



**CITY OF EDGEWOOD
REGULAR COUNCIL MEETING AGENDA**

Tuesday, January 28, 2020 – 7:00 PM ♦ City Hall – 2224 104th Avenue East ♦ Edgewood, WA

1. CALL TO ORDER

Roll Call, Pledge of Allegiance

2. AUDIENCE COMMENT

3. MAYOR'S REPORT

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

The following items are presented for Council approval:

A. Study Session Meeting Minutes of January 7, 2020

B. Regular City Council Meeting Minutes of January 14, 2020

C. AB20-002, a motion approving December 2019 and January 2020 Budgeted Expenditures as follows: Payroll Check #10610; Deferred Compensation Program; Payroll Direct Deposit; Dept. of Retirement Systems; Dept. of Child Support; Employment Security Department; Dept. of Labor and Industries, and IRS 941 ACHs in the amount of \$156,872.19; and Vendor Check Numbers 24190 through 24209 with EFT and Direct Pay Payments in the amount of \$101,012.12. Total distributions submitted for review & authorization in the amount of \$257,884.31.

D. AB20-003, approving the Staff Procedures During City Facility Closure & Modified Hours of Operation

E AB20-0489, adopting Resolution No. 20-0489, authorizing the Mayor to execute sanitary sewer easements for the Ramsaur Short Plat project located at 9505 24th Street E. in Edgewood

F AB20-0490, adopting Resolution No. 20-0490, authorizing the Mayor to execute documents required to purchase real property from Pierce County, being tax parcel number 042002-2004, located on both sides of Jovita Boulevard East at approximately the 12200 Block, in Edgewood

G AB20-0491, adopting Resolution No. 20-0491, authorizing the installation of a Memorial Sign on the Southeast corner at the intersection of Chrisella Road East and Karshner Road East, in Memory of Leif Lilleoren

5. COUNCIL BUSINESS

A. AB20-004, Applicant Introductions and Recommendation to the Economic Development Advisory Board

B. AB20-0569, adopting Ordinance No. 20-0569, Chapter 7 - Code Enforcement

This meeting is accessible to persons with disabilities. For individuals who may require special accommodations, please contact City Hall at (253) 952.3299, 24 hours in advance.

C AB20-0570, adopting Ordinance No. 20-0570, adopting a new Chapter 12.20 of the Edgewood Municipal Code entitled "Trespass Warnings on City Property"

D AB20-0571, adopting Ordinance No. 20-0571, affirming the acceptance of the donation of land, Pierce County tax parcel numbers 042002-0421 and 042002-4054, located Northwest of 16th Street East and West Valley Highway in Edgewood and authorizing the Mayor to execute such documents required to complete the Land Transfer to the City

6. COUNCIL COMMENTS

7. ADJOURN



CITY OF EDGEWOOD COUNCIL STUDY SESSION SUMMARY

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

1. CALL TO ORDER

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

ROLL CALL

Present: Mayor Daryl Eidinger (Not voting), Deputy Mayor Tyron Christopherson, Councilmember Mark Creley, Councilmember Ryan Day, Councilmember Colleen Wise, Councilmember Rosanne Tomin, Councilmember Nate Lowry. **Excused:** Councilmember John C. West.

Staff Present: Assistant City Administrator Dave Gray, City Clerk Rachel Pitzel, Community & Economic Development Director Darren Groth, Jeremy Metzler Public Works Director, Matthew Ray, IT Director, Police Chief Micah Lundborg.

EXECUTIVE SESSION

Mayor Eidinger noted an Executive Session would be held pursuant to RCW 42.30.110(1)(i) for 10 minutes with no action to follow.

Mayor Eidinger recessed the meeting for executive session at 7:02pm

Mayor Eidinger extended the executive session for 5 min at 7:12pm

Mayor Eidinger reconvened the regular council meeting at 7:16pm

2. COUNCIL BUSINESS

A. Discussion – Appointments to External Boards, Commissions, Committees/Organizations

Mayor Eidinger reviewed the various external boards, and discussion followed between those interested in volunteering in 2020.

B. Review / Discussion – Code Enforcement

Code Enforcement Specialist John Fairbanks presented Council with the Title 7 DRAFT to the Edgewood Municipal Code, as well as the amendment to Title 2, adding chapter 2.33 to create a Code Enforcement Board. Discussion followed between staff and Council as to the specifics of the Code Enforcement Board.

Council action: Council recommended staff bring the Title 2 chapter 2.33 back for a vote, and to bring the Title 7 DRAFT back at a later date for further discussion.

C. Review / Discussion – IAAC – Call Out and Holiday Pay

Assistant City Administrator Dave Gray and City Clerk/HR Director Rachel Pitzel presented this item. Discussion followed between staff and the Council as to the specifics.

Council action: Council recommended staff rewrite the policy language and remove Doubletime Paid for Call Out/Call Back and select Overtime Paid for Call Out/Call Back on the Proposed Edgewood Policy, and bring back at an upcoming Study Session for review.

D. Discussion – Employee Workstations

Community & Economic Development Director Darren Groth, Public Works Director Jeremy Metzler, and Assistant City Administrator Dave Gray discussed the various options, followed by a tour of the employee workstations with Councilmembers.

Council action: Council recommended staff to bring this item back to an upcoming Study Session for further discussion.

Mayor recessed meeting for a tour of office spaces at 8:42pm

Mayor Eidinger reconvened the meeting after the tour at 8:57pm

Motion: move to extend meeting passed 9:00pm, **Action:** Approve, **Moved by** Councilmember Ryan Day, **Seconded by** Councilmember Colleen Wise. **Motion passed (5-0)** Christopherson did not vote (late return from tour).

E. Discussion – Front Lobby Bid

Public Works Director Jeremy Metzler reviewed with Council the construction plans provided by Gray & Osborne, Inc. Discussion followed between staff and the Council on the various aspects of the plans.

Council action: Council recommended staff move the item forward to an upcoming regular council meeting.

3. OTHER COUNCIL ISSUES

Councilmember Tomya

Councilmember Wise

4. ADJOURN

Mayor Eidinger adjourned the meeting at 9:11pm.

Jill S. Herrera, Deputy City Clerk/
Communications Coordinator

Daryl Eidinger, Mayor



CITY OF EDGEWOOD

01.14.2020 REGULAR COUNCIL MEETING MEETING AGENDA SUMMARY

Tuesday, January 14, 2020 – 7:00 PM ♦ City Hall – 2224 104th Avenue East ♦ Edgewood, WA

1. CALL TO ORDER

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

2. NOMINATION OF DEPUTY MAYOR

Mayor Eiding invited the Council to nominate a new Deputy Mayor and a motion to nominate Councilmember Creley was brought forward.

Motion: As read, **Action:** Approve, **Moved By,** Councilmember Wise, **Seconded by,** Councilmember Day. **Motion passed unanimously.**

3. AUDIENCE COMMENT

There were no audience comments.

4. MAYOR'S REPORT

- Mayor read his report in to the record, and then asked staff if they had anything to report.
- Public Works Director Jeremy Metzler discussed issues the public works crew faced during the stint of inclement weather, the issue with the camera on 8th by Hedden elementary, and the slats being installed on the public works fence.
- Community & Economic Development Director Darren Groth went over an upcoming Economic Development Advisory Board recommendation, and briefed on the Planning Commission meeting.
- Assistant City Administrator Dave Gray discussed Public Works Director Jeremy Metzler's authority to go out on bid for electrical work, and the wellness certification from AWC.
- IT Director Matthew Ray informed that the email server would be down over the weekend for upgrades.
- City Clerk/HR Director Rachel Pitzel discussed the upcoming training for CivicClerk.
- Chief Micah Lundborg briefed on the semi truck robbery containing three classic cars.

5. CONSENT AGENDA

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

The following items are presented for Council approval:

A. Special City Council Meeting Minutes of December 17, 2019

B. Review of Commission, Committee and Board Meeting Minutes

C. **AB20-001**, a motion approving December 2019 and January 2020 Budgeted Expenditures as follows: Deferred Compensation Program; Payroll Direct Deposit; Dept. of Retirement Systems; Dept. of Child Support; AWC Employee Benefit Trust, and IRS 941 ACHs in the amount of \$144,282.34; and Vendor Check Numbers 24154 through 24189 with EFT and Direct Pay Payments in the amount of \$741,357.04. Total distributions submitted for review & authorization in the amount of \$885,639.38.

