) The date, time and location of the hearing before the code enforcement board which shall be not less than 10 business days from the date the Notice of Code Violation is issued; and

(6) A statement indicating that the hearing will be canceled if the person responsible for the violation abates the code violation and the administrator approves the abatement prior to the hearing; and

(7) A statement that the costs and expenses of abatement incurred by the city as specified in EMC 7.35.050 may be assessed against the person to whom the Notice of Code Violation is directed; and

(8) A statement that a monetary penalty in an amount per day for each violation as specified in EMC 7.45.090 may be assessed against the person to whom the Notice of Code Violation is directed as ordered by the code enforcement board; and

(9) A statement indicating that a mandatory fee of \$150.00 as specified in EMC 7.45.080 will be charged for each Notice of Code Violation issued for the purpose of covering administrative costs if the violation is affirmed by the code enforcement board.

7.20.030 Service of Notice of Code Violation.

The Administrator shall serve the Notice of Code Violation upon the person to whom it is directed, either personally or by mailing by certified mail, return receipt requested, to such person at their last known address. If the person to whom it is directed cannot after due diligence be personally served within Pierce County and if an address for mailed service cannot after due diligence be ascertained, notice shall be served by posting a copy of the Notice of Code Violation conspicuously on the affected property or structure. Proof of service shall be made by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, the manner by which the service was made and, if by posting, the facts showing that due diligence was used in attempting to serve the person personally or by mail. If service is done by mail, service shall be deemed complete upon the third business day after depositing the notice into the mail.

7.20.040 Hearing.

All notices of code violations shall be reviewed by the code enforcement board pursuant to Chapter 7.45 EMC.

7.20.050 Administrative review of compliance with Notice of Code Violation.

(1) In order to avoid the hearing in front of the code enforcement board, the person responsible for completing the corrective action shall notify the administrator at least 24 hours in advance of the hearing that the corrective action has been completed. After the person responsible for completing the corrective action in the Notice of Code Violation has given written notice to the Administrator of completion of the corrective action, the Administrator shall, within three (3) business days, determine if the corrective action is complete.

(2) If the Administrator determines that the corrective action required under the Notice of Code Violation has been completed and the corrective action was completed prior to the hearing scheduled under EMC 7.20.040, then the hearing shall be cancelled.

(3) If the Administrator determines that the corrective action required under the Notice of Code Violation has not been completed prior to the hearing scheduled under EMC 7.20.040, then the hearing shall be held in accordance with Chapter 7.45 EMC.

7.20.060 Emergencies and dangerous properties.

In the event of an immediate and emergent threat to the environment or to the public health and safety the Administrator may abate the code violation pursuant to Chapter 7.35 EMC.

Chapter 7.25 CIVIL INFRACTIONS

Sections:

7.25.010 Authority to issue civil infraction.

7.25.020 Chapter 7.80 RCW sections adopted by reference.

7.25.030 Enforcement officer defined.

7.25.010 Authority to issue civil infraction.

The Administrator shall hereby have the authority to issue a civil infraction on behalf of the city for code violations as specified in the Edgewood Municipal Code.

7.25.020 Chapter 7.80 RCW sections adopted by reference.

The following sections of the Revised Code of Washington ("RCW"), as now or hereafter amended, are hereby adopted by reference as part of this title in all respects as though such sections were set forth herein in full:

RCW 7.80.005, 7.80.010, 7.80.020, 7.80.030, 7.80.040, 7.80.050, 7.80.060, 7.80.080, 7.80.090, 7.80.100, 7.80.110, 7.80.120, 7.80.130, and 7.80.160.

7.25.030 Enforcement officer defined.

Comment [AMS15]: So what about violations that take more time to correct? This requires a hearing 10 days after issuance of the notice and only 5 days to correct the violation and notify the administrator before the hearing in order to avoid a hearing. Let's discuss.

Comment [SR16]: Think more

Comment [AMS17]: So after further consideration, what if you provide that the hearing may be continued/pushed out to a later date if the person notifies the administrator in advance that they corrected the violation to give the city time to inspect? That way perhaps you can shorten the time frame for notification to simply state that they shall notify the administrator "at least 24-hours in advance of the hearing)." Thoughts?

Comment [JF18]:

Comment [SR19]: Think

For purposes of this title and RCW 7.80.040, as now or hereafter amended, “enforcement officer” shall include the Administrator, or his or her designee.

Chapter 7.30 REPEAT VIOLATION

Sections:

7.30.010 Repeat violation.

7.30.010 Repeat violation.

A repeat violation shall be processed and punished according to the following schedule:

(1) First or second repeat violation:

Underlying Offense	First Repeat Violation	Second Repeat Violation
Class 4 Infraction	Class 3 Infraction	Class 2 Infraction
Class 3 Infraction or Civil Code Violation	Class 2 Infraction	Class 1 Infraction
Class 2 Infraction	Class 1 Infraction	Misdemeanor
Class 1 Infraction	Misdemeanor	Misdemeanor

(2) A third repeat violation shall be a misdemeanor.

Chapter 7.35 ABATEMENT

Sections:

7.35.010 Abatement.

7.35.020 Summary abatement.

7.35.030 Emergencies and dangerous properties.

7.35.040 Authorized action by the city.

7.35.050 Recovery of costs and expenses related to summary or judicial abatement.

7.35.060 Nuisance abatement – Special assessment and lien.

7.35.070 Interference.

7.35.010 Abatement.

The city may abate the code violation when:

- (1) The terms of voluntary correction agreement pursuant to Chapter 7.15 EMC have not been met; or
- (2) The code enforcement board's decision issued pursuant to EMC 7.45.070(2) authorizes the city to abate the violation; or
- (3) The condition is subject to summary abatement as provided for in EMC 7.35.020 and 7.35.030.

7.35.020 Summary abatement.

Whenever any violation of an Edgewood Municipal Code or ordinance section causes a condition, the continued existence of which constitutes an immediate and emergent threat to the public health, safety or welfare or to the environment, the city may summarily and without prior notice abate the condition. As soon as reasonably possible after the abatement, written notice of such abatement, including the reason for it, shall be served upon the person responsible for the violation.

7.35.030 Emergencies and dangerous properties.

In addition to the remedies provided elsewhere, the administrator is authorized to abate such dangerous buildings, structures and/or associated properties in accordance with the dangerous building procedures set forth in the Uniform Code for Abatement of Dangerous Buildings, as it now exists or may hereafter be amended, with the following modifications:

- (1) Due to public safety hazards, utilities may be disconnected;
- (2) Building(s) and structures will be inspected to determine compliance with all Edgewood Municipal Code or ordinance sections;
- (3) Building(s) and properties will be posted or otherwise secured against entry; and
- (4) No reconnection of utilities or re-occupancy of the building(s), structures or property shall be allowed until the violations have been corrected, and all dangerous conditions abated to the satisfaction of the building official and Administrator, and a notice of release for re-occupancy has been issued.

7.35.040 Authorized action by the city.

Using any lawful means, the city may enter upon the subject property and may remove or correct the condition that is subject to abatement. The city may seek such judicial process as it deems necessary to effect the removal or correction of such condition including, but not limited to, seeking an order putting the property into receivership in accordance with Chapter 7.60 RCW and thereby recover from the property the reasonable, necessary expenses of abating the nuisance and returning the property to productive use.

7.35.050 Recovery of costs and expenses related to summary or judicial abatement.

(1) The owner and person responsible for the violation shall be responsible for the fines, penalties, liquidated damages, and costs, including incidental expenses, of correcting the violation. The term "incidental expense" shall include, but not be limited to, personnel costs, both direct and indirect, including attorney's fees and court related costs; costs incurred in documenting the violation; hauling, storage and disposal expenses; and actual expenses and costs of the city in preparing notices, specifications and contracts, and in accomplishing and/or contracting and inspecting the work and the costs of any required printing and mailing.

(2) If the costs incurred by the city for repairs, alterations or improvements, or of vacating and closing, or of demolition and removal are not paid after a written demand upon the owner and/or other persons named as responsible parties, such costs may be collected by the city through such collection efforts as it deems reasonable, which may include an administrative process, a collection agency or judicial action.

(3) If the building or structure is removed or demolished by the city, the administrator shall, if possible, sell the salvable materials from the building or structure and shall apply the proceeds of the sale to the reimbursement of the costs of demolition and removal. Any funds remaining after recovery of the city's costs and expenses shall be paid to the owner and/or persons responsible for the violations.

7.35.060 Nuisance abatement – Special assessment and lien.

(1) As authorized by RCW 35A.21.405, the Director of the Department of Community and Economic Development, or his or her designee, shall be authorized to levy a special assessment on the land or premises where a public nuisance is situated to reimburse the City for the expense of abatement.

(2) Prior to levying the special assessment authorized in subsection (1), the City shall provide the owner and any identifiable mortgage holder with 10 days' advance written notice that a special assessment will be levied on the property. The notice shall provide the estimated amount of the special assessment. The notice shall be sent by regular mail.

(3) The special assessment authorized by this section constitutes a lien against the property, and is binding upon successors in title only from the date the lien is recorded with the Pierce County Auditor. Up to \$2000 of the recorded lien is of equal rank with state, county, and municipal taxes.

(4) A property owner or mortgage holder shall be afforded the opportunity to an administrative hearing to contest the director's determination to levy the special assessment provided for in subsection (1) of this section. Any hearing pursuant to this subsection must be requested by the owner or mortgage holder in writing within 20 days of mailing of the notice. The owner or mortgage holder's written request for hearing shall be filed with the director. Failure to submit a timely notice shall be deemed to be a failure to exhaust administrative remedies and shall preclude any further review. The City will conduct the hearing within 20 days of the receipt of the request. The administrative hearing will be held before the director, or his or her designee. Formal rules of evidence will not apply; provided, however, that the director will review the existing record, and only the owner and/or mortgage holder and the City will be allowed to present oral testimony and documentary evidence to the director. The director will issue a written decision within 10 days of the conclusion of the hearing. The decision of the director shall be final and conclusive.

7.35.070 Interference.

No person shall obstruct, impede, or interfere with the city or its agents, or with any person who owns or holds any interest or estate in any property, in performing any acts necessary to correct the violation. Violation of this subsection shall be a misdemeanor.

Chapter 7.40

REGULATION AND ABATEMENT OF UNSAFE AND UNSANITARY STRUCTURES OR PREMISES

Sections:

7.40.010 Purpose and findings.

7.40.020 Definitions.

7.40.030 Authority of the Administrator.

7.40.040 Unfit buildings.

7.40.050 Substandard buildings.

7.40.060 [Reserved.]

Comment [DG20]: Why is this section already being reserved?

JF: Reserved for Nuisance Section.

7.40.070 Complaint.

7.40.080 Hearings before the Administrator.

7.40.090 Enforcement.

7.40.100 Costs.

7.40.110 Permit required.

7.40.115 Rules and regulations.

7.40.130 Violations.

7.40.140 Emergencies.

7.40.010 Purpose and findings.

The city council of the City of Edgewood finds that dwellings which are unfit for human habitation, and buildings, structures, and premises or portions thereof, which are unfit for other uses due to dilapidation, disrepair, structural defects, defects increasing the hazards of fire, accidents, or other calamities, inadequate ventilation and uncleanness, inadequate light or sanitary facilities, inadequate drainage, overcrowding, or due to other conditions which are inimical to the health and welfare of the residents within the City of Edgewood, in addition to the obvious hazards which these conditions pose to the public health, safety, and welfare, constitute a nuisance that adversely affects the value, utility, and habitability of other properties within the city as a whole and specifically cause substantial damage to adjoining and nearby property. A nuisance property may substantially reduce the value of adjoining and nearby property and there are sufficient nuisance properties that the habitability and economic well-being of the city are materially and adversely affected. This chapter conveys to the city administration, in accordance with the procedures set out below, all necessary and proper powers to abate nuisances as they are described or found to exist and to charge the costs of their abatement to those responsible, i.e. the owners and occupants of the property upon which nuisances exist, and those properties themselves. It is the intent of this chapter to clarify and strengthen the procedures for abating such nuisances, particularly unsafe or unfit dwellings, buildings, structures, or premises, modeled after the provisions of RCW 35A.21.405 and

Chapter 35.80 RCW. This chapter is an exercise of the city's police power, and it shall be liberally construed to effect this purpose.

7.40.020 Definitions.

Unless specifically defined below or unless context clearly requires a different meaning, terms used in this chapter have the meaning given them by the currently adopted edition of the International Building Code or International Residential Code. Gender and number are interchangeable. Defined terms or concepts from this title generally apply to this chapter.

(1) "Abandoned" means any property, real or personal, which is unattended and either open or unsecured so that admittance may be gained without damaging any portion of the property, or which evidences indicate that no person is presently in possession, e.g., disconnected utilities, accumulated debris, uncleanliness, disrepair and, in the case of chattels, location. Length of time or any particular state of mind of the owner or person entitled to possession is not conclusive in determining that property is abandoned.

(2) "Boarded-up building" means any building the exterior openings of which are closed by extrinsic devices or some other manner designed or calculated to be permanent, giving to the building the appearance of non-occupancy or non-use for an indefinite period of time.

(3). "Building" includes, but is not limited to, any structure or any separate part or portion thereof, whether permanent or not, or the ground itself.

(4) "Health officer" means the head of the Tacoma-Pierce County Health District, his or her authorized deputies or representatives.

(5) "Owner" means any person having any interest in the real estate in question as shown upon the records of the office of the Pierce County auditor, or who establishes his or her interest before the Administrator. For the purpose of giving notice, the term "owner" also includes any person in physical possession.

7.40.030 Authority of the Administrator.

The Administrator is the chief administrative officer for the purposes of this chapter, whose authority and powers include:

- (1) Investigation of all buildings and premises for which there are reasonable grounds to believe such may be unfit or substandard;
- (2) Preparation, service and posting of complaints against buildings or premises believed to be in violation;
- (3) Acting as the hearing officer as provided for in RCW 35.80.030 (1) (c); and
- (4). Doing all things necessary and proper to carry out and enforce this chapter.

7.40.040 Unfit buildings.

- (1) In reaching a judgment that a building is unfit for human habitation, the Administrator shall consider:

- (a) Dilapidation;
- (b) Disrepair;
- (c) Structural defects;
- (d) Defects increasing the hazards of fire, accidents or other calamities, such as parts standing or attached in such manner as to be likely to fall and cause damage or injury;
- (e) Inadequate ventilation;
- (f) Uncleanliness;
- (g) Inadequate light;
- (h) Inadequate sanitary facilities;
- (i) Inadequate drainage;
- (j) Lack of water or electric utilities.
- (k) Rodent or other pest infestation.
- (l) Substandard conditions as described in section EMC 7.40.050;
- (m) Overcrowding

(2) If these or other conditions are found to exist to an extent dangerous or injurious to the health or safety of the building's occupants, or the occupants of neighboring buildings or of other residents of the city of Edgewood, or if:

(a) Structural deterioration is of such degree that:

(i) Vertical members list, lean or buckle to the extent that a plumb line passing through the center of gravity falls outside the middle third of its base; or

(ii) Thirty-three percent of the supporting members show damage or deterioration; or

(b) The cost of restoration exceeds 60 percent of the value of the building; or

(c) The building has been damaged by fire or other calamity, the cost of restoration exceeds 30 percent of the value of the building and it has remained vacant for six months or more; the Administrator may order the building or premises demolished and the land suitably filled and cleared, or may order the property immediately vacated and secured as completely as possible pending demolition. (Value shall be determined by reference to a current edition of "Building Valuation Data" published by the International Conference of Building Officials or, if not published, as determined by the Administrator. Cost of restoration is the actual estimated cost, which may be determined in the same manner as "value.")

(3) An undertaking entered into at or prior to the hearing by a party in interest creates a presumption that the building or premises can be reasonably repaired. The failure to accomplish such an undertaking is grounds for the Administrator to order demolition. If by reason of any of the above conditions a building is unfit, but no public necessity is found for its immediate demolition, the Administrator may take other action, such as causing the property to be cleaned, cleared, vacated, secured or otherwise repaired, which will promote the public health, safety or general welfare.

7.40.050 Substandard buildings.

(1) In reaching a judgment that a building or premises is substandard, the Administrator shall be guided by such factors as:

(a) Structural unsoundness;

(b) Improper sanitation;

- (c) Improper safety;
 - (d) Improper weatherproofing;
 - (e) Defective or hazardous wiring, including wiring which:
 - (i) Did not conform with law applicable at the time of installation; or
 - (ii) Has not been maintained in good condition; or
 - (iii) Is not being used in a safe manner;
 - (f) Defective or hazardous plumbing, including plumbing which:
 - (i) Did not conform with law applicable at the time of installation; or
 - (ii) Has not been maintained in good condition; or
 - (iii) Is not being used in a safe manner;
 - (g) Defective or hazardous heating or ventilating equipment, including equipment, vents and piping which:
 - (i) Did not conform with law applicable at the time of installation; or
 - (ii) Has not been maintained in good and safe condition;
 - (h) Fire hazard, including any building, device, apparatus, equipment, combustible waste or debris, or vegetation which may cause fire or explosion or provide ready fuel to augment the spread or intensity thereof;
- (2) Upon a finding by the Administrator that a building or premises is unfit for human habitation or other use, the Administrator shall order the building or premises repaired, cleaned, cleared or otherwise brought into compliance with current codes, and may order the property vacated and secured as completely as possible pending such repair or other action.

7.40.060 [Reserved]

7.40.070 Complaint.

If, after a preliminary investigation of any dwelling, building, structure or premises, the Administrator finds that it is unfit for human habitation or other use, the Administrator shall cause the owners to be served, either personally (or by first class and certified mail) with return receipt requested, and shall post in a conspicuous place on such property a complaint stating in what respect such dwelling, building, structure or premises is unfit for human habitation or other use. If the whereabouts of such person is unknown and cannot be ascertained by the Administrator in the exercise of reasonable diligence, he or she shall make an affidavit to that effect, then the serving of such complaint or order upon such person may be made either by personal service or by mailing a copy of the notice and order by certified mail, postage prepaid, return receipt requested, to each person at the address appearing on the last equalized tax assessment roll of the county, or at the address known to the county assessor. Such complaint shall contain a notice that a hearing will be held before the Administrator at a place therein fixed, not less than 10 days nor more than 30 days after the service of such complaint; that all parties in interest shall be given the right to file an answer to the complaint, and to appear in person or otherwise and give testimony at the time and place fixed in the complaint. A copy of such complaint shall also be filed with the auditor of Pierce County, and such filing of the complaint and order shall have the force and effect as other lis pendens notices provided by law.

Comment [AMS21]: FYI – the statute (RCW 35.80) only required certified mail. Nothing wrong with also sending by first class so long as you send by certified as well. Just wanted to point out to make sure this was your intent.

JF: I send both in case they refuse the certified

7.40.080 Hearings before the Administrator.

(1) Unless, prior to the time fixed for hearing in the complaint issued by the Administrator, arrangements satisfactory to the Administrator for the repair, demolition, vacation or re-occupancy of the building or premises are made, including the proper application for permits, or abatement of the nuisance, the Administrator shall hold a hearing in accordance with RCW 35.80.030 (1) (c) and this chapter for the purpose of determining the immediate disposition of the building or premises. The Administrator shall determine whether or not the building is an unfit building as defined by EMC 7.40.040, or whether the building is a substandard building as defined by EMC 7.40.050. The rules of evidence prevailing in courts of law or equity shall not be controlling at the hearing before the Administrator. Evidence, including hearsay evidence, is admissible if in the judgment of the Administrator it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs.

(2) The Administrator shall determine whether or not the building should be repaired or vacated in the event that it fails to comply with any provision or provisions of EMC 7.40.040 or 7.40.050, whether or not the building should be demolished based upon the specific requirements of EMC 7.40.040, or whether or not a building should be boarded-up.

(3) If, after the required hearing, the Administrator determines that the building is unfit or substandard, the Administrator shall state in writing their findings of fact in support of such determination, and shall issue and cause to be served upon the owner(s) a copy of such findings in the manner provided in EMC 7.40.070. The Administrator shall cause to be posted an order in a conspicuous place on said property:

(a) Requiring the owner or party in interest, within the time specified in the order, to repair, alter or improve such dwelling, building, structure or premises to render it fit for human habitation or for other use, or to vacate and close the building; or

(b) Requiring the owner or party in interest to demolish the dwelling, building, or structure; or

(c) Such order shall state that the owner has the right to appeal to the City of Edgewood hearing examiner within thirty days after the posting and service of the order. Any appeal under this section shall be heard by the hearing examiner of the city for review of such decision. Appeals shall be subject to an administrative appeal fee in accordance with EMC 3.35.010 and, unless the owner does appeal or comply with the order, the city shall have the power, without further notice or proceedings, to vacate and secure the dwelling, building, structure or premises and do any act required of the owner in the order of the Administrator, and to charge any expenses incurred thereby to the owner and assess them against the property.

(4) All matters submitted to the hearing examiner must be resolved within sixty days from the date of filing therewith and a transcript of the findings of fact of the hearing examiner shall be posted on the property and by mailing by certified mail, return receipt requested, to such person at their last known address within ten days of the decision. The finding and orders of the hearing examiner shall be reported in the same manner and shall bear the same legal consequences as if issued by the Administrator. In addition, such finding and orders shall state that the owner has the right to appeal to superior court within thirty days after posting and service of the findings and order. The court is authorized to affirm, reverse, or modify the order and such trial shall be heard de novo per RCW 35.80.030 (2).

(5) If no appeal is filed, a copy of such order shall be filed with the auditor of Pierce County and shall be a final order.

7.40.090 Enforcement.

(1) The order of the Administrator may prescribe times within which remedial action, including but not limited to demolition, shall be commenced or completed. If the action is not commenced or completed within the prescribed time, or if no time is prescribed within the time for appeal, the Administrator may

cause the dwelling, building, structure or premises to be repaired, altered, improved, vacated, and closed, removed, or demolished. If satisfactory progress has been made and sufficient evidence is presented that the work will be completed within a reasonable time, the Administrator may extend the time for completion of the work. If satisfactory or substantial progress has not been made, the Administrator may cause the dwelling, building, structure or premises to be repaired, altered, improved, vacated, and closed, removed, or demolished.

(2) If the action ordered by the Administrator is not taken within the time prescribed, or if the condition presents an immediate life/safety risk, the Administrator may cause the action to be taken by the city.

(3) If the Administrator deems it necessary to have the dwelling, building, structure or premises secured as an interim measure for the protection of the public health, safety and welfare while pending action, the Administrator may so order. If the owner is unable or unwilling to secure the building or premises within 48 hours, the Administrator may order the building or premises secured by the city.

(4) If the owner is unable to comply with the Administrator's order within the time required, and the time for petition to the superior court has passed, the owner may, for good and sufficient cause beyond his or her control, request in writing an extension of time. The Administrator may grant a reasonable extension of time after a finding that the delay was for good and sufficient cause. There shall be no appeal or petition from the Administrator's ruling on an extension of time.

7.40.100 Costs.

(1)(a) The costs of abatement, i.e. repair, alteration, improvements, or vacating and closing, removal or demolition, when borne by the city, shall be assessed against the real property upon which such costs were incurred unless previously paid. The Administrator shall forward such costs to the city treasurer, who shall certify them to the county treasurer for assessment on the tax rolls in accordance with RCW 35.80.030 (1) (h).

(b) When necessary, bids for demolition shall be let only to a licensed contractor. All contract documents shall provide that the value of the materials and other salvage of the property shall be credited against the costs of the demolition. The contract documents may require the contractor to estimate the salvage value of the property and, by claiming the salvage, reduce the amount of his price accordingly. The contract price fixed by acceptance of the contract shall not be adjusted to reflect the actual salvage value. Such contracts may be let prior to the time for compliance or appeal, but shall not be binding or accepted until the order for demolition is final. The Administrator shall have the authority to sign the contract on behalf of the city.