D. **AB20-0487**, adopting Resolution No. 20-0487, repealing and replacing Resolution No. 19-0445 making appointments to Positions on External Boards, Commissions, Committees, and other Organizations for the Year 2020

Motion: As read, **Action:** Approve, **Moved by** Councilmember Tomy, **Seconded by** Councilmember Wise. **Motion passed unanimously.**

6. COUNCIL BUSINESS

A. **AB20-0488**, adopting Resolution No. 20-0488, authorizing the Mayor to sign an agreement with Lake Tapps Construction Unlimited for the City Hall Front Lobby Remodel in the amount of \$126,055.30.

Public Works Director Jeremy Metzler discussed the contract received from the contractor for the lobby remodel. Discussion ensued between council and staff about the expectation of benefits the remodel would provide.

Motion: as read, **Action:** Approve, **Moved by** Councilmember Wise, **Seconded by** Councilmember Christopherson. **Motion passed 5-0** (Councilmember Day abstained)

B. **AB20-0568**, adopting Ordinance No. 20-0568, Chapter 2.33 - Code Enforcement Board

Code Compliance Specialist John Fairbanks discussed minor change made from the week prior. He then took questions from Council, and audience members to discuss the details of the board.

Motion: as read, **Action:** Approve, **Moved by**, Councilmember Christopherson **Seconded by**, Councilmember Tomy. **Motion passed 5-1** (Councilmember Day)

7. COUNCIL COMMENTS

Mayor Eiding spoke.

Councilmember Day spoke.

Councilmember Tomy spoke.

Councilmember Lowry spoke.

8. ADJOURN

7:47pm



City Of Edgewood Council Agenda Summary Sheet

Subject: AB20-002 , a motion approving December 2019 and January 2020 Budgeted Expenditures as follows: Payroll Check #10610; Deferred Compensation Program; Payroll Direct Deposit; Dept. of Retirement Systems; Dept. of Child Support; Employment Security Department; Dept. of Labor and Industries, and IRS 941 ACHs in the amount of \$156,872.19; and Vendor Check Numbers 24190 through 24209 with EFT and Direct Pay Payments in the amount of \$101,012.12. Total distributions submitted for review & authorization in the amount of \$257,884.31.	Agenda Item #: AB20-002
	For Agenda of: 1/28/2020
	Prepared by: Stephanie Goff
Attachments (list): 1. 012820 Claims Register 2. 012820 Voucher Directory 3. Per 13-2 Voucher Directory	
Approval of Materials: Stephanie Goff Jill Schwerzler-Herrera 1/23/2020 Dave Gray 1/24/2020 Daryl Eidinger 1/24/2020	Expenditure Required: \$257,884.31
	Amount Budgeted: N/A
	Timeline: N/A

Summary Statement:

Approving December 2019 and January 2020 Budgeted Expenditures as follows: Payroll Check #10610; Deferred Compensation Program; Payroll Direct Deposit; Dept. of Retirement Systems; Dept. of Child Support; Employment Security Department; Dept. of Labor and Industries, and IRS 941 ACHs in the amount of \$156,872.19; and Vendor Check Numbers 24190 through 24209 with EFT and Direct Pay Payments in the amount of \$101,012.12. Total distributions submitted for review & authorization in the amount of \$257,884.31.

Item History:

N/A

Recommended Action:

MOTION to approve the Claims and Payroll Expenditures as presented under the Consent Agenda.

Fiscal Note/Consideration:

City of Edgewood 2020

January 28th 2020 Council Meeting Check & EFT Payment Distribution Review & Authorization

Number	Name	Print Date	Amount
US Bank PAYROLL ACCOUNT DISTRIBUTION			
10609 Last Number Issued Previous Authorization			
10610	Morris, Carol A	1/15/2020	\$20,072.01
DCP EFT 1/15/2020	Deferred Compensation Program	1/15/2020	\$12,937.80
DCS EFT 1/15/2020	WA State Support Registry	1/15/2020	\$275.00
Direct Deposit Run - 1/	Payroll Vendor	1/15/2020	\$73,568.15
DRS EFT 1/15/2020	Dept of Retirement Systems	1/15/2020	\$18,792.88
ESD UI Q4 2019	Employment Security Department	1/15/2020	\$2,915.08
IRS EFT 1/15/2020	IRS 941	1/15/2020	\$22,022.96
L&I Q4 2019 EFT	Dept of Labor & Industry	1/15/2020	\$4,855.50
PFML EFT Adj Q1-3	Employment Security Department-PFML	1/15/2020	\$133.15
Q4 2019 PFML	Employment Security Department-PFML	1/15/2020	\$1,299.66
Total			\$156,872.19

Number	Name	Print Date	Amount
CLAIM VOUCHER ACCOUNT DISTRIBUTION			
24189 Last Number Issued Previous Authorization			
24190	AHBL	1/28/2020	\$2,502.50
24191	Berger Partnership	1/28/2020	\$4,044.54
24192	City of Fife	1/28/2020	\$9,150.40
24193	Gray & Osborne, Inc	1/28/2020	\$3,249.34
24194	Julie Dyer	1/28/2020	\$1,470.00
24195	Pierce County Auditor's Office	1/28/2020	\$6,672.00
24196	Pierce County Budget & Finance	1/28/2020	\$45.00
24197	Pierce County Budget & Finance Jail	1/28/2020	\$141.10
24198	Pierce County Budget & Finance PW	1/28/2020	\$36,279.28
24199	Pierce County Budget & Finance Sheriff	1/28/2020	\$14,358.49
24200	Raedeke Associates, Inc.	1/28/2020	\$1,926.75
24201	Advanced Traffic Products	1/28/2020	\$95.83
24202	Daryl Eidinger	1/28/2020	\$273.24
24203	Fife Milton Edgewood Chamber of Commerce	1/28/2020	\$25.00
24204	Law Seminars International	1/28/2020	\$347.50
24205	Pierce County Clerks & Finance Officers' Assoc.	1/28/2020	\$50.00
24206	Pierce County Police Chiefs Assn.	1/28/2020	\$50.00
24207	Puget Sound Clean Air Agency	1/28/2020	\$8,040.00
24208	Vision Municipal Solutions, LLC	1/28/2020	\$4,767.38
24209	Wa. Assoc. of Sheriffs & Police Chiefs	1/28/2020	\$120.00
Direct Pay Payment 1/	Amazon Capital Services	1/28/2020	\$360.24
Direct Pay Payment 1/	CDW Government	1/28/2020	\$242.27
EFT Payment 1/23/	US Bank ACH/EFT	1/28/2020	\$110.00
EFT Payment 1/23/	Mt. View-Edgewood Water Co.	1/28/2020	\$600.95
EFT Payment 1/23/	Puget Sound Energy	1/28/2020	\$4,743.74
EFT Payment 1/23/	Comcast	1/28/2020	\$293.53
EFT Payment 1/23/	Comcast Business	1/28/2020	\$1,053.04
Total Claims Voucher Distribution			\$101,012.12
Total Distribution Submitted for Review & Authorization			\$257,884.31

Authorization Adjustments:

Total Distribution Net of Prior Authorized Adjustments **\$257,884.31**

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

Accounting Manager, Stephanie Goff

Mayor, Daryl Eidinger

Council Member



Voucher Directory

Fiscal: : 2020 - January
Council Date: : 2020 - January - 2nd Council Meeting

Vendor	Number	Reference	Account Number	Description	Amount
Advanced Traffic Products	24201		2020 - January - 2nd Council Meeting		
		0000025841			
			January Purchases		
			101-000-000-542-64-31-10	Traffic Control Devices-School Zone Flashers	\$95.83
				Yellow LED Bulb	
		Total 0000025841			\$95.83
	Total 24201				\$95.83
Total Advanced Traffic Products					\$95.83
Amazon Capital Services			2020 - January - 2nd Council Meeting		
	Direct Pay Payment 1/23/2020 2:28:07 PM - 1				
	1J VX-34W7-MPV9				
		January Purchases			
		001-018-000-518-20-31-01		Office & Operational Supplies	\$48.33
				Phone Case- J.Blaine	
	Total 1J VX-34W7-MPV9				\$48.33
	1J X9-NCHM-CPN3				
		January Purchases			
		001-018-000-518-20-31-01		Office & Operational Supplies	\$58.18
				Phone Case, Screen Protector- J.Tumelson	
	Total 1J X9-NCHM-CPN3				\$58.18
	1Q9Q-3TRT-91NC				
		January Purchases			
		001-018-000-518-20-31-01		Office & Operational Supplies	\$120.88
				Envelopes, Paper Coffee Cups, USB Flash Drives	
	Total 1Q9Q-3TRT-91NC				\$120.88
	1RL4-3PVJ-CPH6				
		January Purchases			
		001-018-000-518-20-31-01		Office & Operational Supplies	\$34.38
				Coat Hooks (3), Deskside Wastebasket, Cleaning Duster	
		001-018-000-518-20-49-11		City Employee Team Building	\$98.47
				Supplies for All-Staff BBQ	
	Total 1RL4-3PVJ-CPH6				\$132.85
	Total Direct Pay Payment 1/23/2020 2:28:07 PM - 1				\$360.24
Total Amazon Capital Services					\$360.24

Vendor	Number	Reference	Account Number	Description	Amount
CDW Government					
	Direct Pay Payment 1/23/2020 2:28:07 PM - 2		2020 - January - 2nd Council Meeting		
	SE2000002				
			January Services		
			001-019-000-518-90-41-01	Gen'l Gov't-Professional Services	\$242.27
			Microsoft 0365 Deployment		
		Total SE2000002	\$242.27		
	Total Direct Pay Payment 1/23/2020 2:28:07 PM - 2		\$242.27		
Total CDW Government					\$242.27
Comcast					
	EFT Payment 1/23/2020 2:27:55 PM - 1		2020 - January - 2nd Council Meeting		
	8498 35 021 0458551 1/25-2/24/2020				
			1/25-2/24/2020 Services		
			001-018-000-518-30-42-01	Telecommunications Charges	\$293.53
			City Hall Internet		
		Total 8498 35 021 0458551 1/25-2/24/2020	\$293.53		
	Total EFT Payment 1/23/2020 2:27:55 PM - 1		\$293.53		
Total Comcast					\$293.53
Comcast Business					
	EFT Payment 1/23/2020 2:27:55 PM - 2		2020 - January - 2nd Council Meeting		
	906590466				
			1/15-2/14/20 Services		
			001-018-000-518-30-42-01	Telecommunications Charges	\$1,053.04
			City Hall Phones		
		Total 906590466	\$1,053.04		
	Total EFT Payment 1/23/2020 2:27:55 PM - 2		\$1,053.04		
Total Comcast Business					\$1,053.04
Daryl Eidinger					
	24202	2020 - January - 2nd Council Meeting			
		010920-DE			
			001-018-000-518-85-31-03	Computer Hardware	\$232.99
			(2) Docking Stations		
		Total 010920-DE	\$232.99		
		011620-DE			
			001-018-000-518-10-43-03	Mileage Reimbursement	\$40.25
			Pierce Transit, Broom Truck Plates, PCRC Meeting		
		Total 011620-DE	\$40.25		
	Total 24202		\$273.24		
Total Daryl Eidinger					\$273.24

Vendor	Number	Reference	Account Number	Description	Amount
Fife Milton Edgewood Chamber of Commerce	24203			2020 - January - 2nd Council Meeting	
		2657			
			January Luncheon		
			001-014-000-514-20-43-04	Meals Expense	\$25.00
				January Luncheon- D.Eidinger	
		Total 2657			\$25.00
	Total 24203				\$25.00
Total Fife Milton Edgewood Chamber of Commerce					\$25.00
Law Seminars International	24204			2020 - January - 2nd Council Meeting	
		82635			
			SEPA & NEPA Seminar		
			001-058-000-558-60-43-01	Training/Travel Costs	\$347.50
				SEPA & NEPA Seminar- S.Read	
		Total 82635			\$347.50
	Total 24204				\$347.50
Total Law Seminars International					\$347.50
Pierce County Clerks & Finance Officers' Assoc.	24205			2020 - January - 2nd Council Meeting	
		2020-PCCFOA			
			2020 Dues		
			001-014-000-514-20-49-01	Memberships	\$50.00
				2020 Dues-R.Pitzel, J.S-Herrera, S.Goff	
		Total 2020-PCCFOA			\$50.00
	Total 24205				\$50.00
Total Pierce County Clerks & Finance Officers' Assoc.					\$50.00
Pierce County Police Chiefs Assn.	24206			2020 - January - 2nd Council Meeting	
		2020-PCPCA			
			2020 Annual Dues		
			001-021-000-521-10-49-01	Dues & Memberships	\$50.00
				2020 Annual Dues	
		Total 2020-PCPCA			\$50.00
	Total 24206				\$50.00
Total Pierce County Police Chiefs Assn.					\$50.00
Puget Sound Clean Air Agency	24207			2020 - January - 2nd Council Meeting	
		032-PSCAA			
			2020 Clean Air Assessment		
			001-018-000-518-90-49-51	Puget Sound Clean Air Dues	\$8,040.00

Vendor	Number	Reference	Account Number	Description	Amount
				Clean Air Assessment	
		Total 032-PSCAA			\$8,040.00
	Total 24207				\$8,040.00
Total Puget Sound Clean Air Agency					\$8,040.00
Vision Municipal Solutions, LLC					
	24208			2020 - January - 2nd Council Meeting	
		09-7348			
			2020 Software Assurance		
			001-018-000-518-85-48-02	Software Maintenance	\$4,767.38
				Software Maintenance	
		Total 09-7348			\$4,767.38
	Total 24208				\$4,767.38
Total Vision Municipal Solutions, LLC					\$4,767.38
Wa. Assoc. of Sheriffs & Police Chiefs					
	24209			2020 - January - 2nd Council Meeting	
		DUES 2020-00155			
			001-021-000-521-10-49-01	Dues & Memberships	\$120.00
				2020 Dues- M.Lundborg	
		Total DUES 2020-00155			\$120.00
	Total 24209				\$120.00
Total Wa. Assoc. of Sheriffs & Police Chiefs					\$120.00
Grand Total		Vendor Count	13		\$15,718.03



Voucher Directory

Fiscal: : 2019 - December
Council Date: : 2019 - December - Period 13-2

Vendor	Number	Reference	Account Number	Description	Amount
AHBL	24190			2019 - December - Period 13-2	
		117246			
			11/26-12/25 The Learning Center17-1488		
			001-058-000-558-60-41-03	Prof. Services (Non-reimbursable)	\$110.00
			11/26-12/25 The Learning Center 17-1488		
		Total 117246			\$110.00
		117247			
			11/26-12/25 Barth Preliminary Plat 18-1147		
			001-058-000-558-60-41-03	Prof. Services (Non-reimbursable)	\$2,062.50
			11/26-12/25 Barth Preliminary Plat 18-1147		
		Total 117247			\$2,062.50
		117248			
			11/26-12/25 On-Site Staffing		
			001-058-000-558-60-41-03	Prof. Services (Non-reimbursable)	\$330.00
			11/26-12/25 On-Site Staffing		
		Total 117248			\$330.00
	Total 24190				\$2,502.50
Total AHBL					\$2,502.50
Berger Partnership	24191			2019 - December - Period 13-2	
		32032			
			Dec Svcs-Prj 20195029.00		
			310-000-000-594-76-41-03	Professional Svs.-Property	\$4,044.54
			Dec Svcs-Prj 20195029.00		
		Total 32032			\$4,044.54
	Total 24191				\$4,044.54
Total Berger Partnership					\$4,044.54
City of Fife	24192			2019 - December - Period 13-2	
		0145724			
			Equipment Reimbursement		
			001-018-000-518-85-49-03	Computer Subscriptions	\$7,196.74
			Equipment Reimbursement		
		Total 0145724			\$7,196.74