(2)(a) Whenever a dwelling, building, structure or premises is found to be unfit or substandard and the cost of demolition, repair or abatement must be borne by the city, there shall be charged against the owner and assessed against the property the costs for all administrative proceedings before the Administrator including salaries, wages, material and other expenses incurred for inspecting, conducting hearings, or otherwise determining the status of the property.

(b) The Administrator may modify the time or methods of payment of such expenses as the condition of the property and the circumstances of the owner may warrant. In cases of extreme hardship, such expenses may be waived.

7.40.110 Permit required.

Any work including construction, repairs or alterations under this chapter to rehabilitate any building or structure may require a permit in accord with the provisions of this code.

7.40.115 Rules and regulations.

The Administrator may make and promulgate such rules and regulations as will effectuate the purposes of this chapter and do substantial justice.

7.40.130 Violations.

It shall be unlawful and a violation of this chapter to knowingly:

- (1) Occupy or suffer to be occupied any dwelling, building, structure or premises ordered vacated; or
- (2) Obstruct any officer or agent of the city of Edgewood or other governmental unit in the enforcement of this chapter.
- (3) Violation of this section is a misdemeanor.

7.40.140 Emergencies.

The provisions of this chapter shall not prevent the Administrator or any other officer of the city of Edgewood or other governmental unit from taking any other action, summary or otherwise, necessary to eliminate or minimize an imminent danger to the health or safety of any person or property.

Chapter 7.45 CODE ENFORCEMENT BOARD

Sections:

- 7.45.010 Hearing date.**
- 7.45.020 Extension of time.**
- 7.45.030 Failure to appear.**
- 7.45.040 Recording of code enforcement board hearings.**
- 7.45.050 Administrator duties.**
- 7.45.060 Hearing procedures.**
- 7.45.070 Decision of the code enforcement board.**
- 7.45.080 Mandatory fee.**
- 7.45.090 Monetary penalty.**
- 7.45.100 Notice of decision.**
- 7.45.110 Extension – Modification.**
- 7.45.120 Administrative review of compliance with corrective action.**
- 7.45.130 Appeal.**
- 7.45.140 Continued duty to correct.**
- 7.45.150 Collection of monetary penalty.**
- 7.45.160 Reduction of monetary penalty by Administrator.**
- 7.45.170 Reduction of monetary penalty by code enforcement board.**

7.45.010 Hearing date.

A person to whom a Notice of Code Violation is issued will be scheduled to appear at a hearing before the code enforcement board not less than 10 business days after the Notice of Code Violation is issued.

7.45.020 Extension of time.

The hearing shall be rescheduled if a person responsible for the violation requests an extension of time in writing to the Administrator within three days of service of the Notice of Code Violation, and the administrator approves the request. The hearing shall be rescheduled to the next regularly scheduled meeting for lack of a quorum.

7.45.030 Failure to appear.

If the person to whom a Notice of Code Violation was issued fails to appear at the scheduled hearing, the code enforcement board shall enter a decision affirming, vacating or modifying the Administrator's decision regarding the code violation consistent with EMC 7.45.070.

Comment [AMS22]: If the person fails to appear, they should be issued a default

Comment [JF23]: Not sure if we discussed this and came to a decision

7.45.040 Recording of code enforcement board hearings.

All hearings of the code enforcement board shall be audio recorded. Transcripts of the hearing shall be made available upon request and with payment of transcription costs by the requesting party.

Comment [AMS24]: I've removed this because we can just rely on state law

7.45.050 Administrator duties.

The Administrator shall act as ex-officio secretary of the code enforcement board and be responsible for:

- (1) Preparation of code enforcement board agendas;
- (2) Mailing of hearing notices to code enforcement board members and affected parties;
- (3) Preparation of code enforcement board orders and notification to affected parties.

7.45.060 Hearing procedures.

The code enforcement board shall conduct a hearing on the code violation pursuant to the rules of procedure established by the code enforcement board. The code enforcement board shall not continue the hearing unless there is good cause shown for a continuance. The Administrator and the person to whom a Notice of Code Violation was directed may participate as parties in the hearing and each party may be represented by an attorney and call witnesses. The city shall have the burden to prove by a preponderance of the evidence that a code violation has occurred and that the required corrective action is reasonable. The determination of the Administrator, as to the need for the required corrective action, shall be accorded substantial weight by the code enforcement board in determining the reasonableness of the required corrective action.

7.45.070 Decision of the code enforcement board.

- (1) The code enforcement board shall determine whether the city has established by a preponderance of the evidence that a violation has occurred and that the required corrective action is reasonable and shall affirm, vacate, or modify the city's decision regarding the alleged code violation and/or the required corrective action, with or without written conditions.
- (2) The code enforcement board shall issue a decision to the person issued a Notice of Code Violation that contains the following information:
 - (a) The decision regarding the alleged code violation including findings of fact and conclusions based thereon in support of the decision;
 - (b) The required corrective action;
 - (c) The date and time by which the correction must be completed;

- (d) The monetary penalties assessed based on the criteria in EMC 7.45.090;
- (e) Orders the person to give written notice of the completion of the corrective action to the Administrator the business day after the completion of such corrective action;
- (f) The date and time after which the city may proceed with abatement of the unlawful condition if the required corrective action is not completed; and
- (g) The appeal rights under EMC 7.45.130.

7.45.080 Mandatory fee.

A mandatory fee of \$150.00 shall be imposed by the code enforcement board for each Notice of Code Violation affirmed by the code enforcement board.

7.45.090 Monetary penalty.

(1) A monetary penalty shall be imposed by the code enforcement board for each separate code violation affirmed by the code enforcement board. The monetary penalties shall begin immediately after the compliance date set by the code enforcement board. The first day and each additional day of any affirmed code violation shall be a minimum of \$100.00 per day and a maximum of \$250.00 per day. Factors to be considered by the code enforcement board in determining the amount of the monetary penalty shall include, but not be limited to:

- (a) Impacts on health, safety, sanitation and welfare concerns;
- (b) Value and economic impacts on adjoining and neighboring properties; and
- (c) Whether the code violation was a repeat violation as defined by EMC 7.05.020(10).

(2) In addition to any penalty that may be imposed by the City, any person violating or failing to comply with any of the provisions of the Edgewood Municipal Code shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to the violation.

(3) Responsibility for violations of the codes enforced under this chapter and the penalties imposed in this section are joint and several, and the City is not prohibited from taking action against a party where other persons may also be potentially responsible for a violation, nor is the City required to take action against all persons potentially responsible for a violation.

7.45.100 Notice of decision.

The code enforcement board shall issue the decision to the person to whom a Notice of Code Violation was directed and to the Administrator within 10 business days of the hearing. Service shall be done by mail, by both first class and certified mail, and shall be deemed complete upon the third business day after depositing the decision into the mail.

7.45.110 Extension – Modification.

An extension of the time limit for correction or modification of the required corrective action may be granted by the code enforcement board if the person responsible for a violation requests an extension of time or modification of the required corrective action in writing no less than three business days prior to the date set by the board for completion of the corrective action and substantial progress in correcting the violation has occurred, but unforeseen circumstances render correction under the original conditions unattainable.

7.45.120 Administrative review of compliance with corrective action.

After the person responsible for performing the corrective action stated in the code enforcement board decision has given written notice to the Administrator of the completion of the corrective action, the administrator shall, within three business days, determine if the abatement or corrective action is complete.

7.45.130 Appeal.

- (1) Code Enforcement Board Decision Appeal. The decision of the code enforcement board issued pursuant to EMC 7.45.070 shall be final unless, within seven business days after the date of the decision, a written request for appeal is filed with the city clerk. Any appeal under this section shall be heard by the hearing examiner of the city in accordance with EMC 2.40.090 for review of such decision. Appeals shall be subject to an administrative appeal fee in accordance with EMC 3.35.010.
- (2) Hearing Examiner Decision Appeal. Decisions of the hearing examiner may be appealed to the Pierce County superior court. Notice of appeal shall be filed and served on all necessary parties within 21 calendar days of the date of decision. Notice of the appeal and any other pleadings required to be filed with the court to initiate the appeal shall be served on the parties within the applicable time period. If the 21-day period ends on a weekend or on a holiday, the following working day shall be the 21st day. The appeal shall be a closed record appeal based on the administrative record.
- (3) Cost of Court Appeal. The cost of transcribing and preparing all records necessary for appeal under subsection (2) of this section shall be paid for in advance by the appellant.
- (4) Stay of Daily Monetary Penalties. Any ongoing daily monetary penalties imposed by the code enforcement board shall not be stayed unless a timely appeal is filed pursuant to this chapter.

7.45.140 Continued duty to correct.

Payment of a monetary penalty does not relieve the person to whom the Notice of Code Violation was issued of the duty to correct the violation.

7.45.150 Collection of monetary penalty.

- (1) The monetary penalty constitutes a personal obligation of the person to whom the notice of violation is directed. Any monetary penalty assessed must be paid to the city within 10 calendar days from the date of mailing of the code enforcement board's decision or a notice from the city that penalties are due.
- (2) The Administrator is authorized to take appropriate action to collect the monetary penalty, including but not limited to court action. If a court action is instituted to collect the monetary penalty and the city is the prevailing party, the person to whom the notice of violation is directed shall be responsible for the attorney's fees and court costs incurred by the city related to the court action and the court has the authority to award said fees and costs to the city.

7.45.160 Reduction of monetary penalty by administrator.

- (1) Upon written request to the Administrator within 10 calendar days of issuance of final billing, the Administrator is authorized to reduce monetary penalties assessed by the code enforcement board for first time violators as follows:
 - (a) Up to 75 percent if a good faith effort was made to reconcile the violation;
 - (b) Up to 90 percent of the final billing upon abatement of the violation and if the ability to abate was impacted by factors beyond the reasonable control of the violator; or
 - (c) Up to 100 percent of the final billing upon abatement of the violation, if the person responsible for the violation is the current owner/occupant or purchaser/occupant of a household on the property under a valid land sales contract and the gross family income is no more than 80 percent of the Pierce County median income based on the latest information provided by the Washington State Office of Financial Management. Income information shall be verified through the household's latest tax return.

- (3) The Administrator's decision to reduce or not reduce a monetary penalty shall not be appealable.

Comment [AMS25]: Do you also want to put this above for Administrator reductions in penalties?

JF: Added

7.45.170 Reduction of monetary penalty by code enforcement board.

(1) The code enforcement board is authorized upon written request filed with the Administrator within 21 calendar days of issuance of final billing to reduce monetary penalties previously assessed by it for all violators as follows:

(a) Up to 75 percent if a good faith effort was made to reconcile the violation;

(b) Up to 90 percent of the final billing upon abatement of the violation and if the ability to abate was impacted by factors beyond the reasonable control of the violator; or

(c) Up to 100 percent of the final billing for first-time violators upon abatement of the violation, if the person responsible for the violation is the current owner/occupant or purchaser/occupant of a household on the property under a valid land sales contract and the gross family income is no more than 80 percent of the Pierce County median income based on the latest information provided by the Washington State Office of Financial Management. Income information shall be verified through the household's latest tax return.

(2) The code enforcement board shall hear the request at its next regular meeting and issue a decision within 20 calendar days of the meeting.

(3) The code enforcement board's decision to reduce or not reduce a monetary penalty shall not be appealable.

Chapter 7.50 CODE ENFORCEMENT/ABATEMENT FUND

Sections:

7.50.010 Fund.

7.50.010 Fund.

All fines, costs and abatement reimbursements recovered from violators resulting from code enforcement actions under this title shall be deposited in a code enforcement/abatement fund maintained by the city treasurer and utilized for future code enforcement actions under this title. Eligible expenses shall include all costs for abatement actions, education and outreach beyond the normal scope and budget of the code enforcement division, and one-time expenses associated with a specific case necessary for obtaining code compliance. The fund target balance shall be \$100,000. All revenues creating a balance in excess of \$100,000 shall be eligible for use in the city general fund.

Comment [AMS26]: Do you also want to put this above for Administrator reductions in penalties?

JF: added for Administrator above

Amend Section 2.40.080(B)(1)(c)

C. Appeals from any Code Enforcement Board decision, final administrative order or decision of the community development department in administration, interpretation or enforcement of the city of Edgewood Municipal Code.

Amend Section 2.40.080(B)(2)(j)

j. Appeals from any Code Enforcement Board decision, final administrative order or decision of the community development department in administration, interpretation or enforcement of the city of Edgewood Municipal Code.

Title 5 Amendments or additions

5.05.190 Violations and enforcement – Penalties.

A. Any violation of any provision of this chapter may be enforced as provided in this section.

B. Each separate date, or portion thereof, during which any violation occurs shall constitute a separate violation.

C. Enforcement.

1. Civil Infraction. A business, licensee or person who violates any provision of this chapter commits a Class 1 civil infraction as set forth in RCW 7.80.120(1)(a). An infraction issued pursuant to this section shall be issued by the mayor or their designee filed in the Pierce County District Court (PCDC) and processed in the same manner as other infractions. If a business, licensee, or person cited for failure to obtain a business license appears before the PCDC and provides written evidence that he or she obtained a business license prior to adjudication of the infraction, the monetary penalty shall be reduced to \$100.00 and the court may assess court administrative costs of \$25.00. The court administrative costs shall be in lieu of the statutory assessments referenced in RCW 7.80.120.

2. Criminal Violation. A person who knowingly violates a provision of this chapter, or commits a repeat violation of this chapter, is guilty of a misdemeanor, punishable by up to the maximum penalty established in RCW 9A.20.021(3). For purposes of this section, “repeat violation” means either a prior committed finding by the PCDC of an infraction issued under this chapter, or a committed finding by the hearing examiner of a violation of this chapter by the same business, licensee or person within a five-year period.

3. Injunction. In addition to or as an alternative to any other enforcement or penalty provided for in this chapter, and because a violation constitutes an actual injury to the community, the city may seek injunctive relief or other equitable relief to prevent any activity in violation of this chapter.

4. Collections. Any license fee or penalty due, unpaid and delinquent under this chapter shall constitute a debt to the city. The city may, pursuant to RCW [19.16.500](#), use a collection agency to collect unpaid license fees or penalties, or it may seek collection by court proceedings, which remedies shall be in addition to all other remedies. (Ord. 18-530 § 2 (Att. A)).

5. Enforcement of the provisions herein, and any violations thereof, shall be as described in this title; and/or EMC Title 7, Code Enforcement.

5.10.040 Penalties.

A. Criminal Penalty. In addition to any other penalty provided in this chapter or by law, any person who violates any provision of this chapter shall be guilty of a misdemeanor. Any person convicted of such a violation shall be punished by a fine of not more than \$1,000 or by a jail term of not more than 90 days, or by both such fine and imprisonment.

B. Separate Offense. Any person who violates any provision of this chapter or failing to comply with any of the mandatory requirements of this chapter is guilty of a separate offense for each and every day during any portion of which the violation is committed, continued, or permitted by any such person. (Ord. 03-212 § 2).

C. Enforcement of the provisions herein, and any violations thereof, shall be as described in this title; and/or EMC Title 7, Code Enforcement.

5.10.050 Nuisance.

A. Public Nuisance. Any adult entertainment facility operated, conducted, or maintained in violation of this chapter or any law of the city of Edgewood shall be deemed a public nuisance, and all remedies given by law for the prevention and abatement of public nuisances shall apply regardless of any other remedy.

B. Moral Nuisance. Any adult entertainment facility operated, conducted, or maintained contrary to the provisions of Chapter [7.48A](#) RCW shall be deemed a moral nuisance, and all remedies given by law for the prevention and abatement of moral nuisances shall apply in addition to any other remedy. (Ord. 03-212 § 2).

C. Enforcement of the provisions herein, and any violations thereof, shall be as described in this title; and/or EMC Title 7, Code Enforcement.

Chapter 8.05 HEALTH AND WELFARE

Sections:

8.05.010 Authority to adopt interim health and welfare code.

8.05.020 Adoption of administrative rules.

8.05.025 Enforcement

8.05.030 Adoption of certain other laws.

8.05.040 Reference to hearing bodies.

8.05.050 PCC sections and chapters not adopted.

8.05.010 Authority to adopt interim health and welfare code.

Pursuant to RCW [35.21.180](#), [35A.11.020](#), and [35A.21.160](#), the city adopts by reference PCC Title [8](#), Health and Welfare, as presently constituted or hereinafter amended, as the interim health and welfare code. (Ord. 96-17 § 1).

8.05.020 Adoption of administrative rules.

There are further hereby adopted by reference any and all implementing administrative rules and enforcement remedies now in effect regarding PCC Title [8](#), Health and Welfare, that have been adopted elsewhere in the Pierce County Code except that, unless the context requires otherwise, any reference to the “county” or to “Pierce County” shall refer to the city of Edgewood, and any reference to county staff shall refer to the mayor or designee. (Ord. 15-447 § 1 (Exh. A); Ord. 96-17 § 2).

8.05.025 Enforcement

Enforcement of the provisions herein, and any violations thereof, shall be as described in this title and/or EMC Title 7, Code Enforcement.

8.05.030 Adoption of certain other laws.

To the extent that any provision of the Pierce County Code, or any other law, rule or regulation referenced in the attached health and welfare code is necessary or convenient to establish the validity, enforceability or interpretation of the attached health and welfare code, then such provision of the Pierce County Code, or other law, rule or regulation, is hereby adopted by reference. (Ord. 96-17 § 3).

8.05.040 Reference to hearing bodies.

To the extent that the attached health and welfare code refers to commissions, board of appeals, hearing examiner, or any other similar body, the city council shall serve in all such roles, but retains the right to establish any one or more of such bodies, at any time and without regard to whether any quasi-judicial or other matter is then pending. (Ord. 96-17 § 4).

8.05.050 PCC sections and chapters not adopted.

The following provisions of PCC Title [8](#) are excluded from the scope of this chapter and are expressly not adopted by reference hereunder:

A. PCC [8.72.090](#)(A);

B. Chapter [8.08](#) PCC (Public Nuisances); and

C. Chapter [8.09](#) PCC (Chronic Nuisance Properties). (Ord. 19-540 § 1; Ord. 16-477 § 1).

Chapter 8.08 JUNK VEHICLES

Sections:

8.08.010 Purpose.

8.08.020 Definitions.

8.08.030 Exemptions.

8.08.040 Public nuisance declared, violations.

8.08.050 Enforcement.

~~**8.08.060 Investigation and notice of violation.**~~

~~**8.08.070 Time to comply — Determination of time.**~~

~~**8.08.080 Hearing.**~~

~~**8.08.090 District court order.**~~

~~**8.08.100 Removal and disposal — Costs.**~~

8.08.110 Penalties.

8.08.120 Additional relief.

8.08.010 Purpose.

The purpose of this chapter is to provide for the abatement and removal of junk vehicles on private property as provided for in RCW [46.55.240](#). Abatement is necessary to preserve and enhance the aesthetic character of the city's neighborhoods, protect property values and rights and to reduce environmental health and safety problems associated with junk vehicles. (Ord. 19-540 § 2 (Exh. A)).

8.08.020 Definitions.

For the purposes of this chapter, the following definitions apply:

A. “Junk vehicle” is any vehicle which is certified under RCW [46.55.230](#) as meeting at least three of the following criteria:

1. Is three years old or older;
2. Is extensively damaged, such damage including, but not limited to, any of the following:
 - a. Broken window or windshield;
 - b. Flat tires;
 - c. Missing tires, motor or transmission;
 - d. Rusted exterior; and
 - e. Leaking oil or gasoline;
3. Is apparently inoperable, meaning that a vehicle does not appear to comply with requirements for vehicles used on public streets with regard to brakes, lights, tires, safety glass or other safety equipment; and
4. Has an approximate fair market value equal only to the approximate value of the scrap in it.

B. “Enforcement officer” means the city community development director, his or her designee, representative or a city of Edgewood law enforcement official.

C. “Landowner” includes a legal owner of private property, a person with possession or control of private property, or a public official having jurisdiction over public property.

D. “Vehicle” shall include, but not be limited to, automobiles, motorcycles, trucks, buses, motorized recreational vehicles, campers, travel trailers, boat trailers, utility trailers, or other similar devices capable of moving or being moved on the public right-of-way, and shall also include parts of vehicles, but shall not include devices moved by human or animal power, or used exclusively upon stationary rails or tracks. (Ord. 19-540 § 2 (Exh. A)).

8.08.030 Exemptions.

The provisions of this chapter shall not apply to:

A. A vehicle or part thereof that is completely enclosed within a building in a lawful manner, or otherwise parked legally on the property so as not to be visible from adjacent or nearby public property. Temporary tarp garages and carports do not satisfy this exemption;

B. A vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dismantler or licensed vehicle dealer and is fenced in accordance with the provisions of RCW [46.80.130](#);

C. A vehicle enclosed in an opaque auto cover specifically designed to completely shield the vehicle from view as long as the vehicle is parked in a lawful manner on private property. The cover must be in good condition and must be replaced if it is torn, weather-beaten, or acquires any other defects. Tarps and makeshift covers do not meet the requirement. This exemption will apply to only two vehicles per legal lot. Vehicles stored on vacant or undeveloped land are not exempted by this subsection (C). (Ord. 19-540 § 2 (Exh. A)).

8.08.040 Public nuisance declared, violations.

A. The storage or retention of junk vehicles on private property is declared a public nuisance which is subject to the enforcement, removal and abatement procedures in this chapter and as provided in state law.

B. It shall be unlawful for any person, firm or corporation to retain, place or store junk vehicles on private property, in conflict with or in violation of any of the provisions of this chapter.

C. Additional Violations. In addition to the above, it is a violation of this chapter to:

1. Remove or deface any sign, notice, complaint or order required by or posted in accordance with this chapter;
2. Fail to comply with any of the requirements of this chapter, including any requirement of the city's codes and state codes adopted by reference herein. (Ord. 19-540 § 2 (Exh. A)).

8.08.050 Enforcement.

A. The enforcement officer shall have the authority to enforce this chapter. The enforcement officer may call upon the building, fire, police and community development or other appropriate city departments to assist in enforcement.

B. This chapter shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

C. It is the intent of this chapter to place the obligation of complying with its requirements upon the property owner, occupier of the property, owner of the junk vehicle and/or other person responsible for the storage or retention of junk vehicles within the scope of this chapter.

D. No provision of or any term used in this chapter is intended to impose any duty upon the city or any of its officers or employees which would subject them to damages in a civil action. (Ord. 19-540 § 2 (Exh. A)).

E. Enforcement of the provisions herein, and any violations thereof, shall be as described in this title and/or EMC Title 7, Code Enforcement.