Vendor	Number	Reference	Account Number	Description	Amount
		0145725			
			4th Qtr 2019 Services		
			001-018-000-518-80-41-01	Contracted IT Services	\$1,953.66
				4th Qtr 2019 Services	
		Total 0145725			\$1,953.66
	Total 24192				\$9,150.40
Total City of Fife					\$9,150.40
Gray & Osborne, Inc					
24193					
			2019 - December - Period 13-2		
		17-G&O Prj.18626.01			
			56th St E SW Improvements		
			340-000-000-595-10-63-01	Capital Improvements-Engineering	\$1,184.21
				56th St E SW Improvements	
		Total 17-G&O Prj.18626.01			\$1,184.21
		2-G&O Prj.18626.07			
			36th & Meridian Park Phase 1		
			310-000-000-594-76-41-03	Professional Svs.-Property	\$171.41
				36th & Meridian Park Phase 1	
		Total 2-G&O Prj.18626.07			\$171.41
		7-G&O Prj.18626.06			
			City Hall Lobby Remodel		
			001-019-000-594-18-63-01	Gen'l Govt-Cap Exp-City Campus Improvements	\$1,386.57
				City Hall Lobby Remodel	
		Total 7-G&O Prj.18626.06			\$1,386.57
		8-G&O Prj.18626.03			
			24th & Meridian Sidewalks		
			350-000-000-595-61-63-01	Pedestrian Projects	\$507.15
				24th & Meridian Sidewalks	
		Total 8-G&O Prj.18626.03			\$507.15
	Total 24193				\$3,249.34
Total Gray & Osborne, Inc					\$3,249.34
Julie Dyer					
	24194				
			2019 - December - Period 13-2		
		1003-JD			
			December Services		
			001-018-000-518-80-41-01	Contracted IT Services	\$1,470.00
				December Services	
		Total 1003-JD			\$1,470.00
	Total 24194				\$1,470.00
Total Julie Dyer					\$1,470.00

Vendor	Number	Reference	Account Number	Description	Amount
Mt. View-Edgewood Water Co.					
	EFT Payment	1/23/2020 2:06:20 PM - 1	2019 - December - Period 13-2		
		15563-3401	11/11/19-1/10/2020		
			11/11/19-1/10/2020 Services		
			001-018-000-518-30-47-02	Water	\$54.06
				1425 110th Ave E	
	Total	15563-3401	11/11/19-1/10/2020		\$54.06
		2746-3401	11/11/19-1/10/2020		
			11/11/19-1/10/2020 Services		
			001-018-000-518-30-47-02	Water	\$308.11
				City Hall	
	Total	2746-3401	11/11/19-1/10/2020		\$308.11
		2823-3401	11/11/19-1/10/2020		
			11/11/19-1/10/2020 Services		
			001-018-000-518-30-47-02	Water	\$53.62
				10311 22nd Ave E	
	Total	2823-3401	11/11/19-1/10/2020		\$53.62
		2961-3401	11/11/19-1/10/2020		
			11/11/19-1/10/2020 Services		
			001-018-000-518-30-47-02	Water	\$92.58
				1800 Meridian Ave E	
	Total	2961-3401	11/11/19-1/10/2020		\$92.58
		3796-3401	11/11/19-1/10/2020		
			11/11/19-1/10/2020 Services		
			001-018-000-518-30-47-02	Water	\$92.58
				1200 Meridian Ave E	
	Total	3796-3401	11/11/19-1/10/2020		\$92.58
	Total EFT Payment	1/23/2020 2:06:20 PM - 1			\$600.95
Total Mt. View-Edgewood Water Co.					\$600.95
Pierce County Auditor's Office					
	24195		2019 - December - Period 13-2		
		CI-281624			
			2019 General Election		
			001-019-000-514-40-41-01	Election Costs	\$6,672.00
				2019 General Election	
	Total	CI-281624			\$6,672.00
	Total	24195			\$6,672.00
Total Pierce County Auditor's Office					\$6,672.00
Pierce County Budget & Finance					
	24196		2019 - December - Period 13-2		
		CI-281935			
			Q4-2019 IT WAN Charges		
			001-018-000-518-85-49-03	Computer Subscriptions	\$45.00

Vendor	Number	Reference	Account Number	Description	Amount
				Q4-2019 IT WAN Charges	
		Total CI-281935			\$45.00
	Total 24196				\$45.00
Total Pierce County Budget & Finance					\$45.00
Pierce County Budget & Finance Jail					
	24197			2019 - December - Period 13-2	
		CI-281773			
			December Services		
			001-021-000-523-60-41-01	Jail Services	\$141.10
				December Services	
		Total CI-281773			\$141.10
	Total 24197				\$141.10
Total Pierce County Budget & Finance Jail					\$141.10
Pierce County Budget & Finance PW					
	24198			2019 - December - Period 13-2	
		CI-282151			
			December Services		
			101-000-000-542-38-41-02	Roadway-Road Maint (Intergov contract)	\$855.58
				December Services	
			101-000-000-542-66-41-03	Snow & Ice Control-Prof Svcs	\$5,655.61
				December Services	
			101-000-000-542-70-41-04	Roadside-ROW Veg Maint (Intergov)	\$2,491.73
				December Services	
			410-000-000-531-38-41-10	Storm Drainage-Ditch Maint	\$16,630.07
				December Services	
			410-000-000-531-38-41-12	Storm Drainage-Drain Maint	\$2,793.00
				December Services	
			410-000-000-531-38-41-13	Storm Drainage-Structure Maint	\$7,853.29
				December Services	
		Total CI-282151			\$36,279.28
	Total 24198				\$36,279.28
Total Pierce County Budget & Finance PW					\$36,279.28

Vendor	Number	Reference	Account Number	Description	Amount
Pierce County Budget & Finance Sheriff	24199			2019 - December - Period 13-2	
		CI-282114			
			December Services- OT		
			001-021-000-521-20-41-02	Police Overtime	\$14,358.49
				December Services- OT	
		Total CI-282114			\$14,358.49
	Total 24199				\$14,358.49
Total Pierce County Budget & Finance Sheriff					\$14,358.49
Puget Sound Energy					
	EFT Payment 1/23/2020 2:06:20 PM - 2			2019 - December - Period 13-2	
		300000011233 December 2019			
			December Statement		
			001-018-000-518-30-47-01	Electricity	\$4,743.74
				December Statement	
		Total 300000011233 December 2019			\$4,743.74
	Total EFT Payment 1/23/2020 2:06:20 PM - 2				\$4,743.74
Total Puget Sound Energy					\$4,743.74
Raedeke Associates, Inc.	24200			2019 - December - Period 13-2	
		58412			
			Dec Services-Prj 2018-097		
			001-058-000-558-60-41-01	Reim.Engineering - Prof. Serv	\$1,792.75
				109-2 Barth Estates	
			001-058-000-558-60-41-01	Reim.Engineering - Prof. Serv	\$67.00
				110 McCutcheon RUP	
			310-000-000-594-76-41-03	Professional Svs.-Property	\$33.50
				108a 36th & Meridian	
		Total 58412			\$1,893.25
		58413			
			Dec Services-Prj 2018-097		
			310-000-000-594-76-41-03	Professional Svs.-Property	\$33.50
				On-Call Services- 108b Hydrologic Monitoring	
		Total 58413			\$33.50
	Total 24200				\$1,926.75
Total Raedeke Associates, Inc.					\$1,926.75
US Bank ACH/EFT					
	EFT Payment 1/23/2020 1:57:29 PM - 1			2019 - December - Period 13-2	
		123119-USBank			
			December Safekeeping Fees		
			001-019-000-514-20-42-05	Bank & Bond Fees	\$110.00

Vendor	Number	Reference	Account Number	Description	Amount
				December Safekeeping Fees	
				Total 123119-USBank	\$110.00
				Total EFT Payment 1/23/2020 1:57:29 PM - 1	\$110.00
				Total US Bank ACH/EFT	\$110.00
Grand Total		Vendor Count	14		\$85,294.09



City Of Edgewood Council Agenda Summary Sheet

Subject: AB20-003 , approving the Staff Procedures During City Facility Closure & Modified Hours of Operation	Agenda Item #: AB20-003
	For Agenda of: 1/28/2020
	Prepared by: Dave Gray
Attachments (list): 1. Council Draft of Comparison Matrix 2. Staff Procedures During City Facility Closure & Modified Hours of Operation Council Draft	
Approval of Materials: Dave Gray Jill Schwerzler-Herrera 1/24/2020 Dave Gray 1/24/2020 Daryl Eidingen 1/24/2020	Expenditure Required: N/A Amount Budgeted: \$4,00 per cost center Timeline: SS Discussion 12/3/19 RCM Discussion 12/10/19 SCM Discussion 12/17/19 SS Discussion 01/07/20 SS Discussion 01/21/20 RCM Action 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:

SS Discussion on 12/3/2019 Council asked item to be brought back with corrections to double time and holiday pay

RCM Discussion on 12/10/2019 Council asked item to be brought back with further recommendations on double time, holiday pay and stacking language

SCM Discussion on 12/17/2019 Council asked item to be brought back with further recommendations

SS Discussion on 01/07/2020 Council reviewed items and asked

SS Discussion on 01/21/2020 Council recommended to be brought forward to the next Regular Council Meeting under the consent agenda for approval.

Recommended Action:

MOTION to adopt **AB20-003**, approving the Staff Procedures During City Facility Closure & Modified Hours of Operation as presented under the Consent Agenda

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.

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					

**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



City Of Edgewood Council Agenda Summary Sheet

Subject: AB20-0489 , adopting Resolution No. 20-0489,authorizing the Mayor to execute sanitary sewer easements for the Ramsaur Short Plat project located at 9505 24th Street E. in Edgewood	Agenda Item #: AB20-0489
	For Agenda of: 1/28/2020
	Prepared by: Jeremy Metzler
Attachments (list): 1. Resolution 20-0489 - Ramsaur Short Plat Sewer Easements-merged	
Approval of Materials: Jeremy Metzler Jill Schwerzler-Herrera 1/23/2020 Dave Gray 1/24/2020 Daryl Eidinger 1/24/2020	Expenditure Required: N/A
	Amount Budgeted: N/A
	Timeline: 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:

01/21/2020 SS Discussion

Recommended Action:

MOTION to adopt **AB20-0489**, adopting Resolution No. 20-0489,authorizing the Mayor to execute sanitary sewer easements for the Ramsaur Short Plat project located at 9505 24th Street E. in Edgewood

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. 20-0489

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)

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"

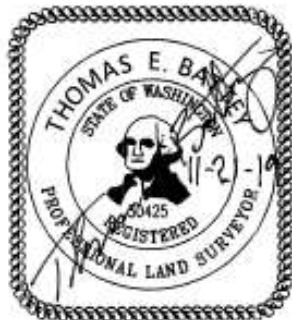
**SANITARY SEWER EASEMENT
LEGAL DESCRIPTION OF REAL PROPERTY
LYING WITHIN THE SW1/4 OF THE NE1/4,
SEC. 9, TWP. 20 N., RGE. 4 E., W.M.,
CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON**

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

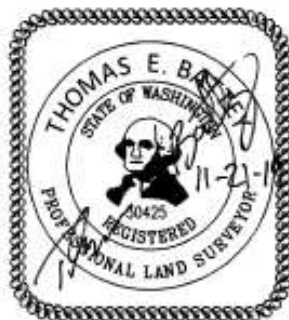
EXHIBIT "B"

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

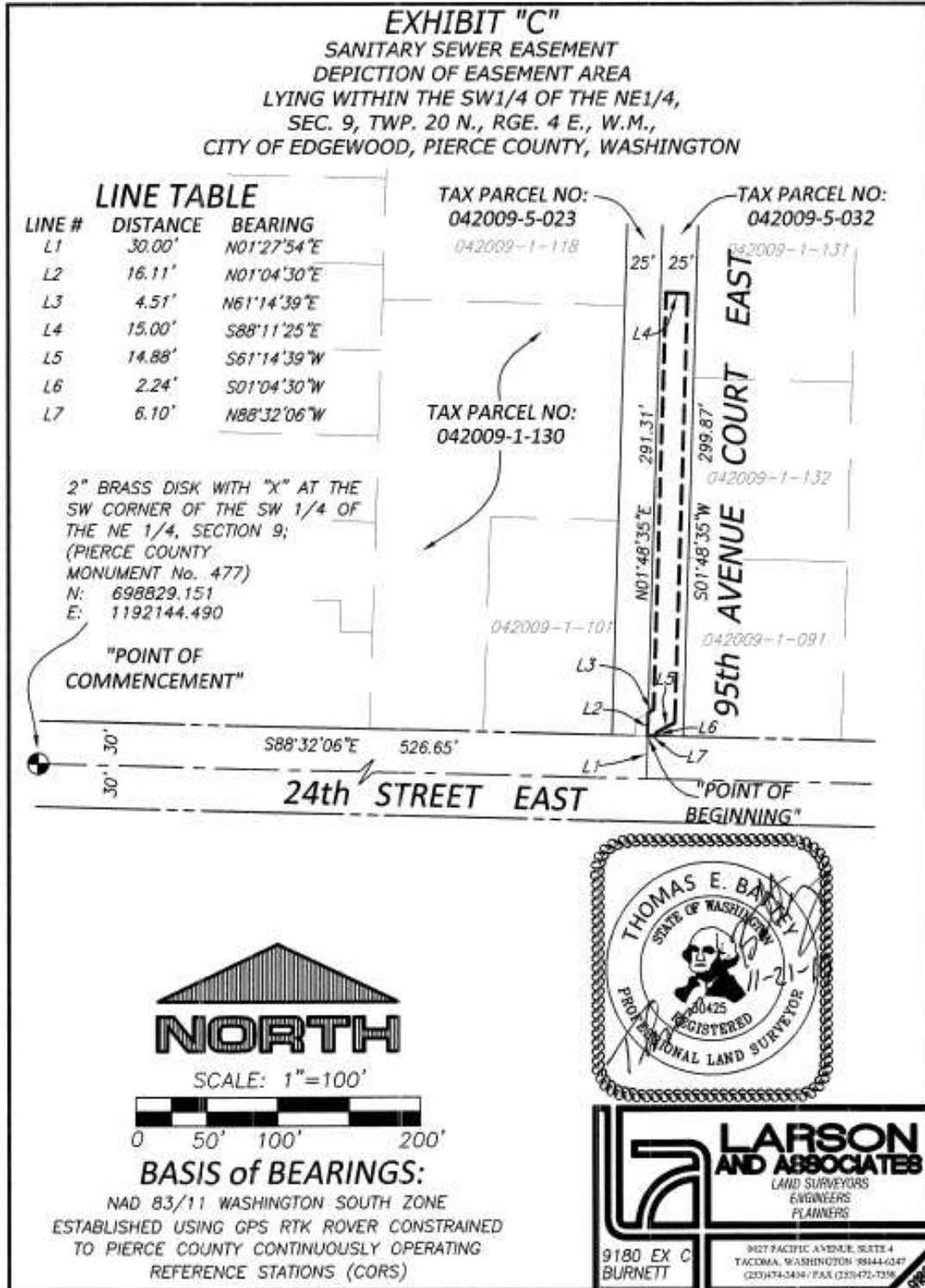
THAT PORTION OF LOT 1 OF CITY OF EDGEWOOD SHORT PLAT NO. 4652, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 23, 2014 UNDER PIERCE COUNTY AUDITOR'S FEE NO. 201412235004, DESCRIBED AS FOLLOWS:

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

Exhibit B

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

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.

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.

EASEMENT FOR SEWER FACILITIES

Date: _____

Accepted and Approved

CITY OF EDGEWOOD

By _____

By: _____

Date: _____

Attest

By: _____

Date: _____

STATE OF _____)
County of _____) ss:

I certify that I know or have satisfactory evidence that John R Breyer 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: _____

[
[
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[
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(Signature)
Notary Public
Title
My appointment expires _____

For recording in the State of Washington, the Notarial Seal must be fully legible and cannot intrude into document margins. Please affix seal in the space provided.