~~8.08.060 Investigation and notice of violation.~~

~~A. Investigation. The enforcement officer shall investigate the premises which he/she reasonably believes does not comply with the standards and requirements of this chapter.~~

~~B. Notice of Violation. If, after investigation, the enforcement officer determines that the standards or requirements of this chapter have been violated, the enforcement officer shall serve a notice of violation upon the property owner, tenant, vehicle owner, or other person responsible for the condition. The notice of violation shall contain the following information:~~

- ~~1. Name and address of the person(s) to whom the citation is issued;~~
- ~~2. The location of the subject property by address or other description sufficient for identification of the subject property;~~
- ~~3. A description of the vehicle and its location;~~
- ~~4. A separate statement of each standard, code provision or requirement violated, and the reasons for which the city deems the vehicle(s) to meet the definition of "junk vehicle" in EMC 8.08.020 and to be a public nuisance as defined in EMC 8.08.040;~~
- ~~5. What corrective action, if any, is necessary to comply with the standards, code provisions or requirements;~~
- ~~6. A reasonable time for compliance;~~
- ~~7. A statement that if the person(s) to whom the notice of violation is issued fails to complete the corrective action by the date required, the city enforcement officer or its designee shall remove,~~

~~impound and dispose of the vehicle(s), and will assess all costs of administration and removal against the owner of the property upon which the vehicle(s) is located or otherwise attempt to collect such costs against the owner of the vehicle(s);~~

~~8. A statement that either the property owner of record on which the vehicle is located or the last registered owner of record of the vehicle(s) may request a hearing and that if no hearing is requested, that the vehicle(s) will be removed. At the hearing, the property owner may appear and deny responsibility for the presence of the junk vehicle(s) on the land, with his/her reasons for denial; and~~

~~9. A statement that if a request for a hearing is received, a notice giving the time, location and date of the hearing on the question of abatement and removal of the vehicle(s) or parts thereof as a public nuisance shall be mailed, by certified mail, with a five-day return receipt requested, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owner of record of the vehicle(s), unless the vehicle(s) is in such condition that identification numbers are not available to determine ownership.~~

~~C. Service. The notice of violation shall be served on the last registered owner of record of the junk vehicle and the property owner of record by personal service, registered mail, or certified mail with return receipt requested, addressed to the last known address of such person. If, after a reasonable search and reasonable efforts are made to obtain service, the whereabouts of the person(s) is unknown or service cannot be accomplished and the enforcement officer makes an affidavit to that effect, then service of the notice upon such person(s) may be made by:~~

~~1. Publishing the notice once each week for two consecutive weeks in the city's official newspaper; and~~

~~2. Mailing a copy of the notice to each person named on the notice of violation by first class mail to the last known address as shown on the last equalized assessment roll for the property and to the last registered and legal owner of record of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership.~~

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

~~E. Amendment. A notice or order may be amended at any time in order to:~~

~~1. Correct clerical errors; or~~

~~2. Cite additional authority for a stated violation.~~

~~F. Withdrawal. The city may choose to withdraw a notice of violation at any time, without prejudice to the city's ability to reissue it, if a certificate of compliance has not been obtained for the specific violations. (Ord. 19-540 § 2 (Exh. A)).~~

~~8.08.070 Time to comply – Determination of time.~~

~~When calculating a reasonable time for compliance, the enforcement officer shall consider the following criteria:~~

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

~~B. The stated intent, if any, of a responsible party to take steps to comply;~~

~~C. The procedural requirements for obtaining a permit to carry out corrective action;~~

~~D. The complexity of the corrective action, including seasonal considerations; and~~

~~E. Any other circumstances beyond the control of the responsible party. (Ord. 19-540 § 2 (Exh. A)).~~

~~8.08.080 Hearing.~~

~~A. The property owner or vehicle owner or other person responsible for the violation may request a hearing by submitting such request within 15 calendar days after service of the notice of violation. When the last day of the period so computed is a Saturday, Sunday, or federal or city holiday, the period shall run until 5:00 p.m. on the next business day. The request shall be in writing, and filed with the city clerk. Upon receipt of the hearing request by the enforcement officer, he/she shall forward the request to the Pierce County district court judge.~~

~~B. If a request for a hearing is received, a notice giving the time, location and date of the hearing on the question of abatement and removal of the vehicle or part thereof as a public nuisance shall be mailed, by certified mail, with a five-day return receipt requested, to the owner of the land as shown on the last equalized assessment roll for the property and to the last registered and legal owner of record of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership.~~

~~C. The owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle, with the reasons for denial. If it is determined that the vehicle was placed on the property without the consent of the landowner and that the landowner has not subsequently acquiesced in its presence,~~

~~then the city shall not assess costs of administration or costs of removal against the property upon which the vehicle is located or otherwise attempt to collect the cost from the owner. Costs of removal may be assessed against the registered owner of the vehicle if the identity of the owner cannot be determined, unless the owner in the transfer of ownership of the vehicle has complied with RCW 46.12.650. The city may also provide for the payment to a tow truck operator or wrecker as part of a neighborhood revitalization program. (Ord. 19-540 § 2 (Exh. A)).~~

~~8.08.090 District court order.~~

~~A. At or after the hearing, the district court judge may:~~

- ~~1. Sustain the notice of violation and require that the vehicle be removed and disposed of at the request of the enforcement officer after the date of issuance of the court's order, and that the junk vehicle be disposed of by a licensed vehicle wrecker or tow truck operator, with notice to the Washington State Patrol and the Department of Licensing that the vehicle has been wrecked;~~
- ~~2. Withdraw the notice of violation;~~
- ~~3. Continue the review to a date certain for receipt of additional information;~~
- ~~4. Modify the notice of violation, which may include an extension of the compliance date, and/or determine that the owner of the property is not responsible for the costs of removal, pursuant to EMC 8.08.050(C); and/or~~
- ~~5. Assess the costs of administration and/or removal of the vehicle or parts thereof as provided in this section.~~

~~B. Unless mutually agreed to by the appellant and the court, the order of the court shall be served upon the person to whom it is directed, either personally or by mailing a copy of the order to such person at his/her last known address as determined by the enforcement officer within 15 calendar days following the conclusion of testimony and hearings and the closing of the record. Proof of service shall be made by a written declaration by the person effecting the service, declaring the time and date of service and the manner by which service was made.~~

~~C. The district court, in affirming the enforcement officer's notice of violation and abatement, may assess administrative costs or costs related to the abatement of the violator's vehicle. The court may also order the refund of hearings fees to parties deemed not responsible for the violation.~~

~~D. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that he or she has not subsequently acquiesced in its presence, then the district court's~~

~~order shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect the cost from the landowner. (Ord. 19-540 § 2 (Exh. A)).~~

8.08.100 Removal and disposal – Costs.

A. Commencing 45 calendar days after service of the order as provided in EMC [8.08.090](#), the enforcement officer shall supervise the removal and disposal of the vehicle or part thereof pursuant to RCW [46.55.230](#). The enforcement officer will provide notice to the Washington State Patrol and the Washington State Department of Licensing that the vehicle has been processed in accordance with the laws of the state of Washington.

B. The city's costs related to the removal of the junk vehicle may be collected from the registered owner of the vehicle(s) if the identity of the owner can be determined, unless the owner, in the transfer of ownership, has complied with RCW [46.12.101](#). Alternatively, the cost may be collected from the owner of the property on which the vehicle has been stored. (Ord. 19-540 § 2 (Exh. A)).

8.08.110 Penalties.

A. Abandonment of Junk Vehicle on Property. The city hereby adopts RCW [46.55.230](#) by reference, as if fully set forth herein. It is a gross misdemeanor for a person to abandon a junk vehicle on property. If a junk vehicle is abandoned, the vehicle's registered owner shall also pay a cleanup restitution payment equal to twice the costs incurred in the removal of the junk vehicle. The court shall distribute one-half of the restitution payment to the landowner of the property upon which the junk vehicle is located, and one-half of the restitution payment as provided in RCW [46.55.230](#).

~~B. Civil Penalties.~~

~~1. In addition to any other sanction or remedial procedure which may be available, any person, firm or corporation violating or failing to comply with any of the provisions of this chapter shall be subject to a cumulative civil penalty in the amount of \$250.00 per day for each violation from the date set for compliance until compliance with the notice of violation is achieved. This penalty may be imposed by the city from the date of issuance of the notice of violation until compliance is achieved. The penalty will be held in abeyance if a hearing is requested under EMC [8.08.080](#) until issuance of the court's order, as provided in EMC [8.08.090](#).~~

~~2. The penalty imposed by this section may be collected by civil action brought in the name of the city. The enforcement officer may notify the city attorney in writing of the name of any person subject to the penalty, and the city attorney may, with the assistance of the enforcement officer, take appropriate action to collect the penalty. (Ord. 19-540 § 2 (Exh. A)).~~

8.08.120 Additional relief.

The enforcement officer may ask the city attorney to seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of this title when civil penalties are inadequate to effect compliance. (Ord. 19-540 § 2 (Exh. A)).

Chapter 18.85 ENFORCEMENT

Sections:

18.85.010 Intent.

18.85.015 Enforcement

18.85.020 Violations.

18.85.030 Responsibility to enforce.

~~18.85.040 Investigation and notice of civil infraction.~~

~~18.85.050 Time to comply.~~

~~18.85.060 Stop work order.~~

~~18.85.070 Emergency order.~~

~~18.85.075 Prohibition on permit approvals.~~

~~18.85.076 Response to notice.~~

~~18.85.080 Contesting the determination and civil infraction.~~

~~18.85.085 Failure to respond.~~

~~18.85.090 Hearings — Rules of procedure — Counsel.~~

~~18.85.095 Hearings — Contesting determination that infraction committed — Appeal.~~

~~18.85.096 Hearings — Explanation of mitigating circumstances.~~

~~18.85.100 Monetary penalties — Restitution — Restoration orders.~~

~~18.85.104 Order of court — Modification of penalty — Community restitution.~~

~~18.85.105 Costs and attorneys' fees.~~

~~18.85.110 Failure to respond to notice of infraction — Failure to satisfy penalty.~~

~~18.85.120 Additional relief.~~

~~18.85.130 Penalties for subdivision violations.~~

~~18.85.140 Record of notices to be kept — Audit.~~

18.85.010 Intent.

This chapter shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons. It is the intent of this chapter to place the obligation of complying with its requirements upon the owner, occupier or other person responsible for the condition of the land and buildings within the scope of the Development Standards Code, this title, the Critical Areas Code, EMC Title [14](#), and the Subdivisions Code, EMC Title [16](#). No provision of, or any term used in, this chapter is intended to impose any duty to enforce, or any other duty, upon the city or any of its officers or employees which would subject them to damages in a civil action. (Ord. 19-543 § 1 (Exh. A); Ord. 17-495 § 4).

18.85.015 Enforcement

Enforcement of the provisions herein, and any violation thereof, shall be as described in this title; and /or EMC Title 7, Code Enforcement.

18.85.020 Violations.

A. It is a violation of the Development Standards Code, this title, the Critical Areas Code, EMC Title [14](#), and the Subdivisions Code, EMC Title [16](#), for any person to initiate, maintain or cause to be initiated or maintained the use of any structure, land or property within the city, without first obtaining the permits or authorizations required for the use by the aforementioned codes.

B. It is a violation of the Development Standards Code, this title, the Critical Areas Code, EMC Title [14](#), and the Subdivisions Code, EMC Title [16](#), for any person to use, construct, locate, demolish or cause to be used, constructed, located, or demolished any structure, land or property within the city, in any manner that is not permitted by the terms of any permit or authorization issued pursuant to the aforementioned titles; provided, that the terms or conditions are explicitly stated on the permit or the approved plans.

C. In addition to the above, it is a violation of EMC Titles [14](#) and [16](#) and this title to:

1. Remove or deface any sign, notice, complaint or order required by or posted in accordance with the aforementioned titles; and
2. To misrepresent any material fact in any application, plans or other information submitted to obtain any building or construction authorization. (Ord. 19-543 § 1 (Exh. A); Ord. 17-495 § 4).

18.85.030 ~~Authority~~Responsibility to enforce.

A. The community development director shall have the ~~authority~~responsibility to enforce this chapter. The director may call upon the police, fire, building, public works or other appropriate city departments to assist in enforcement. As used in this chapter, “community development director” or “director” shall also mean his or her duly authorized representative(s).

B. Upon presentation of proper credentials, the director may, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued inspection warrant, enter at reasonable times any building or premises subject to the consent or warrant, in order to perform the responsibilities imposed by this chapter. (Ord. 19-543 § 1 (Exh. A); Ord. 17-495 § 4).

Amend 18.97.290(D)

18.97.290 Nonconforming signs, maintenance, removal and enforcement.

A. Nonconforming Signs. Any lawful nonconforming sign may be continued, as long as it is maintained only in the manner and to the extent that it existed at the time it became nonconforming. Illegal signs shall not be considered nonconforming signs.

B. Maintenance. It is unlawful for any owner of record, lessor, lessee, manager or other person having lawful possession or control over a building, structure or parcel of land to fail to maintain any signs on the building, structure or parcel in compliance with this chapter and the zoning code (this title, Development Standards). Failure to maintain a sign constitutes a violation of this chapter, and shall subject the violator to enforcement under the provisions of Chapter [18.85](#) EMC, Enforcement.

1. Sign Maintenance. All signs, whether or not in existence prior to the adoption of this chapter, shall be maintained. Maintenance of a sign shall include periodic cleaning, replacement of flickering, burned out or broken light bulbs or fixtures, repair or replacement of any faded, peeled, cracked or otherwise damaged or broken parts of a sign, and any other activity necessary to restore the sign so that it continues to comply with the requirements and contents of the sign permit issued for its installation and the provisions of this chapter.

2. Landscape Maintenance. Required landscaped areas associated with an approved sign shall receive regular repair and maintenance. Plant materials that do not survive after installation in required landscape areas are required to be replaced within six months of the plant's demise or within the next planting season, whichever event first occurs.

C. Removal. Any vacant or unused sign support structures, angle irons, sign poles or other remnants of old signs which are currently not in use, or are not proposed for immediate reuse by a sign permit application for a permitted sign, shall be removed. In addition to the remedies in Chapter [18.85](#) EMC, Enforcement, the director shall have the authority to require the repair, maintenance or removal of any sign or sign structure which has become dilapidated or represents a hazard to the safety, health or welfare of the public, at the cost of the sign and/or property owner.

D. Enforcement. Violations of the provisions of this chapter shall be enforced according to [Title 7](#)~~Chapter 18.85~~ EMC,[Code](#) Enforcement. (Ord. 19-552 § 2 (Exh. A)).

Title 15 Amendments or additions

Chapter 15.07 BUILDING CODE ENFORCEMENT

Sections:

15.07.010 Intent.

15.07.020 Violations.

15.07.030 Responsibility to enforce.

15.07.035 Enforcement

~~15.07.040 Investigation and notice of violation.~~

~~15.07.050 Time to comply.~~

~~15.07.060 Stop work order.~~

~~15.07.070 Emergency order.~~

~~15.07.080 Appeals.~~

~~15.07.090 Appeal hearing.~~

~~15.07.100 Civil penalty.~~

15.07.110 Criminal penalties.

15.07.120 Additional relief.

15.07.010 Intent.

This chapter shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons. It is the intent of this chapter to place the obligation of complying with its requirements upon the owner, occupier or other person responsible for the condition of the land and buildings within the scope of the building code, this title. No provision of, or any term used in, this chapter is intended to impose any duty to enforce, or any other duty upon the city or any of its officers or employees which would subject them to damages in a civil action. (Ord. 17-501 § 21).

15.07.020 Violations.

A. It is a violation of the building code, this title, for any person to initiate, maintain or cause to be initiated or maintained, the use of any structure, land or property within the city, without first obtaining the permits or authorizations required for the use by the aforementioned code.

B. It is a violation of the building code, this title, for any person to use, construct, locate, demolish or cause to be used, constructed, located, or demolished any structure, land or property within the city, in any manner that is not permitted by the terms of any permit or authorization issued pursuant to the aforementioned code; provided, that the terms or conditions are explicitly stated on the permit or the approved plans.

C. In addition to the above, it is a violation of this title:

1. To remove or deface any sign, notice, complaint or order required by or posted in accordance with the aforementioned title; and
2. To misrepresent any material fact in any application, plans or other information submitted to obtain any building or construction authorization. (Ord. 17-501 § 21).

15.07.030 ~~Authority~~Responsibility to enforce.

A. The building official shall have the ~~authority~~responsibility to enforce this chapter. The building official may call upon the police, fire, community development, public works or other appropriate city departments to assist in enforcement. As used in this chapter, "building official" or "code official" shall also mean his or her duly authorized representative(s).

B. Upon presentation of proper credentials, the building official may, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued inspection warrant, enter at reasonable times any building or premises subject to the consent or warrant, in order to perform the responsibilities imposed by this chapter. (Ord. 17-501 § 21).

15.07.035 Enforcement

Enforcement of the provisions herein, and any violations thereof, shall be as described in this title; and/or EMC Title 7, Code Enforcement.

~~15.07.040 Investigation and notice of violation.~~

~~A. Investigation. The building official is authorized to investigate any structure or use which he/she reasonably believes does not comply with the standards and requirements of the building code, this title.~~

~~B. Notice of Violation. If, after investigation, the building official determines that the standards or requirements of the building code, this title, or the provisions of this chapter have been violated, the building official may serve a notice of violation upon the owner, tenant or other person responsible for the condition. The notice of violation shall contain the following information:~~

- ~~1. The name and address of the person to whom it is directed;~~
- ~~2. The location and specific description of the violation;~~
- ~~3. A statement that the notice (or order, in the case of a stop work or emergency order) is effective immediately upon posting at the site and/or receipt by the person to whom it is directed;~~
- ~~4. The notice of violation may include or reference a stop work order or emergency order requiring that the violation immediately cease, or that the potential violation be avoided;~~
- ~~5. The notice of violation may include or reference a stop work or emergency order requiring that the person cease all work on the premises until correction and/or remediation of the violation as specified in the order;~~
- ~~6. A specific identification of each standard, code provision or requirement violated;~~
- ~~7. A specific description of the actions required to correct, remedy or avoid the violation or to comply with the standards, code provision or requirements, including but not limited to replacement, repair, supplementation, revegetation or restoration;~~
- ~~8. A reasonable time for compliance;~~
- ~~9. A statement that the violation may result in the imposition of penalties, and if the violation is not already subject to criminal prosecution, that any subsequent violations may result in criminal prosecution as provided in EMC 15.07.110;~~
- ~~10. A statement that failure to comply with the notice of violation may result in further enforcement actions, including issuance of additional notices of violation, civil fines and/or criminal penalties; and~~
- ~~11. A statement that the notice of violation represents a determination that a violation has been committed by the person named in the notice of violation, and that the determination shall be final unless appealed as provided in EMC 15.07.080, and that the appeal must be timely filed under the procedures set forth in EMC 15.07.080(E) (within 15 calendar days of service of the notice of violation).~~

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

~~D. Service. The notice of violation shall be served on the owner, tenant or other person responsible for the condition in the manner set forth in RCW 4.28.080 for service of a summons, or personally, as set~~

~~forth in RCW 4.28.080(15). In lieu of service under RCW 4.28.080(15), where the person cannot with reasonable diligence be served as described, the notice of violation may be served as provided in RCW 4.28.080(16).~~

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

~~F. Other Actions May Be Taken. Nothing in this chapter shall be deemed to limit or preclude any action or proceeding pursuant to EMC 15.07.060 (Stop work order), 15.07.070 (Emergency order), 15.07.100 (Civil penalty), 15.07.110 (Criminal penalties), or 15.07.120 (Additional relief).~~

~~G. Additional Notice to Others. The building official may mail or cause to be delivered to all residential and/or nonresidential rental units in the structure, or post at a conspicuous place on the property, a notice which informs each recipient or resident about the notice of violation, stop work order or emergency order and the applicable requirements and procedures.~~

~~H. Recording. A copy of the notice of violation may be filed with the county auditor when the responsible party fails to correct the violation and no appeal is filed, or the building official requests that the city attorney take appropriate enforcement action. The building official may choose not to file a copy of the notice or order if the notice or order is directed only to a responsible person other than the owner of the property.~~

~~I. Amendment. A notice or order may be amended at any time in order to:~~

- ~~1. Correct clerical errors; or~~
- ~~2. Cite additional authority for a stated violation. (Ord. 17-501 § 21).~~

~~15.07.050 Time to comply.~~

~~When calculating a reasonable time for compliance in the notice of violation, the building official shall consider the following criteria:~~

- ~~A. The type and degree of violation cited in the notice;~~
- ~~B. The stated intent, if any, of a responsible party to take steps to comply;~~
- ~~C. The procedural requirements for obtaining a permit to carry out corrective action;~~
- ~~D. The complexity of the corrective action, including seasonal considerations, construction requirements and the legal prerogatives of landlords and tenants; and~~

~~E. Any other circumstances beyond the control of the responsible party. (Ord. 17-501 § 21).~~

~~15.07.060 Stop work order.~~

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

~~B. The stop work order shall include the information in EMC 15.07.040(B)(1) through (8). In addition, the stop work order shall include a statement that the person to whom the stop work order is directed or the property owner may file an appeal and request an expedited hearing with the hearing examiner within seven calendar days after service of the stop work order. If no appeal is filed and compliance is not achieved within the compliance date, the building official may ask the city attorney to seek additional relief under EMC 15.07.120 and/or the building official may file a notice of violation for the violation pursuant to EMC 15.07.040, seeking compliance and describing penalties.~~

~~C. Expedited Appeal. The hearing examiner shall hold the expedited appeal hearing on a stop work order according to the applicable procedures in EMC 15.07.090. If the hearing examiner finds that a violation has occurred which has not been corrected by the deadline established for compliance, the building official may ask the city attorney to seek additional relief under EMC 15.07.120 and/or the building official may issue a notice of violation for the violation pursuant to EMC 15.07.040, describing penalties. (Ord. 17-501 § 21).~~

~~15.07.070 Emergency order.~~

~~A. Whenever any use or activity in violation of this title threatens the health and safety of the occupants of the premises or any member of the public, the building official has the authority to issue an emergency order directing that the use or activity be discontinued and the condition causing the threat to the public health and safety be corrected. The emergency order shall be immediately posted on the property and served on the person(s) responsible. Failure to comply with an emergency order shall constitute a violation of this chapter.~~

~~B. The emergency order shall include all of the information in EMC 15.07.040(B)(1) through (8). In addition, the emergency order shall include a statement that the person to whom the emergency order is directed may file an appeal and request an expedited hearing with the hearing examiner within seven calendar days after service or posting of the emergency order. If no appeal is filed and compliance is not~~

achieved, the building official may ask the city attorney to seek additional relief under ~~EMC 15.07.120~~ and/or the building official may issue a notice of violation pursuant to ~~EMC 15.07.040~~, seeking compliance and penalties.