Date: _____

CITY OF EDGEWOOD

Date: _____

By: _____

STATE OF _____)
County of _____) ss:

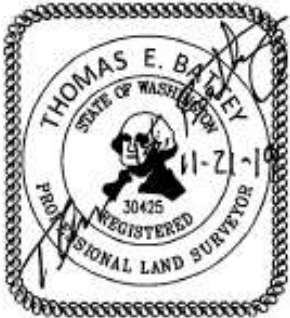
DATED: _____

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My appointment expires _____

Page 45 of 104

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	
<u>TAX PARCEL NO: 042009-5-023:</u>	
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

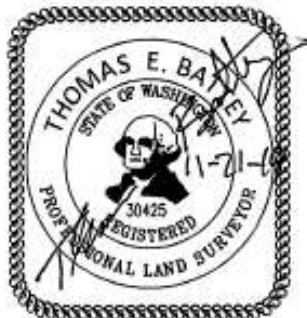
EXHIBIT "B"

SANITARY SEWER EASEMENT
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

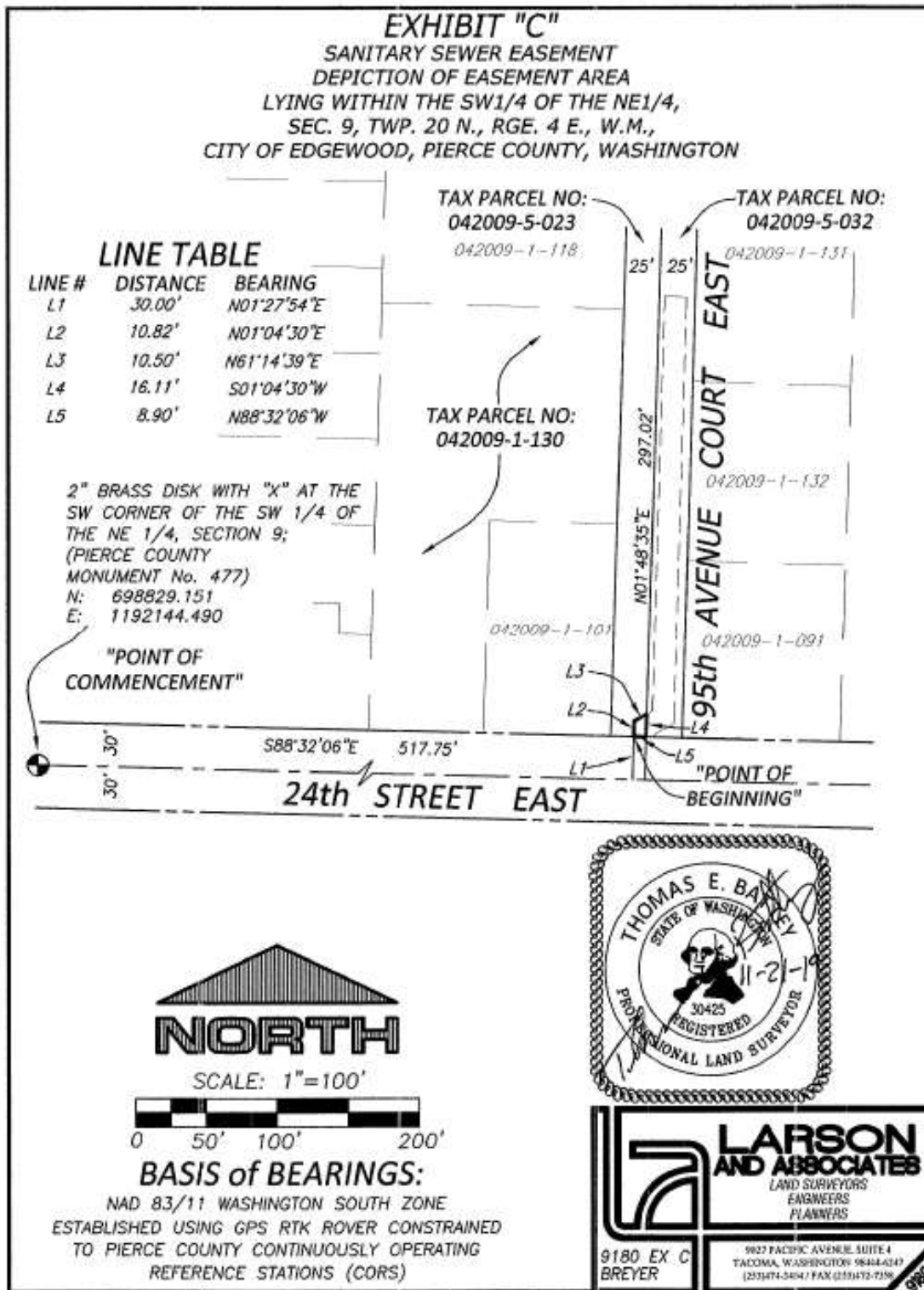
THAT PORTION OF LOT 1 OF CITY OF EDGEWOOD SHORT PLAT NO. P98-050, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 29, 1999 UNDER PIERCE COUNTY AUDITOR'S FEE NO. 9903295002, DESCRIBED AS FOLLOWS:

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: AB20-0490 , adopting Resolution No. 20-0490, authorizing the Mayor to execute documents required to purchase real property from Pierce County, being tax parcel number 042002-2004, located on both sides of Jovita Boulevard East at approximately the 12200 Block, in Edgewood	Agenda Item #: AB20-0490
	For Agenda of: 1/28/2020
	Prepared by: Jeremy Metzler
Attachments (list): 1. Resolution 20-0490	
Approval of Materials: Jeremy Metzler Jill Schwerzler-Herrera 1/23/2020 Dave Gray 1/24/2020 Daryl Eiding 1/24/2020	Expenditure Required: \$4,380.15 Amount Budgeted: N/A Timeline: 01/28/2020 RCM Action

Summary Statement:

In June 2014, Pierce County advised the City that a private party sent in an interest form for 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 2019 to learn if the City were still/again interested in pursuing this purchase. Price confirmation and environmental assessment questions were raised and have been investigated since October 2019.

The principal balance on this property is \$4,257.15, which is the same price from 2014 because it is based on the past due taxes. In addition, recording fees add \$113, and we would have to add another \$10 for filing the Real Estate Excise Tax (REET) affidavit. The total cost would be \$4,380.15.

If the City wanted to perform a Phase I ESA, that would cost \$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.

Based on discussion at the 01/21/2020 Study Session, staff presents the attached resolution for Council action, authorizing the purchase of the subject parcel.

Item History:

01/21/2020 SS Discussion

Recommended Action:

MOTION to adopt **AB20-0490**, adopting Resolution No. 20-0490, authorizing the Mayor to execute documents required to purchase real property from Pierce County, being tax parcel number 042002-2004, located on both sides of Jovita Boulevard East at approximately the 12200 Block, in Edgewood

Fiscal Note/Consideration:

This parcel provides a key opportunity for the future construction of the remaining Interurban Trail segment adjacent to Jovita Boulevard. The currently adopted 6-Year Capital Improvement Plan identifies up to \$50,000 annually for Park Land Acquisition, to be paid using Park Impact Fees.

RESOLUTION NO. 20-0490

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE DOCUMENTS REQUIRED TO PURCHASE REAL PROPERTY FROM PIERCE COUNTY, BEING TAX PARCEL NUMBER 042002-2004, LOCATED ON BOTH SIDES OF JOVITA BOULEVARD EAST AT APPROXIMATELY THE 12200 BLOCK, IN EDGEWOOD

WHEREAS, the City was contacted by Pierce County in 2014 regarding the potential auction of property within the City; and

WHEREAS, the County Council approved the sale of said property to the City in 2014; and

WHEREAS, due to inactivity, County staff contacted the City in October 2019 to verify whether there was still interest in the property; and

WHEREAS, the cost to purchase the property includes the outstanding tax lien balance owed to Pierce County of \$4,257.15, together with miscellaneous recording fees; and

WHEREAS, the City Council discussed the property and potential for use at their January 21, 2020 study session finding the property, located along the slopes of Jovita Boulevard, may assist the City with future Interurban Trail construction and slope mitigation, has no significant impact on property tax collections and does not present a definable risk requiring mitigation or cost;

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

Section 1. Authorization to Purchase. The City Council hereby authorizes the Mayor to execute a deed to purchase real property, Pierce County Tax Parcel Number 042002-2004, in a form approved by the City Attorney, including payment of the outstanding principal balance of \$4,257.15 and any miscellaneous costs for recording of said deed.

Section 3. 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



City Of Edgewood Council Agenda Summary Sheet

Subject: AB20-0491 , adopting Resolution No. 20-0491, authorizing the installation of a Memorial Sign on the Southeast corner at the intersection of Chrisella Road East and Karshner Road East, in Memory of Leif Lilleoren	Agenda Item #: AB20-0491
	For Agenda of: 1/28/2020
	Prepared by: Jeremy Metzler
Attachments (list): 1. Resolution 20-0491	
Approval of Materials: Jeremy Metzler Jill Schwerzler-Herrera 1/23/2020 Dave Gray 1/24/2020 Daryl Eidinger 1/24/2020	Expenditure Required: \$535 (est.)
	Amount Budgeted: N/A
	Timeline: 01/28/2020 RCM Action

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

Per discussion at the 01/21/2020 Study Session, staff presents the attached resolution for Council consideration, proposing installation of a standard MUTCD-compliant sign at the City's cost on the southeast corner of the intersection Chrisella Rd E & Karshner Rd E.

Item History:

11/26/2019 Request made at RCM
 01/21/2020 SS Discussion

Recommended Action:

MOTION to adopt **AB20-0491**, adopting Resolution No. 20-0491, authorizing the installation of a Memorial Sign on the Southeast corner at the intersection of Chrisella Road East and Karshner Road East, in Memory of Leif Lilleoren

Fiscal Note/Consideration:

While the requester offered to pay for the sign, Council expressed interest in funding the sign using public funds. The City will add this sign to their inventory, as ongoing maintenance or replacement may be needed in future years.

RESOLUTION NO. 20-0491

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON, AUTHORIZING THE INSTALLATION OF A MEMORIAL SIGN ON THE SOUTHEAST CORNER AT THE INTERSECTION OF CHRISSELLA ROAD EAST AND KARSHNER ROAD EAST, IN MEMORY OF LEIF LILLEOREN

WHEREAS, at the November 26, 2019 Regular Council Meeting, Sigmund Brudevold submitted a request for the erection of a memorial sign in the City in memory of his friend, Leif Lilleoren, who was struck by an impaired driver at the intersection of what is now known as Chrisella Road East and Karshner Road East, while riding a bicycle on a Saturday morning in 1942; and

WHEREAS, Inez Lilleoren, Leif's sister and only surviving family member, still lives in the community; and

WHEREAS, Council reviewed the request and alternatives for a memorial sign installation at their January 21, 2020 study session and found the memorial sign, while honoring a past resident taken tragically from his family and friends, may help current residents and those transiting through the City of the dangers of drinking and driving;

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

Section 1. Authorization to Install a Memorial Sign. The City Council hereby authorizes the Public Works Director to install a memorial sign on the southeast corner at the intersection of Chrisella Road East and Karshner Road East. The sign shall be added to the City's sign inventory for ongoing maintenance purposes and be MUTCD-compliant, using standard template I20-201 & I20-203 or approved equal, reading "Please Don't Drink and Drive" and "In Memory Of Leif Lilleoren", respectively.

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



City Of Edgewood Council Agenda Summary Sheet

Subject: AB20-004 , Applicant Introductions and Recommendation to the Economic Development Advisory Board	Agenda Item #: AB20-004
	For Agenda of: 1/28/2020
	Prepared by: Darren Groth
Attachments (list): 1. EDAB_ Public Roster - Current as of 01-01-20	
Approval of Materials: Darren Groth Rachel Pitzel 1/23/2020 Dave Gray 1/24/2020 Daryl Eidingen 1/24/2020	Expenditure Required: N/A
	Amount Budgeted: N/A
	Timeline: 01/28/2020 RCM

Summary Statement:

In accordance with Section 2.32.020 of Edgewood Municipal Code (EMC), appointment and reappointment to the Economic Development Advisory Board (EDAB) shall follow the City Council Rules of Procedures. The Rules of Procedures require applications and interviews for each applicant. The City Council shall interview candidates in a panel format, with all candidates participating in the interview session concurrently. The Mayor shall call on each Council Member to ask questions. Upon completing the interviews, each Council Member will announce their candidate rankings and the City Clerk shall tally the rankings. The rankings shall be provided to the Council and shall be used by the Mayor for consideration in the appointment process. At the Mayor's discretion, the appointment process may take place at a regularly scheduled Council meeting or a special Council meeting following the interview session. The Mayor shall appoint or reappoint and the Council shall confirm or deny the appointments proposed by the Mayor.

The EDAB recently experienced vacancies for Positions 5 and 6 when the incumbents stepped down from their respective appointments on the board. The terms expire on June 30, 2020 and need an appointed commissioner to complete each of the current terms. This agenda item is intended to allow City Council to interview and confirm the Mayor's appointments for Positions 5 and 6 for the remainder of the terms that end on June 30, 2020.

Item History:

N/A

Recommended Action:

MOTION confirming Mayoral Appointment of filling the two vacant EDAB positions.

Fiscal Note/Consideration:



**CITY OF EDGEWOOD
ECONOMIC DEVELOPMENT ADVISORY BOARD
CURRENT MEMBERSHIP ROSTER**

01/01/2020

POSITION 1

Scott Kilmer

skilmer@cityofedgewood.org

Term ending June 30, 2021

POSITION 2

Andrew Wiesenfeld, Vice Chair

awiesenfeld@cityofedgewood.org

Term ending June 30, 2021

POSITION 3

Lora Butterfield, Chair

lbutterfield@cityofedgewood.org

Term ending June 30, 2021

POSITION 4

Jeff Southard

jsouthard@cityofedgewood.org

Term ending June 30, 2020

POSITION 5

VACANT

Term ending June 30, 2020

POSITION 6

VACANT

Term ending June 30, 2020

POSITION 7

Jason Neil

jneil@cityofedgewood.org

Term ending June 30, 2020



City Of Edgewood Council Agenda Summary Sheet

Subject: AB20-0569 , adopting Ordinance No. 20-0569, Chapter 7 - Code Enforcement	Agenda Item #: AB20-0569
	For Agenda of: 1/28/2020
	Prepared by: John Fairbanks
Attachments (list): 1. ORD - Adopting Title 7 Code Enforcement PDF 2. Title 7 FINAL 01.22.2020 JF PDF	
Approval of Materials: John Fairbanks Jill Schwerzler-Herrera 1/23/2020 Dave Gray 1/24/2020 Daryl Eidingen 1/24/2020	Expenditure Required: N/A Amount Budgeted: N/A Timeline: 01/28/2020 RCM Action

Summary Statement:

The City Council recently passed Ordinance 20-0568, adopting a new chapter 2.33 of the Edgewood Municipal Code(EMC) which created the Code Enforcement Board.

As an additional enforcement mechanism, city staff now recommends adopting Title 7, Code Enforcement. Title 7 provides the procedures for enforcement of the EMC and city ordinances. The proposed ordinance and Title 7 are attached.

While we discussed the changes to the other sections of the EMC to reference Title 7 as the enforcement procedures, we will bring those changes forward in a separate ordinance at the next regular City Council meeting.