~~C. Expedited Appeal. The hearing examiner shall hold the expedited appeal hearing on an emergency order according to the applicable procedures in EMC 15.07.090. If the hearing examiner finds that the violation described in the emergency order occurred or exists, any condition described in the emergency order which is not corrected within the time specified is hereby declared to be a public nuisance and the building official may ask that the city attorney take action to obtain a warrant of abatement for the property in superior court. The owner or person responsible (or both) shall be responsible for the costs associated with the abatement, in the manner provided by law. (Ord. 17-501 § 21).~~

~~15.07.080 Appeals.~~

~~A. No Appeal of a Notice of Violation or Infraction Citing Criminal Penalties. There is no administrative appeal of a notice of violation issued pursuant to EMC 15.07.040 for violations which would subject the violator to criminal prosecution and/or the imposition of criminal penalties. A notice of violation or citation for a violation that subjects the violator to criminal penalties is enforced in municipal court.~~

~~B. Expedited Appeal Hearings on Stop Work and Emergency Orders. An expedited public hearing shall be held by the hearing examiner, according to the procedures in this section, on an appeal of a stop work or emergency order, regardless of whether the violations described in the stop work order or emergency order would eventually subject the violator to civil or criminal prosecution and/or the imposition of civil or criminal penalties. The expedited appeal hearing shall be for the sole purpose of determining whether the stop work or emergency order was correctly issued and/or whether a violation occurred. If a violation occurred, the building official may issue a notice of violation.~~

~~C. Appeal Hearings on Notices of Violations Citing Civil Penalties. Unless an appeal of a notice of violation is filed with the building official in accordance with this section, or an appeal involving an expedited hearing is filed, the notice of violation shall become the final order of the building official. The final order, including the collection of penalties, may be enforced by the city attorney in superior court.~~

~~D. Standing to File Appeal.~~

~~1. Notice of Violation. Only parties of record have standing to file an appeal of a notice of violation.~~

~~"Parties of record" are defined to mean:~~

~~a. The property owner or the person responsible for the condition of the property;~~

~~b. Any person who can demonstrate that he/she is aggrieved by the decision; and~~

~~c. The city council.~~

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

~~E. Time to File Appeal.~~

~~1. Notice of Violation under EMC 15.07.040. The party of record must file an appeal with the building official within 15 calendar days of service of the notice of violation.~~

~~2. Stop Work or Emergency Orders under EMC 15.07.060 or 15.07.070. The property owner or the person responsible for the condition of the property may request an expedited appeal hearing within seven calendar days after service of the stop work or emergency order.~~

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

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

~~1. Appellant's name, address and phone number;~~

~~2. A statement describing appellant's standing to appeal;~~

~~3. Appellant's statement of grounds for appeal and the facts upon which the appeal is based with specific references to the facts in the record;~~

~~4. The specific relief sought;~~

~~5. A statement that the appellant has read the appeal and believe the contents to be true, followed by the appellant's signature.~~

~~F. Effect. The timely filing of an appeal shall stay any enforcement action based on a stop work order, emergency order or notice of violation until the hearing examiner's decision issues unless the building official finds that the violation causes an immediate threat to public health or safety. (Ord. 17-501 § 21).~~

~~15.07.090 Appeal hearing.~~

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

- ~~1. The hearing examiner shall set the time and place of the hearing, and arrange for notice of the public hearing to be provided, except in cases involving an expedited hearing. For expedited hearings, notice of the hearing shall be provided to the appellant and every reasonable effort shall be made to schedule the hearing within one week after receipt of the appeal.~~
- ~~2. A party to the hearing may participate personally or by an attorney.~~
- ~~3. The hearing examiner shall, at the appropriate stage in the proceeding, give all parties full opportunity to submit and respond to motions and file briefs and objections.~~
- ~~4. If the person requesting the hearing fails to attend or participate in the hearing (other than filing the timely request for an appeal hearing as provided in this chapter), the hearing examiner may issue a default order of dismissal.~~
- ~~5. To the extent necessary for full disclosure of all relevant facts and issues, the hearing examiner shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross-examination and submit rebuttal evidence.~~
- ~~6. The hearing examiner shall cause the hearing to be recorded by a method chosen by the city, which shall allow preparation of a verbatim transcript.~~
- ~~7. The hearing shall be open to public observation.~~
- ~~8. All testimony of parties and witnesses shall be made under oath or affirmation.~~
- ~~9. Ex parte communications shall be addressed as set forth in Chapter 42.36 RCW.~~
- ~~10. The scope and standard of review shall be de novo. The city shall have the initial burden of proof in cases involving notices of violation, stop work orders, emergency orders or penalties, to demonstrate by a preponderance of the evidence the existence of a violation or that the legal standard for imposing the penalty has been met. The examiner shall grant substantial weight or otherwise accord deference whenever directed by ordinance or statute.~~

~~11. The hearing examiner may hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of the building code (all incorporated into this title). An appeal of these orders, decisions or determinations shall be based upon a claim that the intent of the code(s) have been incorrectly interpreted, the provisions of the code(s) do not fully apply, or an equivalent method of protection or safety is proposed. The hearing examiner shall not have authority to waive requirements of the codes in this title.~~

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

~~13. At or after the appeal hearing on a notice of violation, the hearing examiner may:~~

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

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

~~E. The decision of the hearing examiner on appeal shall be final, and no further administrative appeal may be filed. In order to appeal the decision of the hearing examiner, a person with standing must file an appeal of the decision to superior court as provided under Chapter 36.70C RCW within the deadline set forth in RCW 36.70C.040. (Ord. 17-501 § 21).~~

~~15.07.100 Civil penalty.~~

~~A. In addition to any other sanction or remedial procedure which may be available, any person violating or failing to comply with any of the provisions of this chapter relating to the International Building Code, the International Residential Code or the Property Maintenance Code shall be subject to a cumulative civil~~

~~penalty in the amount of \$250.00 per day for each violation from the date set for compliance until compliance is achieved. Each day of noncompliance shall constitute a separate offense.~~

~~B. The penalty imposed by this section shall be collected by civil action brought in the name of the city. The building official shall notify the city attorney in writing of the name of any person subject to the penalty, and the city attorney shall, with the assistance of the building official, take appropriate action to collect the penalty.~~

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

- ~~1. That the violation giving rise to the action was caused by the willful act, or neglect, or abuse of another; or~~
- ~~2. That correction of the violation was commenced promptly upon receipt of the notice thereof, but that full compliance within the time specified was prevented by inability to obtain necessary materials or labor, inability to gain access to the subject structure, or other condition or circumstance beyond the control of the defendant. (Ord. 17-501 § 21).~~

15.07.110 Criminal penalties.

A. Any person violating or failing to comply with any of the provisions of the International Fire Code, the International Mechanical Code or the Uniform Plumbing Code (all as incorporated into this title) or who has had a judgment entered against him or her pursuant to EMC [15.07.100](#) or subsection (B) of this section for the same violation within the past five years shall be subject to criminal prosecution and upon conviction shall be fined the amount set forth in EMC [1.10.010](#). Each day of noncompliance shall constitute a separate offense.

B. The above criminal penalty may also be imposed:

1. For any other violation of this chapter or the building code, this title, for which corrective action is not possible; and
2. For any willful, intentional, or bad faith failure or refusal to comply with the standards or requirements of this chapter or the building code, this title. (Ord. 17-501 § 21).

15.07.120 Additional relief.

The building official may seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of the building code, this title, when civil or criminal penalties are inadequate to effect compliance. (Ord. 17-501 § 21).



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion - Litowitz Property	Agenda Item #: 3D.
	For Agenda of: 1/21/2020
	Prepared by: Jeremy Metzler
Attachments (list): 1. Resolution No. 19-0476 2. Limited Ph2 Assessment 11-11-2019	
Approval of Materials: Jeremy Metzler Rachel Pitzel 1/17/2020 Dave Gray 1/17/2020 Daryl Eidingen 1/17/2020	Expenditure Required: \$0 Amount Budgeted: \$0 Timeline: 01/21/2020 - SS Discussion 01/28/2020 - RCM Action (Tentative)

Summary Statement:

The Litowitz Family approached Mayor Eidingen expressing interest in donating Pierce County Parcel Nos. 0420024021 and 0420024054 to the City. In response, a Phase One Environmental Review was performed and presented to Council on 10/01/2019 for review and consideration. Council adopted Resolution 19-0476 on 10/08/2019, affirming conditional interest in the land donation pending the results of a Phase Two Environmental Review and satisfaction of any recommendations contained therein.

The attached Limited Phase Two Environmental Site Assessment was prepared by Earth Solutions NW, LLC on 11/11/2019, received by the City on 11/12/2019. This report recommended removal of the remnant automobiles and debris on the property to prevent potential further soil impacts. Junk Vehicle Affidavits were processed on 12/13/2019, and all the vehicles and debris were removed shortly thereafter.

Per Resolution 19-0476, the Council committed to "*fully apprise the offer in a study session within sixty (60) days after receipt of the Phase Two Environmental Review,*" and this 60-day period has technically elapsed. Staff is now prepared to discuss the proposed land donation with Council.

Item History:

10/01/2019 - SS Discussion
 10/08/2019 - RCM Adoption of Resolution 19-0476
 11/12/2019 - City received Limited Phase Two Assessment
 12/13/2019 - Junk Vehicle removal begins

Recommended Action:

Hold a discussion and provide staff direction to Discussion - Litowitz Property

Fiscal Note/Consideration:

The cost of the Phase One Environmental Review to the City was \$4,500. No further funds have been expended by the City on this item.

RESOLUTION NO. 19-0476

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON, ACKNOWLEDGING THE CITY'S INTEREST IN A PROPOSED DONATION OF LAND, BEING TAX PARCEL NUMBERS 042002-0421 AND 042002-4054, LOCATED NORTHWEST OF 16TH ST E AND WEST VALLEY HIGHWAY, IN EDGEWOOD

WHEREAS, the Litowitz Family has approached the Mayor expressing interest in donating property to the City; and

WHEREAS, upon initial consideration, The City's critical areas mapping indicated the subject property contains several moderate to steep slopes and potential wetland area(s); and

WHEREAS, the City commissioned and received at City expense a Phase One Environmental Review of the subject property through their On-Call Consultant, Kleinfelder; and

WHEREAS, the Phase One Environmental Review dated March 22, 2019 identified areas of concern warranting a Phase Two Environmental Review; and

WHEREAS, the Litowitz Family has offered to, at their expense, commission a Phase Two Environmental Review by an independent expert; and;

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

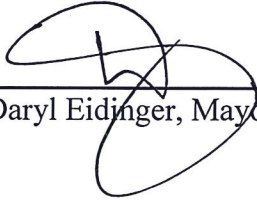
Section 1. The City Council hereby acknowledges the proposed donation of land located northwest of 16th Street East and West Valley Highway, specifically Tax Parcel Numbers 042002-4021 and 042002-4054, and thanks the Litowitz Family for their kind offer and personal expenditure for the Phase Two study.

Section 2. The City Council reaffirms their interest in the offer to receive donated land and will review the Phase Two Environmental findings, if any.

Section 3. The City Council will consider the results of the environmental reviews, staff proposal, and other relevant data to help them fully apprise the offer in a study session within sixty (60) days after receipt of the Phase Two Environmental Review.

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

ADOPTED THIS 8TH DAY OF OCTOBER, 2019


Daryl Eidinger, Mayor

ATTEST:


Rachel Pitzel, CMC
City Clerk



November 11, 2019
ES-6995

Earth Solutions NW LLC

Geotechnical Engineering, Construction
Observation/Testing and Environmental Services

Allito Properties, LLC
P.O. Box 26505
Federal Way, Washington 98093

Attention: Mr. David Litowitz

**Subject: Limited Phase II Environmental Site Assessment
Allito Edgewood Property
16th Street East and 126th Avenue Court East
Edgewood, Washington**

Reference: Kleinfelder Inc.
Phase I Environmental Site Assessment
File No. 20193708.001A, dated March 22, 2019

Dear Mr. Litowitz:

This letter presents the results of a Limited Phase II Environmental Site Assessment (ESA) performed by Earth Solutions NW, LLC (ESNW) at the above-referenced Allito Edgewood Property (subject site), located northeast of the intersection between 16th Street East and 126th Avenue Court East, in Edgewood, Washington (see attached Plate 1 for the Vicinity Map). This investigation was performed to assess potential shallow soil contamination associated with a recognized environmental condition (REC) that was identified by the referenced Phase I ESA in connection with abandoned and disassembled vehicles on the property. Analytical results of the soil sampling completed for this investigation were compared to the Washington State Department of Ecology's (Ecology) Model Toxics Control Act (MTCA) Method A cleanup levels for unrestricted land-use (CUL).

This investigation was conducted on October 23, 2019. ESNW collected four discrete soil samples from areas surrounding the abandoned vehicles on the subject site to assess potential soil contamination related to the dilapidated vehicles. Following field activities, the soil samples were analyzed at a Washington-certified laboratory for the presence of gasoline-range petroleum hydrocarbons and benzene, toluene, ethylbenzene, and xylenes (BTEX) by the Ecology Analytical Method NWTPH-Gx and Environmental Protection Agency (EPA) Analytical Method 8021B. The soil samples were also analyzed for diesel-range and heavy oil-range petroleum hydrocarbons by Ecology Analytical Method NWTPH-Dx and for total lead by EPA Analytical Method 6010D.

In summary, the analytical results for the soil samples collected during this investigation indicate that all soil samples contained detectable concentrations of diesel-range hydrocarbons, oil-range hydrocarbons, and/or total lead below applicable MTCA Method A CULs. None of the soil samples contained detectable concentrations of gasoline-range hydrocarbons or BTEX.

The soil sample analytical results are attached to this letter. Further details regarding our site visit and findings during the Limited Phase II ESA are summarized in the following sections of this letter.

Site Description

The subject site is located northeast of the intersection between 16th Street East and 126th Avenue Court East, in Edgewood, Washington. The property consists of two tax parcels (Pierce County Parcel Nos. 0420024-021 and -054), comprising a total of approximately 29.8 acres of land area (see Soil Sample Location Plan – Plate 2). The subject site is currently undeveloped and moderately to heavily overgrown with brambles and trees. A dirt access road enters the site from the southeast corner. Several abandoned vehicles and boats were observed along the dirt road.

Previous Investigation and Discussion

During the course of the referenced Phase I ESA, Kleinfelder identified one REC in connection with potentially impacted soil at locations of observed dumping and disassembling of vehicles in the southern portion of the subject site.

Additionally, Kleinfelder identified two potential environmental concerns in connection with the following:

1. A residential home that formerly occupied the southeast corner of the site from the late 1990s through approximately 2004 and a potential abandoned septic system and/or heating oil tank, and;
2. The location of the site within an area of the historical Tacoma Smelter Plume (TSP) boundary that is identified by Ecology to have average concentration of arsenic in soil that are below the MTCA Method A CUL of 20 milligrams per kilogram (mg/kg) and potential for arsenic concentrations in site soil to be at 20 mg/kg.

Based on our review of the referenced Phase I ESA report, ESNW provides the following commentary to clarify the potential environmental concerns identified by Kleinfelder:

1. ESNW reviewed historical aerial photographs of the subject site and concluded that the single-family residence identified by the Kleinfelder Phase I ESA was not located on the subject site. ESNW depicts the single-family residence as located on the parcel directly south of the subject site. Therefore, it is our opinion that the historical single-family residence identified by Kleinfelder does not represent a REC to the subject site.
2. ESNW reviewed Ecology's July 2019 TSP Model Remedies Guidance and Ecology's TSP interactive map and concluded that the subject site is located within an area designated with average concentrations of arsenic in soil below the MTCA Method A arsenic CUL (20 mg/kg). According to Ecology's July 2019 TSP Model Remedies Guidance, soil sampling and remediation guidance is not required for sites with average arsenic concentrations within soil below 20 mg/kg. Therefore, it is our opinion that the location of the site within an area designated with average concentrations of arsenic in soil below the MTCA Method A arsenic CUL does not represent a REC or warrant soil sampling.

Phase II ESA Field Activities

Field activities involved with completing this Limited Phase II ESA were performed on October 23, 2019. ESNW located the abandoned vehicles and the previous locations of abandoned vehicles. The field activities included collecting four discrete soil samples from locations surrounding the abandoned vehicles on the subject site.

Specifically, four soil samples were collected at depths ranging between about zero to six inches below the ground surface (bgs). All soil samples were collected using a handheld post-hole digger and a hand trowel.

Soil Sampling Methods

Each soil sample was carefully transferred from the hand trowel (or post-hole digger) into a stainless-steel bowl and composited in the field by hand before being transferred to a pre-cleaned 8-oz glass sampling jar and VOA and sealed with Teflon-lined plastic lids. All tools and equipment used during soil sampling activities were cleaned in separate wash and rinse buckets prior to and between the collection of each sample. The jars and VOAs containing the soil samples were labeled and stored on ice in a 5°C cooler and delivered to On-Site Environmental Laboratories, Inc. (a Washington-certified laboratory), located in Redmond, Washington, to be analyzed for the following constituents:

- Gasoline-range petroleum hydrocarbons and BTEX by Ecology Analytical Method NWTPH-Gx and Environmental Protection Agency (EPA) Analytical Method 8021B;
- Diesel-range and heavy oil-range petroleum hydrocarbons by Ecology Analytical Method NWTPH-Dx, and;
- Total Lead by EPA Analytical Method 6010D.

Limited Phase II ESA Results

Applicable Regulatory Standards – Soil

The rules that guide the cleanup process at sites within Washington State are incorporated into MTCA (administered by Ecology and defined in WAC 173-340). For this analysis, gasoline-range petroleum hydrocarbons and BTEX, diesel-range and heavy oil-range hydrocarbons, and total lead analytical laboratory results were compared to MTCA Method A CULs for soil. The Method A CULs are conservative and are for sites with relatively few hazardous substances, which may not be appropriate for all sites. The regulations state that Method A should not be automatically used to define cleanup levels that must be met for financial, real estate, insurance coverage, or similar purposes. Additionally, test results above Method A CULs do not necessarily mandate a cleanup action for a site. Copies of the laboratory analytical reports are included attached to this letter.

Soil Sample Analytical Results

Soil sample analytical results (see attached) reported that all four soil samples contained detectable concentrations of diesel-range hydrocarbons, oil-range hydrocarbons, and/or total lead below applicable MTCA Method A CULs. MTCA Method A CULs for these contaminants are 2,000 mg/kg, 1,000 mg/kg, and 250 mg/kg, respectively.

None of the soil samples contained detectable concentrations of gasoline-range hydrocarbons or BTEX.

Summary and Conclusions

Consistent with Allito Properties LLC's request, ESNW completed a Limited Phase II ESA at the subject site. This investigation included: (1) collecting four discrete soil samples throughout the site using a handheld post-hole digger and a hand trowel; (2) submitting the soil samples to a Washington-certified laboratory to be analyzed for the presence of gasoline-range petroleum hydrocarbons and BTEX, diesel-range and heavy oil-range hydrocarbons, and total lead; and, (3) completing this report of our findings and recommendations.

Analytical results of the shallow soil sampling activities completed at the subject site indicate the abandoned and disassembled vehicles on the property have not impacted site soil at levels above applicable MTCA Method A CULs.

Recommendations

Based on comparison with applicable MTCA Method A CULs, observed soil impacts at levels below MTCA Method A CULs do not mandate regulatory based remediation of soil encountered by ESNW during this Limited Phase II ESA. However, we recommend removal of remnant automobiles and/or various other debris from the subject site to prevent potential further soil impacts.

Limitations

The work described herein was performed upon request by the client after discussions with the City of Edgewood relating to potential environmental concerns and one REC identified in the referenced Phase I ESA report. The findings and recommendations in this letter are made based upon the analytical results, field observations, and our best professional judgement. It is possible that unforeseen events could occur that may limit the effectiveness of the assessment. Although risk can never be eliminated, more detailed and extensive sampling and testing would yield better management of site risks. Since such extensive services involve greater expense, we ask our clients to participate in identifying the level of service that will provide them with an acceptable level of risk. Please contact the signatories of this letter if you would like to discuss this issue of risk further.

The scope of work on this project was presented in our October 10, 2019, Limited Phase II Environmental Site Assessment proposal (Proposal No. PES-6995) and subsequently approved by Allito Properties, LLC, as our client. Our scope of work was limited to those items specifically identified in the proposal. Other activities not specifically included in the presented scope of work (in the proposal, correspondence, or this letter) are excluded and should not be considered part of our scope of services.

Land use, site conditions (both on-site and off-site), and other factors will change over time. Since site activities and regulations beyond our control could change at any time after the completion of this letter, our observations, findings, and opinions can be considered valid only as of the date of the site visit (October 23, 2019).

This letter may be used by Allito Properties, LLC and only for the purposes stated within a reasonable time from its issuance, but in no event later than one year from the date of this letter.

Any party other than Allito Properties, LLC who would like to use this letter shall notify ESNW of such intended use. Based on the intended use of this letter, ESNW may require that additional work be performed and that a revised letter be issued. Non-compliance with any of these requirements by Allito Properties, LLC, or anyone else, will release ESNW from any liability resulting from the use of this letter by any unauthorized party. No warranty, either expressed or implied, is made.

Closing

We trust this letter meets your current needs and appreciate the opportunity to provide our consulting services to Allito Properties, LLC. Please contact the undersigned at (425) 449-4704 if you have any questions or require additional information.

Sincerely,

EARTH SOLUTIONS NW, LLC

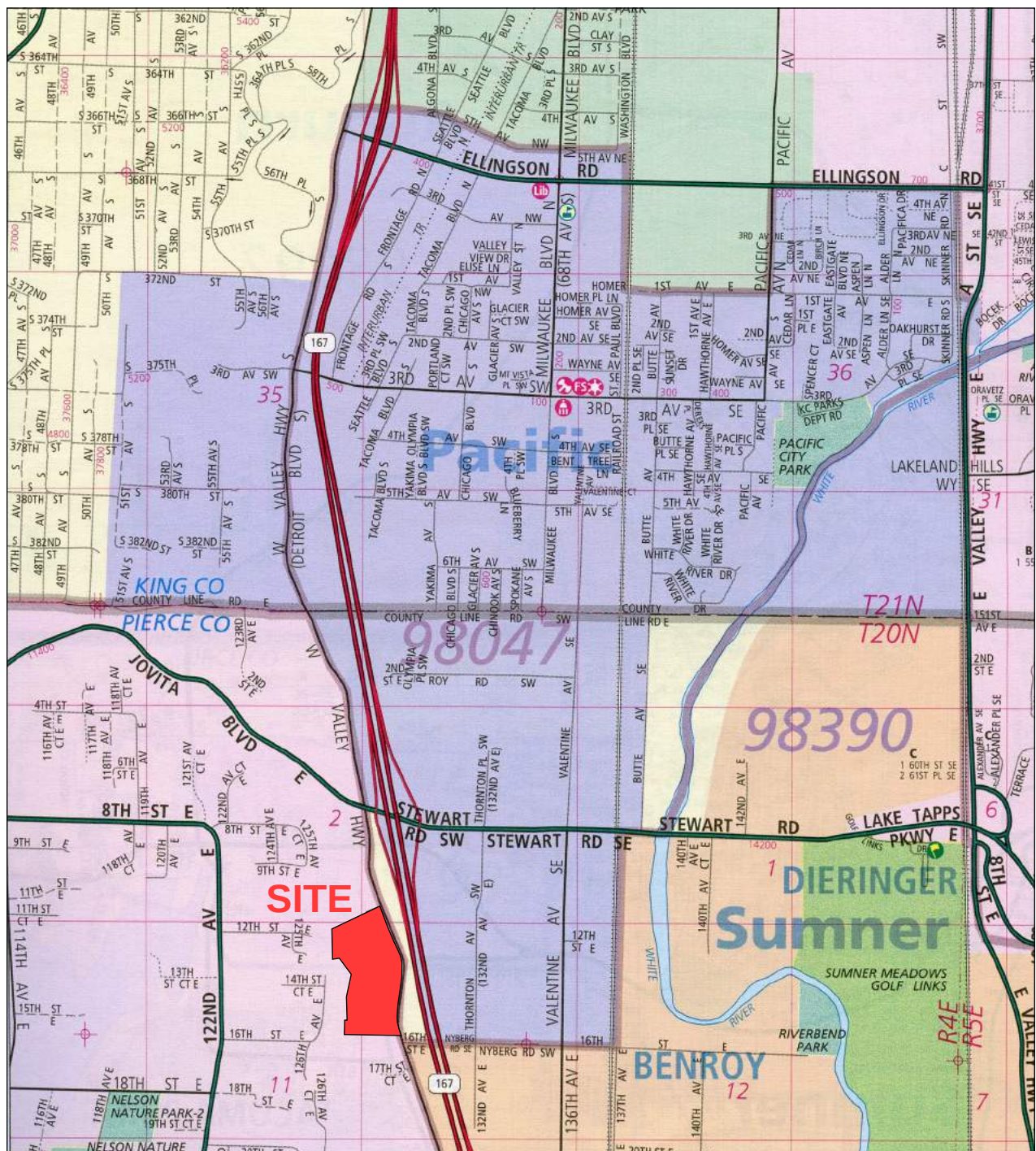
for: Kyle M. Kelly
for: Kyle M. Kelly
Staff Geologist

Jessica D. Babb

Jessica D. Babb
Environmental Senior Project Geologist

for: Keven D. Hoffmann, P.E.
for: Keven D. Hoffmann, P.E.
Senior Project Manager

Attachments: Plate 1 – Vicinity Map
Plate 2 – Soil Sample Location Plan
Analytical Laboratory Reports and Chain-of-Custody Documents



Reference:
Pierce County, Washington
Map 775
By The Thomas Guide
Rand McNally
32nd Edition



Earth Solutions NW_{LLC}

Geotechnical Engineering, Construction
Observation/Testing and Environmental Services

Vicinity Map
Allito Edgewood Property
Edgewood, Washington

NOTE: This plate may contain areas of color. ESNW cannot be responsible for any subsequent misinterpretation of the information resulting from black & white reproductions of this plate.