Item History:

1.07.2020 SS Discussion

1.14.2020 RCM adoption of Ordinance No. 20-0568 - Code Enforcement Board

1.21.2020 SS Discussion

Recommended Action:

MOTION to adopt **AB20-0569**, adopting Ordinance No. 20-0569, Chapter 7 - Code Enforcement

Fiscal Note/Consideration:

ORDINANCE NO. 20-0569

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON, ADOPTING A NEW TITLE 7 OF THE EDGEWOOD MUNICIPAL CODE ENTITLED “CODE ENFORCEMENT”; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Article XI, Section 11 of the Washington State Constitution grants cities, such as the City of Edgewood, the authority to “make and enforcement within its limits all such local police, sanitary and other regulations as are not in conflict with general laws”; and

WHEREAS, the Revised Code of Washington (“RCW”) also grants cities the authority to declare what shall constitute a nuisance, to abate the same, and to impose fines upon persons who may create, continue, or allow nuisances to exist through statutes such as RCW 35.22.280(30), RCW 35.23.440(10), RCW 35.27.410, and RCW 35A.21.160; and

WHEREAS, the City has adopted the Edgewood Municipal Code (“EMC”) as the laws and regulations of the City; and

WHEREAS, the EMC is intended to support compelling governmental and public interests on behalf of the people who live in, work within, and visit the City; and

WHEREAS, 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; and

WHEREAS, code violations and nuisances undermine the public’s interests in promoting the general health, safety and welfare of the entire community and are a financial burden on city resources; and

WHEREAS, pursuant to the authority granted to it by the Washington State Constitution and the RCWs, the City desires to enact a new comprehensive code enforcement title of the EMC to ensure compliance with the EMC and to provide procedures and mechanisms for enforcement of the City’s code; and

WHEREAS, the City Council considered this ordinance during its study session held on January 21, 2020; and

WHEREAS, the City Council adopted this ordinance during its regular City Council meeting of 28, 2020;

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

Section 1. New EMC Title 7 (Code Enforcement) Adopted. A new Title 7 of the Edgewood Municipal Code entitled, “Code Enforcement,” is hereby adopted as set forth in as 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 invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after publication, as provided by law. The full text of this Ordinance shall be mailed without charge, upon request.

PASSED BY THE CITY COUNCIL ON THE 28TH DAY OF JANUARY, 2020

Mayor Daryl Eidinger

ATTEST/AUTHENTICATED:

Rachel Pitzel, CMC
City Clerk

APPROVED AS TO FORM:

Interim City Attorney, Ann Marie J. Soto

Date of Publication: January 30, 2020

Effective Date: February 5, 2020

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.

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.

(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.

(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.

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.

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 Order prohibiting any use or other activity at the site. The Cease Activity order shall be in writing and served upon persons engaged in doing or causing such use or activity to occur upon the property. The Cease Activity shall be immediately posted on the property and shall include the information outlined in EMC 7.20.020.

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.

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.

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.
- (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
- (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.

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.]

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.

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.

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.

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.

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.



City Of Edgewood Council Agenda Summary Sheet

Subject: AB20-0570 , adopting Ordinance No. 20-0570, adopting a new Chapter 12.20 of the Edgewood Municipal Code entitled "Trespass Warnings on City Property"	Agenda Item #: AB20-0570
	For Agenda of: 1/28/2020
	Prepared by: Jeremy Metzler
Attachments (list): 1. Ordinance - Trespass Code	
Approval of Materials: Jeremy Metzler Jill Schwerzler-Herrera 1/23/2020 Dave Gray 1/24/2020 Daryl Eidinger 1/24/2020	Expenditure Required: N/A
	Amount Budgeted: N/A
	Timeline: 01/28/2020 RCM Action

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 proposed ordinance and regulations are attached. Also, the proposed Notice Form has been updated per Council comments received at the 1/21/2020 Study Session.

Item History:

11/26/2019 Ordinance 19-0565 Adopted
 01/21/2020 SS Discussion

Recommended Action:

MOTION to adopt **AB20-0570**, adopting Ordinance No. 20-0570, adopting a new Chapter 12.20 of the Edgewood Municipal Code entitled "Trespass Warnings on City Property"

Fiscal Note/Consideration:

N/A

ORDINANCE NO. 20-0570

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, PIERCE COUNTY, 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 January 21, 2020, study session; and

WHEREAS, the Council considered this Ordinance during its regular City Council meeting of January 28, 2020;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, DO ORDAIN 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 invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of final passage. The full text of this Ordinance shall be mailed without charge, upon request.

PASSED BY THE CITY COUNCIL ON THE 28TH DAY OF JANUARY, 2020

Mayor Daryl Eiding

ATTEST/AUTHENTICATED:

Rachel Pitzel, CMC
City Clerk

APPROVED AS TO FORM:

Interim City Attorney, Ann Marie J. Soto

Date of Publication: January 30, 2020
Effective Date: February 5, 2020

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.

1. 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.
2. 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.
3. 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.
4. 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.



City Of Edgewood Council Agenda Summary Sheet

Subject: AB20-0571 , adopting Ordinance No. 20-0571, affirming the acceptance of the donation of land, Pierce County tax parcel numbers 042002-0421 and 042002-4054, located Northwest of 16th Street East and West Valley Highway in Edgewood and authorizing the Mayor to execute such documents required to complete the Land Transfer to the City	Agenda Item #: AB20-0571
	For Agenda of: 1/28/2020
	Prepared by: Jeremy Metzler
Attachments (list): 1. ORD - Litowitz Land Donation	
Approval of Materials: Jeremy Metzler Jill Schwerzler-Herrera 1/23/2020 Dave Gray 1/24/2020 Daryl Eiding 1/24/2020	Expenditure Required: N/A
	Amount Budgeted: N/A
	Timeline: 01/28/2020 RCM Action

Summary Statement:

The Litowitz Family approached Mayor Eiding 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.

A Limited Phase Two Environmental Site Assessment was prepared by Earth Solutions NW, LLC on 11/11/2019, and received by the City on 11/12/2019. The 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.

As discussed at the 01/21/2020 Study Session, staff presents the attached resolution for Council action.

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:

MOTION to adopt **AB20-0571**, adopting Ordinance No. 20-0571, affirming the acceptance of the donation of land, Pierce County tax parcel numbers 042002-0421 and 042002-4054, located Northwest of 16th Street East and West Valley Highway in Edgewood and authorizing the Mayor to execute such documents required to complete the Land Transfer to the City

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.

ORDINANCE NO. 20-0571

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON, AFFIRMING THE ACCEPTANCE OF THE DONATION OF LAND, PIERCE COUNTY TAX PARCEL NUMBERS 042002-0421 AND 042002-4054, LOCATED NORTHWEST OF 16TH STREET EAST AND WEST VALLEY HIGHWAY IN EDGEWOOD AND AUTHORIZING THE MAYOR TO EXECUTE SUCH DOCUMENTS REQUIRED TO COMPLETE THE LAND TRANSFER TO THE CITY; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Litowitz Family approached the Mayor expressing interest in donating real property to the City located northwest of 16th Street East and West Valley Highway, specifically Pierce County Tax Parcel Numbers 042002-4021 and 042002-4054; and

WHEREAS, the City Council acknowledged interest in the proposed donation of land with the passage of Resolution 19-0476 at their regular meeting on October 8, 2019, pending an environmental review of the property; and

WHEREAS, a Phase Two Environmental Review was provided by the Litowitz Family to city staff on November 12, 2019, recommending removal of remnant vehicles and debris on the property to prevent potential soil impacts; and

WHEREAS, Junk Vehicle Affidavits were processed on December 13, 2019, with removal of said vehicles and debris by the Litowitz Family occurring shortly thereafter; and

WHEREAS, the City Council considered the results of the Phase Two Environmental Review, which does not identify any hidden environmental risk on the property, at their January 21, 2020 study session; and

WHEREAS, Council considered staff's review of the slope, surface water and woodland aspect of the property noting potential for adding open space with minimal cost to the City other than to restrict the kinds of access that may contribute to dumping; and

WHEREAS, RCW 35.21.100 authorizes cities to accept donated property by ordinance and to carry out the terms of the donation, if any; and

WHEREAS, no terms or conditions are attached to the donation, and the City may therefore use the property for any municipal purpose;

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

Section 1. Acceptance of Land Donation. The City Council hereby accepts the donation of land located northwest of 16th Street East and West Valley Highway, specifically Pierce County

Tax Parcel Numbers 042002-4021 and 042002-4054, and again thanks the Litowitz Family for their generous donation.

Section 2. Form and Costs. The City Council hereby authorizes the Mayor to execute a deed for said land donation, in a form approved by the City Attorney, including payment of any miscellaneous costs for recording of said deed.

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

Section 4. Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after publication, as provided by law. The full text of this Ordinance shall be mailed without charge, upon request.

PASSED BY THE CITY COUNCIL ON THE 28TH DAY OF JANUARY, 2020

Mayor Daryl Eiding

ATTEST/AUTHENTICATED:

Rachel Pitzel, CMC
City Clerk

APPROVED AS TO FORM:

Interim City Attorney, Ann Marie J. Soto

Date of Publication: January 30, 2020

Effective Date: February 5, 2020