Drwn. MRS

Date 11/08/2019

Proj. No. 6995

Checked KTK

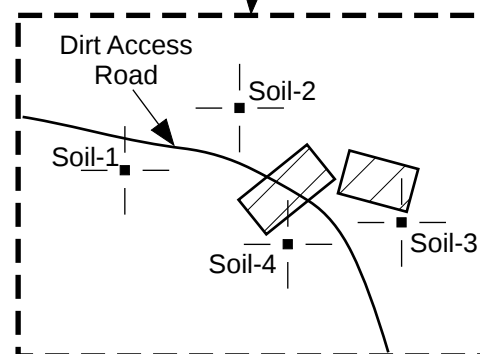
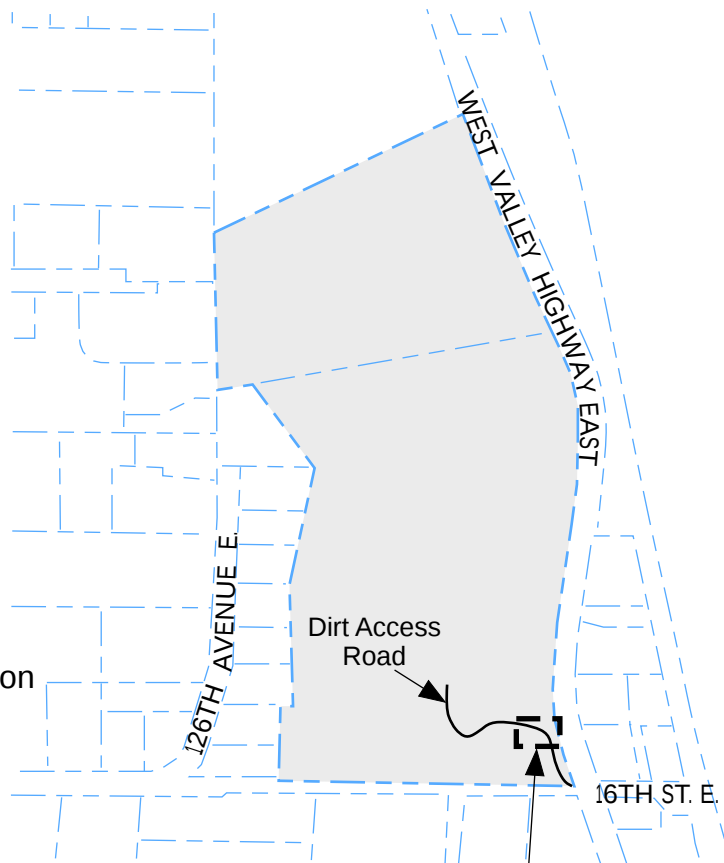
Date Nov. 2019

Plate 1

- LEGEND**
-  Subject Site
 -  Abandoned Vehicles (Stacked)
 -  Soil-1 | Approximate Location of Soil Sample



NOT - TO - SCALE



NOTE: The graphics shown on this plate are not intended for design purposes or precise scale measurements, but only to illustrate the approximate test locations relative to the approximate locations of existing and / or proposed site features. The information illustrated is largely based on data provided by the client at the time of our study. ESNW cannot be responsible for subsequent design changes or interpretation of the data by others.

NOTE: This plate may contain areas of color. ESNW cannot be responsible for any subsequent misinterpretation of the information resulting from black & white reproductions of this plate.



Earth Solutions NW_{LLC}

Geotechnical Engineering, Construction
Observation/Testing and Environmental Services

Soil Sample Location Plan
Allito Edgewood Property
Edgewood, Washington

Drwn. MRS	Date 11/08/2019	Proj. No. 6995
Checked KTK	Date Nov. 2019	Plate 2



**OnSite
Environmental Inc.**

14648 NE 95th Street, Redmond, WA 98052 • (425) 883-3881

October 31, 2019

Jessica Babb
Earth Solutions NW, LLC
15365 NE 90th St., Suite 100
Redmond, WA 98052

Re: Analytical Data for Project ES-6995
Laboratory Reference No. 1910-300

Dear Jessica:

Enclosed are the analytical results and associated quality control data for samples submitted on October 23, 2019.

The standard policy of OnSite Environmental, Inc. is to store your samples for 30 days from the date of receipt. If you require longer storage, please contact the laboratory.

We appreciate the opportunity to be of service to you on this project. If you have any questions concerning the data, or need additional information, please feel free to call me.

Sincerely,

David Baumeister
Project Manager

Enclosures



OnSite Environmental, Inc. 14648 NE 95th Street, Redmond, WA 98052 (425) 883-3881

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Date of Report: October 31, 2019
Samples Submitted: October 23, 2019
Laboratory Reference: 1910-300
Project: ES-6995

Case Narrative

Samples were collected on October 23, 2019 and received by the laboratory on October 23, 2019. They were maintained at the laboratory at a temperature of 2°C to 6°C.

Please note that any and all soil sample results are reported on a dry-weight basis, unless otherwise noted below.

General QA/QC issues associated with the analytical data enclosed in this laboratory report will be indicated with a reference to a comment or explanation on the Data Qualifier page. More complex and involved QA/QC issues will be discussed in detail below.



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Date of Report: October 31, 2019
 Samples Submitted: October 23, 2019
 Laboratory Reference: 1910-300
 Project: ES-6995

**GASOLINE RANGE ORGANICS/BTEX
 NWTPH-Gx/EPA 8021B**

Matrix: Soil
 Units: mg/kg (ppm)

Analyte	Result	PQL	Method	Date Prepared	Date Analyzed	Flags
Client ID:	Soil-1					
Laboratory ID:	10-300-01					
Benzene	ND	0.020	EPA 8021B	10-26-19	10-26-19	
Toluene	ND	0.086	EPA 8021B	10-26-19	10-26-19	
Ethyl Benzene	ND	0.086	EPA 8021B	10-26-19	10-26-19	
m,p-Xylene	ND	0.086	EPA 8021B	10-26-19	10-26-19	
o-Xylene	ND	0.086	EPA 8021B	10-26-19	10-26-19	
Gasoline	ND	8.6	NWTPH-Gx	10-26-19	10-26-19	
Surrogate:	Percent Recovery	Control Limits				
Fluorobenzene	87	58-129				
Client ID:	Soil-2					
Laboratory ID:	10-300-02					
Benzene	ND	0.020	EPA 8021B	10-26-19	10-26-19	
Toluene	ND	0.081	EPA 8021B	10-26-19	10-26-19	
Ethyl Benzene	ND	0.081	EPA 8021B	10-26-19	10-26-19	
m,p-Xylene	ND	0.081	EPA 8021B	10-26-19	10-26-19	
o-Xylene	ND	0.081	EPA 8021B	10-26-19	10-26-19	
Gasoline	ND	8.1	NWTPH-Gx	10-26-19	10-26-19	
Surrogate:	Percent Recovery	Control Limits				
Fluorobenzene	88	58-129				
Client ID:	Soil-3					
Laboratory ID:	10-300-03					
Benzene	ND	0.020	EPA 8021B	10-26-19	10-26-19	
Toluene	ND	0.090	EPA 8021B	10-26-19	10-26-19	
Ethyl Benzene	ND	0.090	EPA 8021B	10-26-19	10-26-19	
m,p-Xylene	ND	0.090	EPA 8021B	10-26-19	10-26-19	
o-Xylene	ND	0.090	EPA 8021B	10-26-19	10-26-19	
Gasoline	ND	9.0	NWTPH-Gx	10-26-19	10-26-19	
Surrogate:	Percent Recovery	Control Limits				
Fluorobenzene	84	58-129				



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 Laboratory Reference: 1910-300
 Project: ES-6995

**GASOLINE RANGE ORGANICS/BTEX
 NWTPH-Gx/EPA 8021B**

Matrix: Soil
 Units: mg/kg (ppm)

Analyte	Result	PQL	Method	Date Prepared	Date Analyzed	Flags
Client ID:	Soil-4					
Laboratory ID:	10-300-04					
Benzene	ND	0.021	EPA 8021B	10-26-19	10-26-19	
Toluene	ND	0.11	EPA 8021B	10-26-19	10-26-19	
Ethyl Benzene	ND	0.11	EPA 8021B	10-26-19	10-26-19	
m,p-Xylene	ND	0.11	EPA 8021B	10-26-19	10-26-19	
o-Xylene	ND	0.11	EPA 8021B	10-26-19	10-26-19	
Gasoline	ND	11	NWTPH-Gx	10-26-19	10-26-19	
Surrogate:	Percent Recovery	Control Limits				
Fluorobenzene	82	58-129				



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 Samples Submitted: October 23, 2019
 Laboratory Reference: 1910-300
 Project: ES-6995

**GASOLINE RANGE ORGANICS/BTEX
 NWTPH-Gx/EPA 8021B
 QUALITY CONTROL**

Matrix: Soil
 Units: mg/kg (ppm)

Analyte	Result	PQL	Method	Date Prepared	Date Analyzed	Flags
METHOD BLANK						
Laboratory ID:	MB1026S1					
Benzene	ND	0.020	EPA 8021B	10-26-19	10-26-19	
Toluene	ND	0.050	EPA 8021B	10-26-19	10-26-19	
Ethyl Benzene	ND	0.050	EPA 8021B	10-26-19	10-26-19	
m,p-Xylene	ND	0.050	EPA 8021B	10-26-19	10-26-19	
o-Xylene	ND	0.050	EPA 8021B	10-26-19	10-26-19	
Gasoline	ND	5.0	NWTPH-Gx	10-26-19	10-26-19	
Surrogate:	Percent Recovery		Control Limits			
Fluorobenzene	82		58-129			

Analyte	Result	Spike Level	Source Result	Percent Recovery	Recovery Limits	RPD	RPD Limit	Flags
DUPLICATE								
Laboratory ID:	10-300-01							
	ORIG	DUP						
Benzene	ND	ND	NA	NA	NA	NA	NA	30
Toluene	ND	ND	NA	NA	NA	NA	NA	30
Ethyl Benzene	ND	ND	NA	NA	NA	NA	NA	30
m,p-Xylene	ND	ND	NA	NA	NA	NA	NA	30
o-Xylene	ND	ND	NA	NA	NA	NA	NA	30
Gasoline	ND	ND	NA	NA	NA	NA	NA	30
Surrogate:								
Fluorobenzene			87		88	58-129		

SPIKE BLANKS

Laboratory ID:	SB1026S1								
	SB	SBD	SB	SBD	SB	SBD			
Benzene	0.835	0.901	1.00	1.00	84	90	69-109	8	10
Toluene	0.883	0.950	1.00	1.00	88	95	67-112	7	10
Ethyl Benzene	0.889	0.953	1.00	1.00	89	95	67-113	7	10
m,p-Xylene	0.908	0.974	1.00	1.00	91	97	66-114	7	11
o-Xylene	0.918	0.978	1.00	1.00	92	98	68-112	6	11
Surrogate:									
Fluorobenzene			79		83	58-129			



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 Laboratory Reference: 1910-300
 Project: ES-6995

**DIESEL AND HEAVY OIL RANGE ORGANICS
 NWTPH-Dx**

Matrix: Soil
 Units: mg/Kg (ppm)

Analyte	Result	PQL	Method	Date Prepared	Date Analyzed	Flags
Client ID:	Soil-1					
Laboratory ID:	10-300-01					
Diesel Range Organics	160	35	NWTPH-Dx	10-24-19	10-24-19	N
Lube Oil Range Organics	1000	70	NWTPH-Dx	10-24-19	10-24-19	
<i>Surrogate:</i>	<i>Percent Recovery</i>	<i>Control Limits</i>				
<i>o-Terphenyl</i>	79	50-150				
Client ID:	Soil-2					
Laboratory ID:	10-300-02					
Diesel Range Organics	ND	33	NWTPH-Dx	10-24-19	10-24-19	
Lube Oil Range Organics	180	66	NWTPH-Dx	10-24-19	10-24-19	
<i>Surrogate:</i>	<i>Percent Recovery</i>	<i>Control Limits</i>				
<i>o-Terphenyl</i>	95	50-150				
Client ID:	Soil-3					
Laboratory ID:	10-300-03					
Diesel Range Organics	40	33	NWTPH-Dx	10-24-19	10-24-19	N
Lube Oil Range Organics	210	66	NWTPH-Dx	10-24-19	10-24-19	
<i>Surrogate:</i>	<i>Percent Recovery</i>	<i>Control Limits</i>				
<i>o-Terphenyl</i>	82	50-150				
Client ID:	Soil-4					
Laboratory ID:	10-300-04					
Diesel Range Organics	140	40	NWTPH-Dx	10-24-19	10-24-19	N
Lube Oil Range Organics	650	79	NWTPH-Dx	10-24-19	10-24-19	
<i>Surrogate:</i>	<i>Percent Recovery</i>	<i>Control Limits</i>				
<i>o-Terphenyl</i>	75	50-150				



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 Laboratory Reference: 1910-300
 Project: ES-6995

DIESEL AND HEAVY OIL RANGE ORGANICS
NWTPH-Dx
QUALITY CONTROL

Matrix: Soil
 Units: mg/Kg (ppm)

Analyte	Result	PQL	Method	Date Prepared	Date Analyzed	Flags
METHOD BLANK						
Laboratory ID:	MB1024S2					
Diesel Range Organics	ND	25	NWTPH-Dx	10-24-19	10-24-19	
Lube Oil Range Organics	ND	50	NWTPH-Dx	10-24-19	10-24-19	
Surrogate:	Percent Recovery	Control Limits				
<i>o</i> -Terphenyl	83	50-150				

Analyte	Result	Spike Level	Source Result	Percent Recovery	Recovery Limits	RPD	RPD Limit	Flags
DUPLICATE								
Laboratory ID:	10-274-01							
	ORIG	DUP						
Diesel Range Organics	87.6	77.3	NA	NA	NA	NA	12	NA N
Lube Oil Range Organics	287	267	NA	NA	NA	NA	7	NA
Surrogate:								
<i>o</i> -Terphenyl				81	84	50-150		



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 Project: ES-6995

TOTAL LEAD
EPA 6010D

Matrix: Soil
 Units: mg/Kg (ppm)

Analyte	Result	PQL	Method	Date Prepared	Date Analyzed	Flags
Client ID:	Soil-1					
Laboratory ID:	10-300-01					
Lead	11	7.0	EPA 6010D	10-23-10	10-23-19	

Client ID:	Soil-2					
Laboratory ID:	10-300-02					
Lead	16	6.6	EPA 6010D	10-23-10	10-23-19	

Client ID:	Soil-3					
Laboratory ID:	10-300-03					
Lead	12	6.6	EPA 6010D	10-23-10	10-23-19	

Client ID:	Soil-4					
Laboratory ID:	10-300-04					
Lead	8.9	7.9	EPA 6010D	10-23-10	10-23-19	



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 Laboratory Reference: 1910-300
 Project: ES-6995

**TOTAL LEAD
 EPA 6010D
 QUALITY CONTROL**

Matrix: Soil
 Units: mg/Kg (ppm)

Analyte	Result	PQL	Method	Date Prepared	Date Analyzed	Flags
METHOD BLANK						
Laboratory ID:	MB1023SM1					
Lead	ND	5.0	EPA 6010D	10-23-10	10-23-19	

Analyte	Result	Spike Level	Source Result	Percent Recovery	Recovery Limits	RPD	RPD Limit	Flags
DUPLICATE								
Laboratory ID:	10-200-02							
	ORIG	DUP						
Lead	66.8	70.9	NA	NA	NA	NA	6	20

MATRIX SPIKES								
Laboratory ID:	10-200-02							
	MS	MSD	MS	MSD	MS	MSD		
Lead	279	267	250	250	66.8	85	80	75-125
							4	20



OnSite Environmental, Inc. 14648 NE 95th Street, Redmond, WA 98052 (425) 883-3881

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Samples Submitted: October 23, 2019
Laboratory Reference: 1910-300
Project: ES-6995

% MOISTURE

Client ID	Lab ID	% Moisture	Date Analyzed
Soil-1	10-300-01	28	10-23-19
Soil-2	10-300-02	25	10-23-19
Soil-3	10-300-03	24	10-23-19
Soil-4	10-300-04	37	10-23-19



OnSite Environmental, Inc. 14648 NE 95th Street, Redmond, WA 98052 (425) 883-3881

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Data Qualifiers and Abbreviations

- A - Due to a high sample concentration, the amount spiked is insufficient for meaningful MS/MSD recovery data.
- B - The analyte indicated was also found in the blank sample.
- C - The duplicate RPD is outside control limits due to high result variability when analyte concentrations are within five times the quantitation limit.
- E - The value reported exceeds the quantitation range and is an estimate.
- F - Surrogate recovery data is not available due to the high concentration of coeluting target compounds.
- H - The analyte indicated is a common laboratory solvent and may have been introduced during sample preparation, and be impacting the sample result.
- I - Compound recovery is outside of the control limits.
- J - The value reported was below the practical quantitation limit. The value is an estimate.
- K - Sample duplicate RPD is outside control limits due to sample inhomogeneity. The sample was re-extracted and re-analyzed with similar results.
- L - The RPD is outside of the control limits.
- M - Hydrocarbons in the gasoline range are impacting the diesel range result.
- M1 - Hydrocarbons in the gasoline range (toluene-naphthalene) are present in the sample.
- N - Hydrocarbons in the lube oil range are impacting the diesel range result.
- N1 - Hydrocarbons in diesel range are impacting lube oil range results.
- O - Hydrocarbons indicative of heavier fuels are present in the sample and are impacting the gasoline result.
- P - The RPD of the detected concentrations between the two columns is greater than 40.
- Q - Surrogate recovery is outside of the control limits.
- S - Surrogate recovery data is not available due to the necessary dilution of the sample.
- T - The sample chromatogram is not similar to a typical _____.
- U - The analyte was analyzed for, but was not detected above the reported sample quantitation limit.
- U1 - The practical quantitation limit is elevated due to interferences present in the sample.
- V - Matrix Spike/Matrix Spike Duplicate recoveries are outside control limits due to matrix effects.
- W - Matrix Spike/Matrix Spike Duplicate RPD are outside control limits due to matrix effects.
- X - Sample extract treated with a mercury cleanup procedure.
- X1 - Sample extract treated with a sulfuric acid/silica gel cleanup procedure.
- Y - The calibration verification for this analyte exceeded the 20% drift specified in methods 8260 & 8270, and therefore the reported result should be considered an estimate. The overall performance of the calibration verification standard met the acceptance criteria of the method.
- Z -
- ND - Not Detected at PQL
- PQL - Practical Quantitation Limit
- RPD - Relative Percent Difference





Chain of Custody

Company:	Earth Solutions NW
Project Number:	ES-6995
Project Name:	Allito Edgewood Property
Project Manager:	Jessica Babb
Sampled by:	Kyle Kelly

Turnaround Request
(in working days)

(Check One)

☐ Same Day ☐ 1 Day
☐ 2 Days ☐ 3 Days
☒ Standard (7 Days)

☐ _____ (other)

Number of Containers

Laboratory Number: 10-300

[illegible]

Signature	Company	Date	Time	Comments/Special Instructions
Relinquished	ESNW	10/23/19	11:38	
Received	OSU	10/23/19	11:38	
Relinquished				
Received				
Relinquished				
Received				
Reviewed/Date	Reviewed/Date	Data Package: Standard ☐ Level III ☐ Level IV ☐		
		Chromatograms with final report ☐ Electronic Data Deliverables (EDDs) ☐		



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion - Trespass Code	Agenda Item #: 3E.
	For Agenda of: 1/21/2020
	Prepared by: Jeremy Metzler
Attachments (list): 1. DRAFT Ordinance 20-0xxx - Trespass Code 2. DRAFT Trespass Notice Form	
Approval of Materials: Jeremy Metzler Rachel Pitzel 1/17/2020 Dave Gray 1/17/2020 Daryl Eidingen 1/17/2020	Expenditure Required: \$0 Amount Budgeted: \$0 Timeline: 01/21/2020 - SS 01/28/2020 - RCM

Summary Statement:

The City Council recently passed Ordinance 19-0565, adopting new regulations for city parks and recreation facilities. As an additional enforcement mechanism, city staff now recommends adopting a new chapter in the Edgewood Municipal Code to be used to trespass people from city parks and other city facilities for engaging in dangerous, illegal, or unreasonably disruptive conduct. The proposed regulations outline a process for issuing trespass warnings and allows for prompt appeals, balancing the City's interests in protecting and preserving the public health, safety and welfare, while recognizing the rights of individuals to engage in legitimate activities that may occur on City property. The draft ordinance and regulations are attached.

Item History:

11/26/2019 - Ordinance 19-0565 Adopted

Recommended Action:

Hold a discussion and provide staff guidance regarding Discussion - Trespass Code

Fiscal Note/Consideration:

N/A

ORDINANCE NO. 20-0XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, ADOPTING A NEW CHAPTER 12.20 OF THE EDGEWOOD MUNICIPAL CODE ENTITLED “TRESPASS WARNINGS ON CITY PROPERTY”; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City recognizes that members of the public have legitimate interests and rights regarding the use and enjoyment of City owned or operated property, as well as certain rights protected by the United States Constitution and the Washington State Constitution and laws, including, but not limited to, the right to petition the government, the right to assembly, and the right to access sources of information; and

WHEREAS, there is a demonstrated need for the City to adopt a legally sound process for being able to exclude from City property individuals whose behavior is dangerous, unsafe, illegal, or unreasonably disruptive to other users; and

WHEREAS, the City desires to provide a specific method for the issuance of trespass warnings to such individuals, including placing limitations on trespass warnings and providing procedures for such individuals to promptly appeal the issuance of trespass warnings; and

WHEREAS, this ordinance is enacted as an exercise of the City’s authority to protect and preserve the public health, safety and welfare, while recognizing the rights of individuals to engage in legitimate activities that may occur on City property; and

WHEREAS, the Council considered this Ordinance during its _____, 2020, study session; and

WHEREAS, the Council considered this Ordinance during its regular City Council meeting of _____, 2020;

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

Section 1. EMC Chapter 12.20 (Trespass Warnings on City Property) Enacted. A new Chapter 12.20 of the Edgewood Municipal Code entitled “Trespass Warnings on City Property” is hereby established to read as set forth in Exhibit A attached hereto and by this reference fully incorporated herein.

Section 2. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or

unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

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

ADOPTED THIS ____ day of _____, 2020.

Daryl Eiding, Mayor

ATTEST:

Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

Ann Marie Soto, Interim City Attorney

Exhibit A

CHAPTER 12.20 TRESPASS WARNINGS ON CITY PROPERTY

Sections:

- 12.20.010 Purpose, authority, and applicability.
- 12.20.020 Definitions.
- 12.20.030 Trespass warnings on City property.

12.20.010 Purpose, authority, and applicability.

A. The purpose of this chapter is to adopt a legally sound process for being able to exclude from City-owned or operated property individuals whose behavior is dangerous, unsafe, illegal, or unreasonably disruptive to other users. It is further the purpose of this chapter to provide for a specific method to allow for the issuance of trespass warnings to such individuals, including placing limitations on trespass warnings and providing procedures for such individuals to promptly appeal the issuance of trespass warnings in order to protect their right to engage in legitimate activities protected by the state and federal constitutions.

B. This chapter is enacted as an exercise of the City's authority to protect and preserve the public health, safety and welfare.

C. This chapter shall apply to all City property in the City of Edgewood, which for the purposes of this chapter shall include, but not be limited to: City buildings and other facilities, outdoor areas, parks, unimproved property, open spaces, property that is under lease to or otherwise operated and/or controlled by the City, and any property that City owns in common with another property owner. This chapter shall not apply to public streets and sidewalks. Enforcement action shall only be taken for conduct violating rules adopted by the City for the location in which the conduct occurs, including any location covered by rules of conduct incorporated into any relevant City rule. Provided, that officers of the Edgewood Police Department may take enforcement action consistent with EMC 12.20.030.A, based on violations of other City codes, state statutes, and government rules or regulations.

12.20.020 Definitions.

A. Behavior that is "dangerous" is behavior that creates an imminent and unreasonable risk of injury or harm to either persons or property of another or the actor.

B. Behavior that is "illegal" is behavior that is prohibited by the laws of the United States, Washington State, Pierce County, or the City of Edgewood and that includes, but is not limited to, any of the following types of behavior:

1. Threatening another person by communicating either directly or indirectly to another person the intent to cause bodily injury in the future to the person threatened or to any other person; or

2. Selling or using alcohol or drugs; or

3. Threatening or harassing behavior (e.g., fighting or threatening to fight, brandishing a weapon, stalking, verbally threatening to harm others or their property); or

4. Assaulting staff or other patrons; or

5. Sexual misconduct or harassment (e.g., indecent exposure, offensive touching, sexual acts).

C. Behavior that is “unreasonably disruptive to other users” is behavior that is not constitutionally protected and that, in consideration of the nature, scope, use and purpose of the property in question, unreasonably interferes with others’ use and enjoyment of said property. Examples of behavior that may unreasonably interfere with others’ use and enjoyment of City property include, but are not limited to, any of the following:

1. Use of unreasonably hostile or aggressive language or gestures; or

2. Unreasonably loud vocal expression or unreasonably boisterous physical behavior; or

3. Using electronic or other communication devices in a manner that is unreasonably disruptive to others; or

4. Unreasonably interfering with the free passage of staff or patrons in or on City property; or

5. Behavior that is unreasonably inconsistent with the use for which the City property was designed and intended to be used (e.g., bathing, shaving, or washing clothes in a public bathroom or skateboarding in a public parking area or plaza).

D. Any constitutionally protected action or speech is excluded from the prohibited behavior listed in this section.

12.20.030 Trespass warnings on City property.

A. Officers of the Edgewood Police Department, and their designee(s), shall be empowered to issue a trespass warning to any individual who the officer has probable cause to believe has violated any City ordinance, state statute, or government rule or regulation, relating to or prohibiting conduct that is dangerous, illegal, or unreasonably disruptive to other users of City property, as defined in EMC12.20.020, while such

individual is on or within any City property, as more specifically set forth in EMC12.20.010.C.

B. Trespass warnings may be delivered in person to the offender or by first class mail to the offender at the offender's last known address.

C. The offender need not be charged, tried, or convicted of any crime or infraction in order for the trespass warning to be issued or be effective. The warning may be based upon observation by a police officer or a City or other government employee or may be based upon a civilian report that would ordinarily be relied upon by police officers in the determination of probable cause.

D. If the offender:

1. Has not been excluded from City property by a trespass warning issued within one year prior to the violation, then the warning may exclude the offender for a period not exceeding seven days from the date of the warning.

2. Has been the subject of only one prior trespass warning issued within one year prior to the current violation, then the warning may exclude the offender for a period of more than seven days but not more than 90 days from the date of the current warning.

3. Has been the subject of two or more prior trespass warnings issued within one year prior to the current violation, then the warning may exclude the offender for a period of more than 90 days but not more than one year from the date of the current warning.

4. Has been excluded from City property by a trespass warning, and a published rule or regulation applicable to such property establishes a different period of time for an offender to be excluded, the time period under such rule or regulation shall apply notwithstanding the provisions of EMC Section 12.20.030.D.1-3.

E. The trespass warning shall be in writing, shall contain the date of issuance, shall describe the behavior that is the basis for the trespass warning, shall specify the length and place(s) of exclusion, shall be signed by the issuing police officer, and shall state the consequences for failure to comply. A trespass warning for a place or places shall not prohibit access to another place or places that is unrelated to or not a part of the place where the conduct that is the subject of the trespass warning occurred.

F. Administrative Appeal.

(a) A person receiving an trespass warning for an expulsion of seven (7) days, or longer, may file an appeal to have the trespass warning rescinded or the duration of the expulsion shortened.

(b) The appeal must be in writing, provide the appellant's current address, and shall be accompanied by a copy of the trespass warning that is being appealed.

(c) The written notice of appeal must be sent to the Mayor and postmarked no later than seven (7) calendar days after the issuance of the trespass warning.

(d) The trespass warning shall remain in effect during the pendency of any administrative or judicial proceeding.

G. Hearing on Appeal.

1. The Mayor or their designee (hereinafter "Hearing Official") shall:

- a. Notify the appellant of the hearing date, time, and location;
- b. Conduct a hearing within thirty (30) calendar days of receipt of the notice of appeal; and
- c. Issue a ruling upholding, rescinding, or shortening the duration of the expulsion set forth in the trespass warning no later than five (5) business days after the hearing.

2. The Hearing Official may consider a sworn report or a declaration under penalty of perjury as authorized by RCW 9A.72.085, written by the officer who issued the trespass warning or by the person upon whose observation the trespass warning was based, without further evidentiary foundation, as prima facie evidence that the offender committed the violation as described. This evidence creates a rebuttable presumption that the violation occurred and the burden thereafter rests with the appellant to overcome the presumption. Such sworn reports or declarations may be considered either in addition to or in lieu of the live testimony of the officer who issued the trespass warning or by the person upon whose observation the trespass warning was based.

3. The Hearing Official shall consider the trespass warning and may consider any written or oral sworn testimony of the appellant or witnesses, as well as pictorial or demonstrative evidence offered by the appellant that the Hearing Official considers relevant and trustworthy. The Hearing Official may consider information that would not be admissible under the evidence rules in a court of law.

4. The Hearing Official may issue subpoenas for the attendance of witnesses and the production of documents, and shall administer individual oaths to witnesses. The Hearing Official shall not issue a subpoena for the attendance of a witness at the request of the appellant unless the request is accompanied by the fee required by RCW 5.56.010 for a witness in district court. The appellant shall be responsible for serving any subpoena issued at the appellant's request.

5. If, after the hearing, the Hearing Official is persuaded on a “more probable than not” basis that the violation did occur, the trespass warning shall be upheld. For good cause, or upon a satisfactory showing by appellant that he or she understands his or her violation and will not repeat the violation, the Hearing Official may shorten the duration of the expulsion set forth in the trespass warning. If, however, the violation is not proved on a “more probable than not” basis, then the Hearing Official shall rescind the expulsion. If the Hearing Official rescinds a trespass warning, the trespass warning shall not be considered a prior expulsion for purposes of this chapter. For purposes of this section, “good cause” to rescind, shorten or modify a trespass warning shall be found where:

- a. The alleged offender demonstrates to the satisfaction of the Hearing Official or his/her designee that his or her conduct was intended to be expressive conduct protected by the First Amendment; or
- b. The offender was not given prior warning that the conduct in question was subject to a trespass warning; or
- c. The trespass warning was based solely upon the statement of a third party, was not observed personally by the issuing officer or a city or other government employee, would not ordinarily be relied upon by police officers in the determination of probable cause, and the alleged offender claims that he or she did not commit the action for which he or she was warned; or
- d. In the judgment of the Hearing Official, the circumstances warrant a modification or rescission of the trespass warning. The Hearing Official shall rescind the trespass warning if, considering all the circumstances, he or she finds that reasonable minds could differ on the question of whether the conduct in question was unreasonably disruptive to others on the same City property at that time.

6. The decision of the Hearing Official is final.

7. No determination of facts made by the Hearing Official under this section shall have any collateral estoppel effect on a subsequent criminal prosecution or civil proceeding and shall not preclude litigation of those same facts in a subsequent criminal prosecution or civil proceeding.

8. In no event will the Hearing Official be a person who is subordinate to the person who issued the trespass warning.

H. If the Hearing Official rescinds an exclusion, for good cause or because the violation was not proved, the exclusion shall not be considered a prior trespass warning for purposes of 12.20.030.D.

I. The trespass warning shall remain in effect during the pendency of any administrative or judicial proceeding.

J. No determination of facts made by the Hearing Official shall have any collateral estoppel effect on a subsequent criminal prosecution or civil proceeding and shall not preclude litigation of those same facts in a subsequent criminal prosecution or civil proceeding.

K. This section shall be enforced so as to emphasize voluntary compliance with laws and City property rules and so that inadvertent minor violations that would fall under EMC 12.20.030 can be corrected without resort to a trespass warning.

L. Any person, who is found on city or other publicly owned property in violation of a trespass warning issued in accordance with this chapter for a period longer than seven days and who accordingly has had the right to a hearing regarding the trespass warning may be arrested for trespassing and is guilty of a misdemeanor, which shall be punishable by a fine of up to \$1,000 and/or imprisonment for a term not to exceed 90 days.

M. The chief of police or his/her designee may upon request authorize an individual who has received a trespass warning in accordance with this chapter to enter City property to exercise his or her First Amendment rights or to conduct government business, if there is no other reasonable alternative location to exercise such rights or conduct such business. Such authorization must be in writing and specify the duration of the authorization and any conditions thereof.

N. The decision of the Hearing Official will be the City's final decision.

TRESPASS NOTICE FORM



Edgewood Police Department

2224 104th Ave E
Edgewood, WA 98372

253.952.0275

edgwoodpd@cityofedgewood.org

DATE OF INCIDENT: _____

TIME OF INCIDENT: _____

☐ AM

☐ PM

INCIDENT LOCATION:

PERSON RECEIVING TRESPASS NOTICE:

DATE OF BIRTH:

ADDRESS:

PHONE:

GENDER:

HEIGHT:

WEIGHT:

HAIR COLOR:

EYE COLOR:

At the above listed date and time, while in a City of Edgewood park or facility, you violated the following state statute, city ordinance, and/or rule as listed under Edgewood Municipal Code 12.20.010 by listed behaviors/actions:

Due to your conduct, you are **hereby excluded** for a period of _____ days (up to 365 days) from the following park and/or city facility (check one):

- ☐ City Hall Campus ☐ Mortenson Farm ☐ Edgemont Park ☐ Nelson Nature Park ☐ Nelson Farm ☐ Interurban Trailhead Park ☐ City Park at 36th and Meridian

This exclusion is effective on _____ and expires on _____.

NOTICE OF WARNINGS AND RIGHTS

1. You are prohibited from entering or remaining in or on the City property described above for any reason during the noted period of time.
2. To enter or remain in or on the above property during the noted period of exclusion may result in your arrest for criminal trespass.
3. A person receiving a trespass warning for an expulsion of seven (7) days, or longer, may file an appeal to have the trespass warning rescinded or the duration of the expulsion shortened. The appeal must be in writing, provide the appellant's current address, and shall be accompanied by a copy of the trespass warning that is being appealed. The written notice of appeal must be sent to the Mayor at City of Edgewood, 2224 104th Ave E, Edgewood, WA, 98372, and must be postmarked no later than seven (7) calendar days after the issuance of the trespass warning.
4. Upon receipt of the notice of appeal, the Mayor or their designee (Hearing Official) will notify the appellant of the appeal hearing date, time, and location. It will be held within thirty (30) calendar days of receipt of the notice of appeal and the person against whom the order was issued shall have the opportunity to present evidence and testimony when challenging the order.
5. The trespass warning shall remain in effect during the pendency of any administrative or judicial proceeding.

SIGNATURE OF RECIPIENT

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATE AND PLACE OF ISSUANCE

SIGNATURE OF AUTHORIZED OFFICIAL EXCLUDING THE PERSON



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion/Review - Ramsaur SP Sewer Easements	Agenda Item #: 3F.
	For Agenda of: 1/21/2020
	Prepared by: Jeremy Metzler
Attachments (list): 1. DRAFT Resolution 20-0xxx - Ramsaur Short Plat Sewer Easements 2. ExA-Swr Easement-0420095032 3. ExB-Swr Easement-0420095023	
Approval of Materials: Jeremy Metzler Rachel Pitzel 1/17/2020 Dave Gray 1/17/2020 Daryl Eidinger 1/17/2020	Expenditure Required: \$0
	Amount Budgeted: \$0
	Timeline: 01/21/2020 – SS Discussion 01/28/2020 – RCM Action

Summary Statement:

The Ramsaur Short Plat project is located at 9505 24th Street East. The developer prepared and submitted sanitary sewer construction plans to the City's sewer service provider, Lakehaven Water & Sewer District, for review in 2019. These plans were approved for construction on January 6, 2020. The developer will construct the approved sanitary sewer in accordance with said plans and specifications under the inspection purview of Lakehaven.

One of the necessary steps prior to construction is the execution of two Easements for Sewer Facilities. Lakehaven has coordinated with the developer and underlying property owners on executing the City's standard sanitary sewer easement form. Staff has reviewed the legal description and map exhibit prepared by the developer and finds them to be consistent with the approved sewer plans. Because an easement is an interest in land, the City Council is required to accept and approve the easements before they can be recorded against the property. The attached resolution will confirm said acceptance and approval, authorizing the Mayor to execute the easements as required.

Item History:

N/A

Recommended Action:

Hold a discussion and provide staff guidance regarding Discussion/Review - Ramsaur SP Sewer Easements

Fiscal Note/Consideration:

All costs associated with developer sewer extensions are coordinated between the developer and the City's sanitary sewer service provider, Lakehaven Water & Sewer District.

RESOLUTION NO. 20-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE SANITARY SEWER EASEMENTS FOR THE RAMSAUR SHORT PLAT PROJECT LOCATED AT 9505 24TH STREET EAST IN EDGEWOOD.

WHEREAS, the City has delegated its authority to inspect sanitary sewer construction in the Ramsaur Short Plat Project to Lakehaven Water and Sewer District; and

WHEREAS, according to Lakehaven Water and Sewer District, the developer of the Ramsaur Short Plat Project has designed the sanitary sewer in accordance with the adopted standards and specifications; and

WHEREAS, a portion of the sanitary sewer must be constructed on adjacent parcels of land, as designed and approved; and

WHEREAS, prior to construction of the sanitary sewer, the City must accept and approve the necessary easements for the sanitary sewer facilities on the adjacent parcels; and

WHEREAS, the developer has submitted the attached easements for acceptance and approval by the City Council, executed by the underlying property owners; and

WHEREAS, the Council considered this Resolution during its meeting of January 28, 2020;

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

Section 1. Sanitary Sewer Easements Authorized. The City Council authorizes the Mayor to sign the Ramsaur Short Plat Sewer Easements, Exhibits A and B, which are attached hereto and incorporated herein by this reference.

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

ADOPTED THIS 28TH DAY OF JANUARY, 2020

Daryl Eidinger, Mayor

ATTEST:

Rachel Pitzel, CMC
City Clerk

Exhibit A
Easement for Sewer Facilities – Burnett (P/N 042009-5032)

DRAFT

Exhibit B
Easement for Sewer Facilities – Brever (P/N 042009-5023)

DRAFT

When recorded return to:

**City of Edgewood
City Clerk
2224 - 104th Avenue E.
Edgewood, WA 98372**

Please print or type information **WASHINGTON STATE RECORDER'S Cover Sheet** (RCW 65.04)

Document Title(s) (or transactions contained therein): Easement for Sewer Facilities
Reference Number(s) of Documents assigned or released: N/A Additional reference #'s on page _____ of document
Grantor(s) Sherry Burnett, an individual ☐ Additional names on page _____ of document.
Grantee(s) THE CITY OF EDGEWOOD, a Washington municipal corporation ☐ Additional names on page _____ of document.
Legal description (abbreviated) Lot 1 of City of Edgewood Short Plat No. 4652, according the plat thereof Recorded December 23, 2014 under Pierce County Auditor's fee No. 201412235004; Together with and subject to easement, restrictions and reservation or record; Records of Pierce County, Washington. X Additional legal is on page _____ of document.
Assessor's Property Tax Parcel/Account Number: 042009-5-032 ☐ Assessor Tax # not yet assigned

EASEMENT FOR SEWER FACILITIES

THIS EASEMENT FOR SEWER FACILITIES ("Easement") is hereby entered into this _____ day of _____, _____ ("the "Effective Date") by and between the City of Edgewood, a municipal corporation of Pierce County, Washington, hereinafter termed "Grantee" and **Sherry Burnett**, hereinafter termed "Grantor".

WITNESSETH:

Grantor, for and in consideration of TEN AND NO/100 (\$10.00) DOLLARS, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor and Grantee hereby covenant and agree to the following terms, provisions and conditions:

1. Grant of Easement. Grantor hereby conveys to the Grantee a perpetual, non-exclusive easement for sewer facilities, including without limitation sewer mains, conveyance pipes, laterals, cleanouts, pumps and manholes, and all appurtenances related thereto (collectively, "Grantee's Facilities"), under, through, over and across the real property described in Exhibit "A" attached hereto and incorporated herein by reference (hereinafter, the "Property"). The location of said easement upon the Property (hereinafter, "Easement Area") shall be as described in Exhibit "B", and as depicted in Exhibit "C", both of which are attached hereto and incorporated herein by reference.

2. Right of Access and Use. Grantee and its agents, contractors, designees or assigns shall have the right at such time as Grantee deems necessary, to install, construct, repair, replace, reconstruct, operate and maintain Grantee's Facilities within the Easement Area, and to enter upon the Property for such purposes, without incurring any legal obligation or liability therefore. Except for emergent situations, Grantee shall reasonably endeavor to provide 24 hours written or verbal notice to Grantor prior to such entry. Grantee's rights hereunder shall expressly include without limitation the right, but not the requirement, to improve and maintain the surface of Easement Area as deemed necessary in Grantee's sole discretion to reasonably accommodate vehicular access to Grantee's Facilities. Grantee's rights hereunder shall be exercised in a manner that prevents unnecessary destruction or unreasonable disturbance of existing private improvements upon the Property, except as provided hereunder.

3. Noninterference. Grantee's access to and across the Easement Area shall be unrestricted. Grantor shall avoid and prevent interference with and/or obstruction of the Easement Area and Grantee's Facilities as follows:

A. Grantor shall not construct, plant or install, or allow to be constructed, planted or installed, any building, wall, fence, tree, rockery, landscaping or structure of any kind within the Easement Area unless approved in writing by Grantee.

B. Grantor shall not deposit, or allow to be deposited, any fill material within the Easement Area.

C. Grantor shall not dig, tunnel or excavate, or allow any digging, tunneling or excavation, within three feet (3') of Grantee's Facilities, and Grantor shall ensure that the ground surface

within the Easement Area is maintained at the level and grade approximately extant at the time Grantee's Facilities were installed, except for minor, temporary disturbances not affecting Grantee's Facilities.

D. Grantor shall not construct or install, or allow to be constructed or installed, any water or sewer facilities or appurtenance, other than Grantee's Facilities, within the Easement Area without Grantee's prior written authorization. If authorized by Grantee, any such facilities shall comply with all applicable regulatory standards, including without limitation the then-current edition of the "Criteria for Sewage Works Design" published by the Washington Department of Ecology.

E. Grantor shall not construct or install, or allow to be constructed or installed, any other utility facilities or appurtenances of any kind, including without limitation any utility service connections, within three feet (3'), measured horizontally for parallel alignments, or within six inches (6"), measured vertically for crossing or perpendicular alignments, of any portion of Grantee's Facilities.

F. Grantor shall not in any manner block, restrict or impede, or allow to be blocked, restricted or impeded, Grantee's access to or use of the Easement Area.

G. Grantor shall not convey to any third party any easement, license or other interest or right of use involving the Easement Area that would impair, interfere with or limit the easement rights granted herein.

4. Maintenance; Removal of Encroachments and Obstructions. The Easement Area shall be maintained by Grantee in accordance with applicable local regulatory standards. In the event of any encroachment, obstruction or interference of or upon the Easement Area or Grantee's Facilities, Grantee may require removal and/or termination thereof, and the same shall be accomplished promptly at Grantor's expense. Alternatively, Grantee may take such action as deemed necessary in Grantee's reasonable discretion to accomplish such removal and/or termination, and may charge to Grantor all expenses incurred therefor. Grantee's failure to require removal or termination of any encroachment, obstruction or interference shall neither constitute a waiver of Grantee's rights nor preclude any other remedy available to Grantee.

5. Site Remediation. Any existing improvements upon the Property that neither encroach upon, nor conflict with, the rights conveyed to Grantee hereunder that may be disturbed or destroyed by Grantee's Facilities, or Grantee's activities related thereto, shall be replaced, repaired, or otherwise restored as reasonably practicable, to the pre-event condition by and at Grantee's expense.

6. Warranty of Title. Grantor represents and warrants that Grantor is the lawful owner of the Property, that the rights and privileges set forth herein do not breach or otherwise violate the legal rights of any third-party, and that Grantor is fully authorized to execute and grant this Easement.

7. Indemnification. Grantee shall indemnify and hold harmless Grantor from and against any and all claims, losses, costs, suits and causes of action, including attorneys' fees, for any injury, damage, loss of expense arising out of or otherwise resulting from Grantee's use of the Easement Area. Grantor shall indemnify and hold harmless Grantee from and against any and all claims, losses, costs, suits and causes of action, including attorneys' fees, for any injury, damage, loss or expense arising out of or otherwise resulting from any breach or violation by Grantor hereunder. Each party's obligations under this section shall apply only to the extent such injury, damage, loss or expense is proximately caused by the negligence or willful misconduct of that party or the party's agents or invitees.

Swr Easement-0420095032 (12-10-19).docx (Form Update 1/16/15)

8. *Dispute Resolution.* This Easement shall be governed by the laws of the State of Washington. The exclusive venue for any litigation arising out of this Easement shall be the Superior Court for Pierce County, Washington. The substantially prevailing party in any such litigation shall be entitled to its reasonable attorneys' fees from the nonprevailing party.

9. *Binding Effect; Modification.* This Easement, and each of the terms, provisions, conditions and covenants set forth herein shall run with the land and be binding upon and apply to the benefit of the parties hereto and their respective successors, agents, designees or assigns. This Easement may be modified only by a recorded, written instrument mutually executed by the parties hereto or their respective successors or assigns.

10. *Side Sewers.* Grantee shall have the right to issue permits to third parties to operate and maintain side sewers within the Easement Area.

11. *No Third-Party Beneficiary.* The rights, duties and obligations set forth in this Easement are for the exclusive benefit of the signatory parties and their respective successors, agents, designees or assigns, and may only be enforced thereby. Nothing herein shall be construed as vesting any rights for or in any third-party.

12. *Termination.* This Easement shall remain in effect perpetually unless a written termination agreement is executed by the Parties.

13. *City Council Approval.* This Easement is contingent upon acceptance and approval by the Edgewood City Council. It is expressly acknowledged and understood by the parties that the terms and provisions hereof shall not become binding upon Grantee unless and until such acceptance and approval has occurred.

Date: _____

CITY OF EDGEWOOD

Date: _____

By: _____

Date: _____

I certify that I know or have satisfactory evidence that Sherry Burnett is the person who appeared before me, and said person acknowledged that he/she signed this instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: _____

[illegible]

Title

My appointment expires _____

SW-100 (Form Update 1/16/15)

EASEMENT FOR SEWER FACILITIES

EXHIBIT "A"

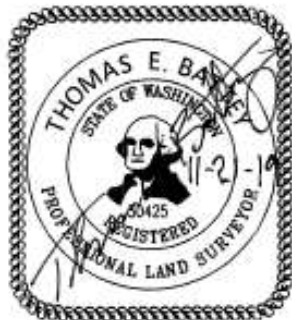
SANITARY SEWER EASEMENT
LEGAL DESCRIPTION OF REAL PROPERTY
LYING WITHIN THE SW1/4 OF THE NE1/4,
SEC. 9, TWP. 20 N., RGE. 4 E., W.M.,
CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON

TAX PARCEL NO: 042009-5-032:

LOT 1 OF CITY OF EDGEWOOD SHORT PLAT NO. 4652, ACCORDING TO THE PLAT THEREOF
RECORDED DECEMBER 23, 2014 UNDER PIERCE COUNTY AUDITOR'S FEE NO. 201412235004;

TOGETHER WITH AND SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF
RECORD;

RECORDS OF PIERCE COUNTY, WASHINGTON.



EASEMENT FOR SEWER FACILITIES

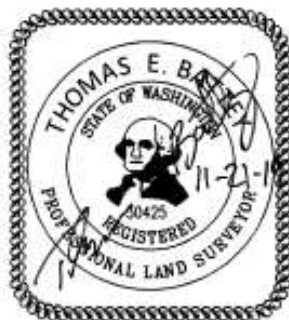
EXHIBIT "B"

SANITARY SEWER EASEMENT
LEGAL DESCRIPTION OF EASEMENT AREA
LYING WITHIN THE SW1/4 OF THE NE1/4,
SEC. 9, TWP. 20 N., RGE. 4 E., W.M.,
CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON

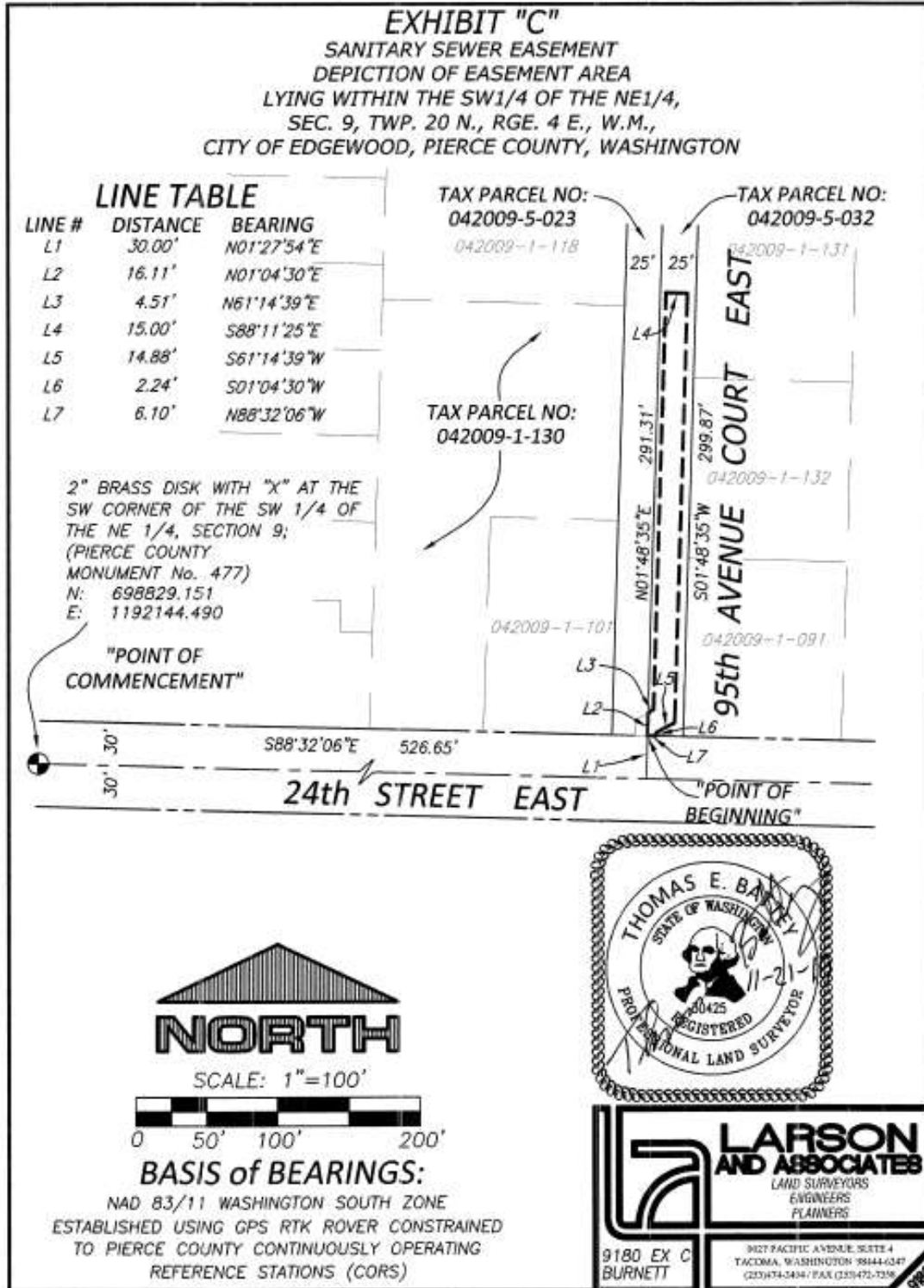
THAT PORTION OF LOT 1 OF CITY OF EDGEWOOD SHORT PLAT NO. 4652, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 23, 2014 UNDER PIERCE COUNTY AUDITOR'S FEE NO. 201412235004, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 20 NORTH, RANGE 4 EAST, W.M.; THENCE S88°32'06"E, ALONG THE SOUTH LINE THEREOF, A DISTANCE OF 526.65 FEET; THENCE N01°27'54"E, A DISTANCE OF 30.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1 AND THE POINT OF BEGINNING; THENCE N01°04'30"E, A DISTANCE OF 16.11 FEET; THENCE N61°14'39"E, A DISTANCE OF 4.51 FEET; THENCE N01°48'39"E, A DISTANCE OF 291.31 FEET; THENCE S88°11'25"E, A DISTANCE OF 15.00 FEET; THENCE S01°48'35"W, A DISTANCE OF 299.87 FEET; THENCE S61°14'39"W, A DISTANCE OF 14.88 FEET; THENCE S01°04'30"W, A DISTANCE OF 2.24 FEET TO THE NORTHERLY MARGIN OF 24th STREET EAST; THENCE N88°32'06"W, ALONG SAID MARGIN, A DISTANCE OF 6.10 FEET TO THE POINT OF BEGINNING;

(A GRAPHICAL REPRESENTATION OF THE EASEMENT AREA IS ATTACHED HERETO AS EXHIBIT "C" AND INCORPORATED HEREIN BY THIS REFERENCE)



EASEMENT FOR SEWER FACILITIES



Swr Easement-0420095032 (12-10-19).docx (Form Update 1/16/15)

Page 8 of 8

When recorded return to:

**City of Edgewood
City Clerk
2224 - 104th Avenue E.
Edgewood, WA 98372**

Please print or type information **WASHINGTON STATE RECORDER'S Cover Sheet** (RCW 65.04)

Document Title(s) (or transactions contained therein): Easement for Sewer Facilities
Reference Number(s) of Documents assigned or released: N/A Additional reference #'s on page _____ of document
Grantor(s) John R. Breyer and Donna L. Breyer, a married couple ☐ Additional names on page _____ of document.
Grantee(s) THE CITY OF EDGEWOOD, a Washington municipal corporation ☐ Additional names on page _____ of document.
Legal description (abbreviated) Lot 1 of City of Edgewood Short Plat No. P98-050, according to the plat thereof recorded March 29, 1999 under Pierce County Auditor's Fee No. 9903295002; Together with and subject to easements, restrictions and reservations of record records of Pierce County. X Additional legal is on page _____ of document.
Assessor's Property Tax Parcel/Account Number: 042009-5-023 ☐ Assessor Tax # not yet assigned

EASEMENT FOR SEWER FACILITIES

THIS EASEMENT FOR SEWER FACILITIES ("Easement") is hereby entered into this _____ day of _____, _____ ("the "Effective Date") by and between the City of Edgewood, a municipal corporation of Pierce County, Washington, hereinafter termed "Grantee" and **John R and Donna L Breyer**, hereinafter termed "Grantor".

WITNESSETH:

Grantor, for and in consideration of TEN AND NO/100 (\$10.00) DOLLARS, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor and Grantee hereby covenant and agree to the following terms, provisions and conditions:

1. Grant of Easement. Grantor hereby conveys to the Grantee a perpetual, non-exclusive easement for sewer facilities, including, without limitation, sewer mains, conveyance pipes, laterals, cleanouts, pumps and manholes, and all appurtenances related thereto (collectively, "Grantee's Facilities"), under, through, over and across the real property described in Exhibit "A" attached hereto and incorporated herein by reference (hereinafter, the "Property"). The location of said easement upon the Property (hereinafter, "Easement Area") shall be as described in Exhibit "B", and as depicted in Exhibit "C", both of which are attached hereto and incorporated herein by reference.

2. Right of Access and Use. Grantee and its agents, contractors, designees or assigns shall have the right at such time as Grantee deems necessary, to install, construct, repair, replace, reconstruct, operate and maintain Grantee's Facilities within the Easement Area, and to enter upon the Property for such purposes, without incurring any legal obligation or liability therefore. Except for emergent situations, Grantee shall reasonably endeavor to provide 24 hours written or verbal notice to Grantor prior to such entry. Grantee's rights hereunder shall expressly include, without limitation, the right, but not the requirement, to improve and maintain the surface of Easement Area as deemed necessary in Grantee's sole discretion to reasonably accommodate vehicular access to Grantee's Facilities. Grantee's rights hereunder shall be exercised in a manner that prevents unnecessary destruction or unreasonable disturbance of existing private improvements upon the Property, except as provided hereunder.

3. Noninterference. Grantee's access to and across the Easement Area shall be unrestricted. Grantor shall avoid and prevent interference with and/or obstruction of the Easement Area and Grantee's Facilities as follows:

A. Grantor shall not construct, plant or install, or allow to be constructed, planted or installed, any building, wall, fence, tree, rockery, landscaping or structure of any kind within the Easement Area unless approved in writing by Grantee.

B. Grantor shall not deposit, or allow to be deposited, any fill material within the Easement Area.

C. Grantor shall not dig, tunnel or excavate, or allow any digging, tunneling or excavation, within three feet (3') of Grantee's Facilities, and Grantor shall ensure that the ground surface

within the Easement Area is maintained at the level and grade approximately extant at the time Grantee's Facilities were installed, except for minor, temporary disturbances not affecting Grantee's Facilities.

D. Grantor shall not construct or install, or allow to be constructed or installed, any water or sewer facilities or appurtenance, other than Grantee's Facilities, within the Easement Area without Grantee's prior written authorization. If authorized by Grantee, any such facilities shall comply with all applicable regulatory standards, including without limitation the then-current edition of the "Criteria for Sewage Works Design" published by the Washington Department of Ecology.

E. Grantor shall not construct or install, or allow to be constructed or installed, any other utility facilities or appurtenances of any kind, including without limitation any utility service connections, within three feet (3'), measured horizontally for parallel alignments, or within six inches (6"), measured vertically for crossing or perpendicular alignments, of any portion of Grantee's Facilities.

F. Grantor shall not in any manner block, restrict or impede, or allow to be blocked, restricted or impeded, Grantee's access to or use of the Easement Area.

G. Grantor shall not convey to any third party any easement, license or other interest or right of use involving the Easement Area that would impair, interfere with or limit the easement rights granted herein.

4. Maintenance; Removal of Encroachments and Obstructions. The Easement Area shall be maintained by Grantee in accordance with applicable local regulatory standards. In the event of any encroachment, obstruction or interference of or upon the Easement Area or Grantee's Facilities, Grantee may require removal and/or termination thereof, and the same shall be accomplished promptly at Grantor's expense. Alternatively, Grantee may take such action as deemed necessary in Grantee's reasonable discretion to accomplish such removal and/or termination, and may charge to Grantor all expenses incurred therefor. Grantee's failure to require removal or termination of any encroachment, obstruction or interference shall neither constitute a waiver of Grantee's rights nor preclude any other remedy available to Grantee.

5. Site Remediation. Any existing improvements upon the Property that neither encroach upon, nor conflict with, the rights conveyed to Grantee hereunder that may be disturbed or destroyed by Grantee's Facilities, or Grantee's activities related thereto, shall be replaced, repaired, or otherwise restored as reasonably practicable, to the pre-event condition by and at Grantee's expense.

6. Warranty of Title. Grantor represents and warrants that Grantor is the lawful owner of the Property, that the rights and privileges set forth herein do not breach or otherwise violate the legal rights of any third-party, and that Grantor is fully authorized to execute and grant this Easement.

7. Indemnification. Grantee shall indemnify and hold harmless Grantor from and against any and all claims, losses, costs, suits and causes of action, including attorneys' fees, for any injury, damage, loss of expense arising out of or otherwise resulting from Grantee's use of the Easement Area. Grantor shall indemnify and hold harmless Grantee from and against any and all claims, losses, costs, suits and causes of action, including attorneys' fees, for any injury, damage, loss or expense arising out of or otherwise resulting from any breach or violation by Grantor hereunder. Each party's obligations under this section shall apply only to the extent such injury, damage, loss or expense is proximately caused by the negligence or willful misconduct of that party or the party's agents or invitees.

8. *Dispute Resolution.* This Easement shall be governed by the laws of the State of Washington. The exclusive venue for any litigation arising out of this Easement shall be the Superior Court for Pierce County, Washington. The substantially prevailing party in any such litigation shall be entitled to its reasonable attorneys' fees from the nonprevailing party.

9. *Binding Effect; Modification.* This Easement, and each of the terms, provisions, conditions and covenants set forth herein shall run with the land and be binding upon and apply to the benefit of the parties hereto and their respective successors, agents, designees or assigns. This Easement may be modified only by a recorded, written instrument mutually executed by the parties hereto or their respective successors or assigns.

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Date: _____

CITY OF EDGEWOOD

Date: _____

By: _____

STATE OF _____)
County of _____) ss:

DATED: _____

$$\begin{bmatrix} 1 \\ 1 \\ 1 \\ 1 \\ 1 \\ 1 \\ 1 \end{bmatrix}$$

My appointment expires _____

Page 114 of 137

Date: _____

CITY OF EDGEWOOD

Date: _____

By: _____

STATE OF _____)
County of _____) ss:

DATED: _____

$$\begin{bmatrix} 1 \\ 1 \\ 1 \\ 1 \\ 1 \\ 1 \\ 1 \end{bmatrix}$$

My appointment expires _____

Page 115 of 137

EASEMENT FOR SEWER FACILITIES

EXHIBIT "A"

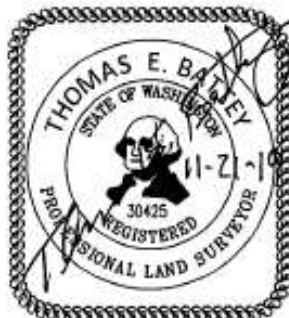
**SANITARY SEWER EASEMENT
LEGAL DESCRIPTION OF REAL PROPERTY
LYING WITHIN THE SW1/4 OF THE NE1/4,
SEC. 9, TWP. 20 N., RGE. 4 E., W.M.,
CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON**

TAX PARCEL NO: 042009-5-023:

**LOT 1 OF CITY OF EDGEWOOD SHORT PLAT NO. P98-050, ACCORDING TO THE PLAT THEREOF
RECORDED MARCH 29, 1999 UNDER PIERCE COUNTY AUDITOR'S FEE NO. 9903295002;**

**TOGETHER WITH AND SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF
RECORD;**

RECORDS OF PIERCE COUNTY, WASHINGTON.



EASEMENT FOR SEWER FACILITIES

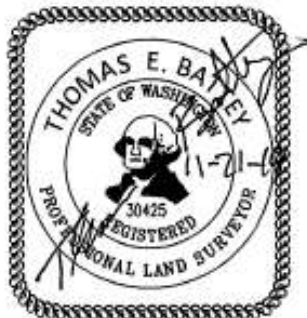
EXHIBIT "B"

SANITARY SEWER EASEMENT
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LYING WITHIN THE SW1/4 OF THE NE1/4,
SEC. 9, TWP. 20 N., RGE. 4 E., W.M.,
CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON

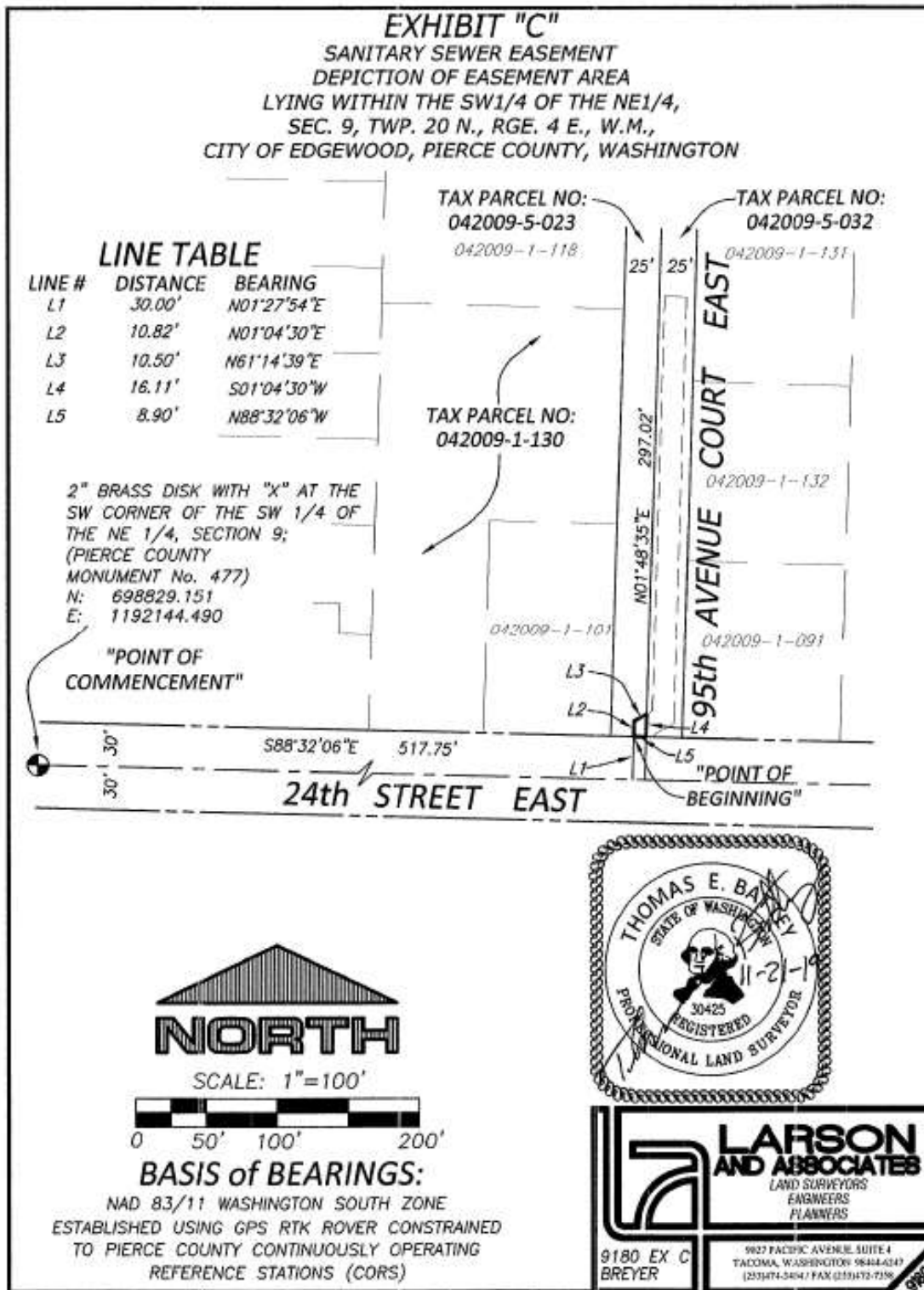
THAT PORTION OF LOT 1 OF CITY OF EDGEWOOD SHORT PLAT NO. P98-050, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 29, 1999 UNDER PIERCE COUNTY AUDITOR'S FEE NO. 9903295002, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 20 NORTH, RANGE 4 EAST, W.M.; THENCE S88°32'06"E, ALONG THE SOUTH LINE THEREOF, A DISTANCE OF 517.75 FEET; THENCE N01°27'54"E, A DISTANCE OF 30.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1 AND THE POINT OF BEGINNING; THENCE N01°04'30"E, A DISTANCE OF 10.82 FEET; THENCE N61°14'39"E, A DISTANCE OF 10.50 FEET; THENCE S01°04'30"W, A DISTANCE OF 16.11 FEET TO THE NORTHERLY MARGIN OF 24th STREET EAST; THENCE N88°32'06"W, ALONG SAID MARGIN, A DISTANCE OF 8.90 FEET TO THE POINT OF BEGINNING;

(A GRAPHICAL REPRESENTATION OF THE EASEMENT AREA IS ATTACHED
HERETO AS EXHIBIT "C" AND INCORPORATED HEREIN BY THIS REFERENCE)



EASEMENT FOR SEWER FACILITIES





City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion/Review - EDAB Recommendation	Agenda Item #: 3G. For Agenda of: 1/21/2020 Prepared by: Darren Groth
Attachments (list): 1. EDAB Recommendation to City Council 2. Write-up from MVCC to the EDAB	
Approval of Materials: Darren Groth Rachel Pitzel 1/17/2020 Dave Gray 1/17/2020 Daryl Eidingen 1/17/2020	Expenditure Required: Unknown Amount Budgeted: \$0 Timeline: Study Session: January 21, 2020 Final Action: January 28, 2020

Summary Statement:

On October 7, 2019, Jessie Holden from the Mountain View Community Center (MVCC) spoke to the EDAB members regarding various ways her organization could work with the EDAB on economic development or business sponsorship ideas. On December 2, 2019, Jessie Holden spoke with EDAB again to seek their recommendation for the MVCC to use Edgemont City Park for their annual Kilometer for Kids Fun Run. On January 6, 2020, the EDAB voted 4-0 to make the recommendation that City Council approve the request by MVCC. Representatives from MVCC plan to attend the City Council meeting and provide additional details regarding this request.

Item History:

Recommended Action:

Hold a discussion and provide staff direction to Discussion/Review - EDAB Recommendation

Fiscal Note/Consideration:



CITY OF EDGEWOOD

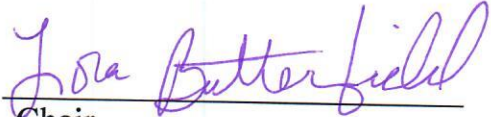
EDAB RECOMMENDATION

The Economic Development Advisory Board (EDAB) voted 4-0 to recommend the following item(s). This recommendation will be sent to the City Council for consideration.

1. The City of Edgewood provide the event space at Edgemont City Park for the Kilometers for Kids Fun Run at no cost to MVCC, if a date can be agreed upon by both parties;
2. The City of Edgewood promote Kilometers for Kids through the Edgewood printed magazine, city website, electronic billboard, social media, or other means deemed appropriate by the City Council; and
3. The City of Edgewood have a physical presence at the event and help "kick off" the event with some comments promoting the youth programs of MVCC and thanking participants and businesses for attending.

It is the recommendation of the City of Edgewood's EDAB to approve item(s) No(s). 1-3 as discussed during the January 6, 2020 EDAB agenda.

**RECOMMENDED BY THE CITY OF EDGEWOOD ECONOMIC
DEVELOPMENT ADVISORY BOARD ON THE 6TH DAY OF JANUARY 2020.**


Chair

Attest by:



Darren Groth, AICP, CPM
Community Development Director

BACKGROUND

The Mountain View Community Center (MVCC) has appeared before the Economic Development Advisory Board (EDAB) in October and December 2019. MVCC is seeking a recommendation from the EDAB to the Edgewood City Council for support for MVCC's annual Kilometer for Kids Fun Run. MVCC would like to host the event at Edgemont City Park in late May or early June 2020.

Kilometers for Kids has been an annual fundraising event for MVCC for the last 5 years, however it was decided by the staff and board to take a year off in 2019 to revision an event that not only will raise funds to support the Center's youth hunger programs, but also have a focus of community development and public awareness for the Center and its programs that support successful kids, hopeful families, and active seniors in Edgewood and beyond.

Kilometers for Kids is planned for a fun family event in which local families and individuals could raise funds through pledges for laps walked/ran. All funds raised would go to support MVCC's youth hunger programs which provides weekly healthy food for over 200 hungry kids living on or near the North Hill. The reason EBAD has been approached first, is that MVCC also sees this event as an opportunity to market and promote our local businesses by offering close to free visibility at the event and promoting partnering businesses through online and written materials as a local business that supports children in our community.

The EBAD 2019 Work Plan includes among other elements, an objective to retain businesses in the City of Edgewood. Kilometers for Kids will provide visibility and an opportunity for the Edgewood City Council to engage and promote local businesses. For residents in and outside of Edgewood, the event is an opportunity to showcase the community spirit of Edgewood and support its local merchants. The EDAB finds the Kilometer for Kids Fun Run is consistent with the EDAB 2019 Work Plan and scope of its mission pursuant to EMC Chapter 2.32.030.



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion -Purchase Parcel from Pierce County	Agenda Item #: 3H.
	For Agenda of: 1/21/2020
	Prepared by: Darren Groth
Attachments (list): 1. Aerial Map of Parcel 0420022004	
Approval of Materials: Darren Groth Rachel Pitzel 1/17/2020 Dave Gray 1/17/2020 Daryl Eidinger 1/17/2020	Expenditure Required: \$4380.15
	Amount Budgeted: \$0
	Timeline: Study Session: January 21, 2020

Summary Statement:

In June 2014, Pierce County advised the City that a private party sent in an interest form tax parcel number 0420022004, which prompted the County to provide a government notice prior to going to auction. Based on the City's response to that notice, Pierce County indicated that they can sell the parcel to the City of Edgewood for not less than the principle balance of the unpaid taxes plus recording fees. Pierce County Council approved the sale to the City of Edgewood back in 2014.

Since 2014, it appears no final action was taken by the City and forwarded to Pierce County. As a result of inactivity, a property management specialist from Pierce County reached out in October to learn if the City were still/again interested in pursuing this purchase. Price confirmation and environmental assessment questions were raised and investigated since October, which brings us to the conversation for today's agenda.

The principal balance on this property is \$4257.15, which is the same price from 2014 because it is based on the past due taxes. In addition, recording fees add \$113 recording and we would have to add another \$10 for filing the Real Estate Excise Tax (REET) affidavit. The total cost would be \$4380.15.

If the City wanted a Phase I ESA, then we could perform that assessment for \$4,500. A Phase I ESA provides two primary values, the first being to identify recognized environmental conditions (RECs) that may require remediation and/or affect the value of the property. A second benefit is the legal liability protection under CERCLA as a bona fide prospective purchaser. Historically, under Superfund, the owner or operator of a contaminated property could be held responsible for the property's cleanup, based solely on his/her current

ownership of the property. This parcel, however, is a 2.8-acre vacant property surrounded primarily by residences and open space, with no obvious industrial/commercial property use in the immediate vicinity. In addition, parcel 0420022004 adjoins the City's right-of-way for Jovita Boulevard E and any potential RECs may already impact City owned property, which means additional probable, adverse environmental impacts from potentially including 2.8 additional acres into any possible RECs is not significant versus the \$4,500 cost of a Phase I ESA.

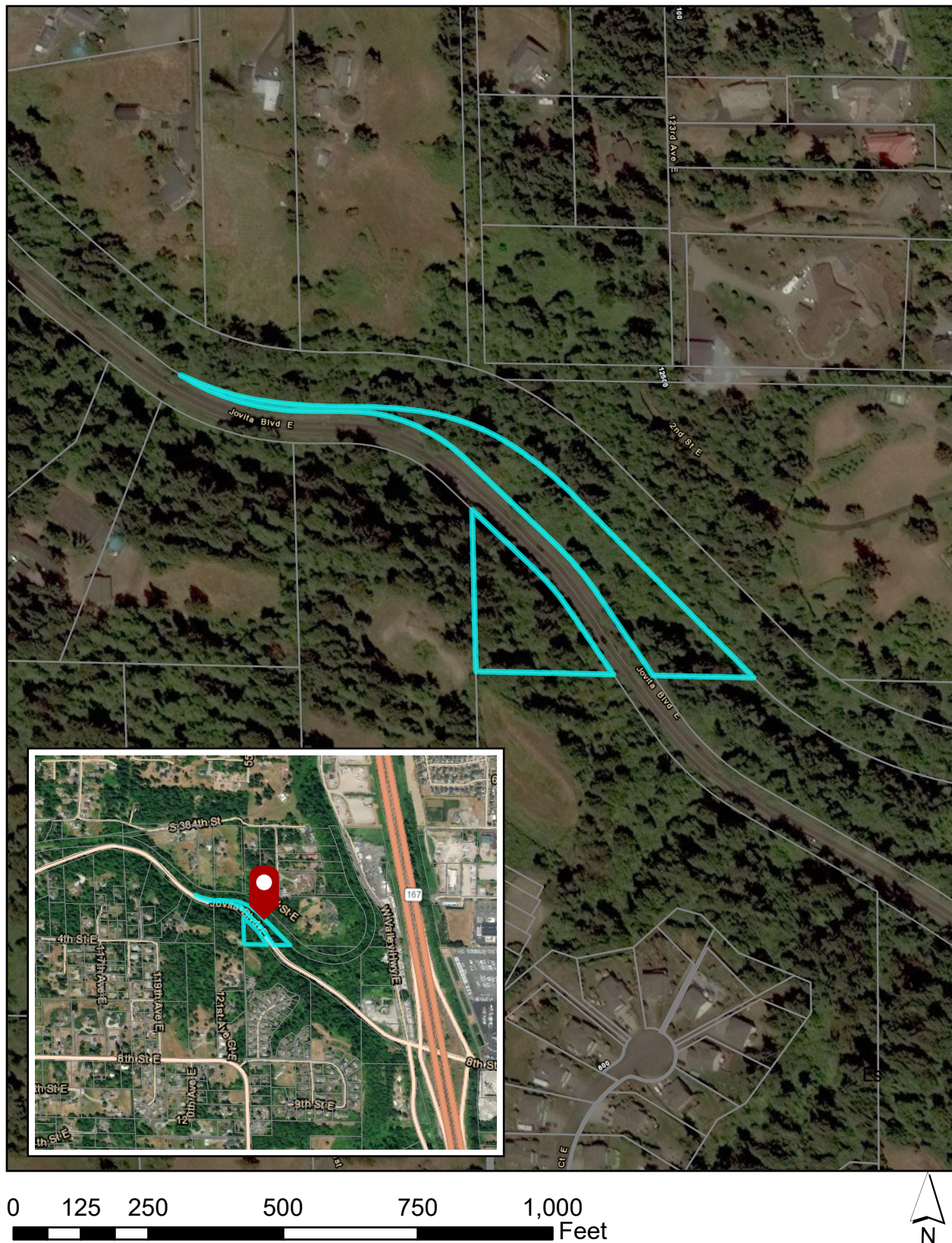
Item History:

N/A

Recommended Action:

Hold a discussion and provide staff direction to Discussion -Purchase Parcel from Pierce County

Fiscal Note/Consideration:





City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion - Request for Memorial Sign	Agenda Item #: 3I.
	For Agenda of: 1/21/2020
	Prepared by: Jeremy Metzler
Attachments (list): 1. Sigmund Brudevold Request to Council 2. Existing Sign - 36th & 114th 3. Sign Fabrication Manual Excerpt 4. Aerial View of Site	
Approval of Materials: Jeremy Metzler Rachel Pitzel 1/17/2020 Dave Gray 1/17/2020 Daryl Eidinger 1/17/2020	Expenditure Required: \$535 (est.) Amount Budgeted: \$0 Timeline: 01/21/2020 - SS Discussion

Summary Statement:

A request for a "memorial sign" was presented at the 11/26/2019 RCM (attached). The City does not currently have a "memorial sign" program, but a similar sign was installed at the intersection of 36th St E and 114th Ave E following an accident in the early 2000's (photo attached).

An alternative to the sign at 36th & 114th is the standard "Don't Drink and Drive" message (example attached). This is what is used by WSDOT and is an accepted standard template.

Finally, attached for reference in discussion is an aerial image of the intersection in question: Chrisella Rd E & Karshner Rd E. Due to apparent right-of-way limitations and considering driver visibility, placement of a sign at this intersection could be problematic.

Staff is seeking Council's input and direction on how to proceed with this request. The current procedure for someone to request private use of public right-of-way is a Street Use Permit.

Item History:

11/26/2019 - Request made at RCM

Recommended Action:

Hold a discussion and provide staff direction to Discussion - Request for Memorial Sign

Fiscal Note/Consideration:

The requester has offered to pay for the sign, leaving no public burden for installation. Ongoing maintenance or replacement may be needed in future years. If there is Council interest in maintaining this as a public sign in perpetuity, the City could add this sign to their inventory.

November 26, 2019 / Request for Roadside Memorial Sign

To City of Edgewood City Council:

My name is Sigmund Brudevold
10928 - 48th St Ct E

77 years ago tragedy struck Edgewood. My best friend Leif Lilleoren and I were 14 year olds ready to leave Edgemont Elementary and start Sumner Junior High. On a Saturday morning, Leif riding his bicycle on Chrisella Road on the way to a dentist appointment was struck by a car coming up the hill. Leif's injuries were grave - he did not survive.

Leif's parents, Mr. and Mrs. John Lilleoren, asked six of Leif's Edgemont Classmates to be pall bearers at Leif's memorial service - Gerald Jensen, Donald Leise, David Johnson, Frank Valenta, Andy Helling and myself, Sigmund Brudevold, the only one surviving.

I am passing around a picture of the first grade class at the long gone Mountain View Elementary. Leif is the fellow in the center in bib overalls. Others in the picture are Andy Helling, Juline Barry, Glen Bush (a polio victim), Betty Loucks and myself Sigmund Brudevold.

I respectfully propose that a roadside memorial sign for Leif Lilleoren be placed at the intersection of Karshner and Chrisella, the scene of the accident.

I would cover the cost of the sign. I have discussed this with Inez Lilleoren, Leif's 93 year old sister and only surviving family member. Inez is in favor of this proposal and is willing to participate. Inez resides in Milton at the Mill Creek Care Home.

Suggested text for a memorial sign:

IN LOVING MEMORY OF

LEIF LILLEOREN

1928 - 1942

A BRIGHT FUTURE LOST
IN A TRAGIC INSTANT
DRIVE SOBER - DRIVE SAFELY

Respectfully submitted

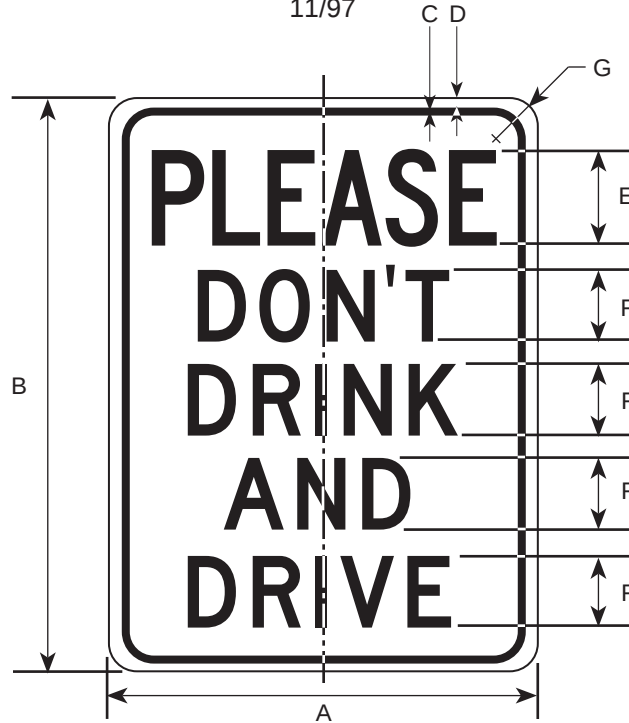
Sigmund Brudevold

PS: The message would give the many slow moving rush hour drivers on Chrisella something important to think about.



I20-201

11/97



I20-203



I20-204



* ALL MEASUREMENTS NOT LISTED
ON I20-203 & 204 SAME AS
CORRESPONDING
MEASUREMENTS ON I20-201.

DIMENSIONS (MILLIMETERS)									
A	B	C	D	E	F	G	H	J	K
900	1200	16	22	200C	150D	100	300	50C	75C
1200	1500	16	22	250C	200D	125	300	75C	100C

DIMENSIONS (INCHES)									
A	B	C	D	E	F	G	H	J	K
36	48	7/8	5/8	8C	6D	4	12	2C	3C
48	60	7/8	5/8	10C	8D	5	12	3C	4C

COLORS

LEGEND - BLACK (NON-REFL)

BACKGROUND - WHITE (REFL)



Spatial Services

*Disclaimer: The map features are approximate and have not been surveyed. Additional features not yet mapped may be present.
Pierce County assumes no liability for variations ascertained by formal survey.*

Date: 1/14/2020 04:02 PM



City Of Edgewood Council Agenda Summary Sheet

Subject: Staff Procedures During City Facility Closure & Modified Hours of Operation	Agenda Item #: 3J. For Agenda of: 1/21/2020 Prepared by: Dave Gray
Attachments (list): 1. Staff Procedures During City Facility Closure & Modified Hours of Operation Council Draft 2. Council Draft of Comparison Matrix	
Approval of Materials: Dave Gray Rachel Pitzel 1/17/2020 Dave Gray 1/17/2020 Daryl Eidinger 1/17/2020	Expenditure Required: Amount Budgeted: \$4,000 per cost center. Timeline: Study Session Discussion 12/3/19 Regular Council Meeting 12/10/19 Special Council Meeting 12/17/19 Study Session Discussion 01/07/20 Study Session Discussion 01/21/20 Regular Council Meeting 01/28/20

Summary Statement:

Council has reviewed collective bargaining agreements for Puyallup, Sumner, Fife and Milton to comparatively examine pay rates for employees wherein a shift is extended, overtime is scheduled or unscheduled events such as inclement weather or an emergency requires modifications of an employees normal work day or work week. Their goal is to produce a personnel policy that ensures the city remain competitive with pay practices as well as pay rates. Our employees are our most valuable asset and our goal is to hire and retain them by making Edgewood the employer of choice.

Item History:

Make recommendation where necessary in this final draft with the intent to move the policy language forward to a regular council meeting for adoption and insertion into the existing personnel policy.

Recommended Action:

Advise staff to place the final council recommended language on the Consent Agenda for adoption on the January 28, 2020 Regular Council Meeting.

Fiscal Note/Consideration:

Each year the City budgets, independent of the labor model, an amount for unexpected overtime in various cost centers such as Surface Water, Roads, etc. In 2019 the amount was \$4,000. The budget has not been expended since the overtime budgeting practice was implemented. For 2020 it remains \$4,000.

**CITY OF EDGEWOOD
PERSONNEL POLICY**

Revised: 2020

Approved: COUNCIL DRAFT 01132020.3

STAFF PROCEDURES DURING CITY FACILITY CLOSURE & MODIFIED HOURS OF OPERATION

Purpose:

It is the City's policy to remain open for business for public interaction Monday through Friday 8:30am through 5:00pm except on published holidays and during posted training periods. Other scheduled city activities may require employee staffing on weekends or evenings. Inclement weather or other emergency events may occur with limited notice, which will require staffing despite closure or restricted service activity. This will affect staff member schedules with limited notice. As identified in your sign-on letter, our small staff fulfills many roles. During these events all staff may be considered essential. Where extraordinary circumstances warrant, due to weather, emergencies or other unforeseen business interruption, the City reserves the right to close or otherwise modify access to services provided in the City, call you in for essential duties and modify your work schedule for the duration of the event.

During such events, this policy serves as a guideline for managing staff activity, rates of pay, communication responsibilities, and the posting of notices.

Process:

The Mayor, or specified designee, will make an announcement of an inclement weather or emergency event. Staff Notice will be an all staff text containing an "Inclement Weather" or "Emergency" notification, or other notification method deemed necessary as circumstances warrant. It will identify essential staff, which City Offices are closed or delayed in opening, or other modifications to normal City Hall hours of operation and/or City services to be provided. The City's Communications Coordinator or designee, will post the notification on the City's website and social media outlets for Public or Emergency Notice purposes as soon as reasonable after receipt of the Staff Notice.

Whether City Hall remains open or closed for business, it is the responsibility of each staff member to determine if they can safely arrive at work. Each staff member is responsible to contact the individual identified in the notification text of their status upon receipt of the Staff Notice (so we know your potential availability if conditions change).

City Hall Closed or on Restricted Service Activity:

Upon notification that City Hall is closed, all staff members will receive straight time pay for their normal work day during the hours of closure.

Employees who elect to not report to work during the time City Hall is open may use vacation, compensatory, or flex time. Working from home qualifies as time worked if it was approved prior to the event.

City Hall Closed Early:

On days when weather conditions worsen as the day progresses, the Mayor or designee may close City Hall early. Staff members will be expected to remain at work until they receive direction from the Mayor or designee. Staff members will receive straight time pay for the rest of their normal work day.

Call Out, Callback and Emergency “All-Hands” Rotation Schedule:

Call Out, Callback and Emergency pay is used to compensate employees for unexpected emergent events. It does not apply to scheduled overtime or holiday work (see overtime). Non-exempt (hourly) staff members who are called-out, called back, or placed on an emergency “All-Hands” rotation schedule to provide necessary services to the public after completing their regular work day, or who are called to work on a day off or during a period City Hall is closed, shall be paid a minimum of four (4) hours pay at overtime time (1.5x the normal rate of pay), except during a published City Holiday where employees will be paid double time for all hours worked with no minimum. Overtime occurs for all time worked following a call out or callback until the beginning of the employee’s normal workday schedule (reverts to straight time pay), or, in the case of a rotating “all hands” event, until there is a break of at least 12 hours in-between shifts.

Staff members are required to notify their supervisor or check-in upon arrival at a designated location. Pay begins from this point. Remote work that does not require reporting in person will be paid for either a one (1) hour minimum call out or their actual time worked, whichever is greater.

Definitions and Explanations:

Authorization of Overtime or Double-Time: All overtime and double time pay must be authorized in advance by the Mayor, Assistant City Administrator, or the staff member’s respective department director. Self-launching personnel may expect to be compensated at applicable defined rates until notified otherwise by their department director. It is the responsibility of individual staff members to inform their supervisor they are on site working.

City Hall: includes any building or facility owned and operated by the City of Edgewood municipal corporation.

Compensatory Time: Non-exempt employees entitled to overtime or double time pay may request compensatory time be banked as an alternative to overtime or double-time cash payment (see compensatory time policy).

Double-time: Double-time shall be compensated at the rate of two times the regular straight time pay. Double-time pay is designed to compensate employees for work performed on a call-out or call back during a published City holiday.

Essential Employees: those staff members determined by the Mayor to provide necessary services during inclement weather or emergency incidents.

Holiday Pay: All benefit-eligible employees will be paid Holiday pay for each Holiday identified in the personnel policy. Full time employees will be paid eight (8) hours for the holiday. Part time employees will be paid four (4) hours of holiday pay. Holiday pay is an established employee benefit and does not affect other pay types.

Mayor: the elected Mayor or, in succession, the City Administrator, Assistant City Administrator, City Clerk, Police Chief, other department director.

Normal Work Day/Shift: A day of work identified as your normal work day schedule authorized by your supervisor and reported on your timesheet.

Overtime: Overtime shall mean all time worked in excess of a forty (40)-hour workweek or the equivalent modified normal work schedule, or for the extension of a normal work day shift. Use of sick leave, vacation leave, holiday leave, or compensatory time shall constitute time worked for the purposes of calculating overtime. Overtime shall be compensated at the rate of one-and-one half (1.5x) times the employee's regular straight time hourly rate of pay.

Public Notice: Communication directed to the public of City Hall closures or Restricted Service Activity.

Restricted Service Activity: City Facilities may be closed for normal business activities while open for specific public services such as a "warming or cooling center" or to otherwise provide some limited service to the public during emergency events.

Stacking: Whenever two or more overtime or premium rates of pay may appear applicable to the same hour or hours worked by an employee, there shall be no stacking or adding together of such overtime or premium rates and only the higher of the applicable rates shall apply.

Staff Notice: Communications directed to staff for communicating changes to the normal working schedule of City Facilities, i.e., City Hall closures or modified hours of operation or limited service delivery to the public. Individual staff schedules identified essential personnel and other staff specific information may be included.

Straight Time Pay: the hourly rate for each employee is their monthly salary (published on the Salary Schedule Appendix A of the current year budget) divided by 173.33.

Full-Time Non-Exempt Employee Pay Rate Matrix

	Scheduled	Call Out / Callback
Straight-time	1.0x Hourly Rate for Hours Worked	1.5x Hourly Rate for Hours Worked (4-hour minimum)
Overtime	1.5x Hourly Rate for Hours Worked	
Holiday Worked	1.5x Hourly Rate for Hours Worked	2.0x Hourly Rate for Hours Worked

COUNCIL DIRECTED EDGEWOOD POLICY-DRAFT								
	Sumner	Puyallup	Fife	Milton	Edgewood			
Number of Public Works Employees								
Number of Parks Maintenance Employees								
Teamster Union Contract (yes/no)	✓		✓					
AFL-CIO (yes/no)		✓						
American Federation of State, County & Municipal Employees (yes/no)								
International Brotherhood of Electrical Workers				✓				
Other								
Other								
Straight Time Paid for Holiday Not Worked	✓	✓	✓	✓	✓			
Holiday & Sick Hours Counted for OT Calculation	✓	✓			✓			
Scheduled Types of Work (Prior Notice Given):								
Straight Time Paid for Holiday Worked								
Overtime Paid for Shift Extension	✓	✓	✓	✓	✓			
Overtime Paid for Extra Workdays	✓	✓	✓	✓	✓			
Overtime Paid for Holiday Worked								
Overtime Paid for Saturday/Sunday	✓			10% Extra				
Double Time Paid for Shift Extension								
Double Time Paid for Extra Workdays		✓						
Double Time Paid for Holiday Worked	✓	✓	✓	✓	✓	4 Hour minimum language removed		
Double Time Paid for Saturday/Sunday	✓			✓				
Double Time & One Half Paid for Special Circumstances	✓							
Not Scheduled Types of Work (Call Out/Call Back):								
Overtime Paid for Call Out/Call Back	✓	✓		✓	✓			
Doubletime Paid for Call Out/Call Back			✓		removed to OT			
2 Hour Minimum Pay			✓					
3 Hour Minimum Pay	✓	✓						
4 Hour Minimum Pay	✓		✓		✓			
Other Types of Pay:								
Stand-By Ready Pay	3.10/Hour	\$2.00/Hour						
Phone Call Support Pay	1 hr Min @ OT	1/4 Hour @ OT						
City Phone Carry Pay (required to carry phone)			\$225/Month					